

VACANT BUILDING ORDINANCE
TOWN OF SPRINGFIELD
Ordinance 2018-3

SHORT TITLE: An ordinance to amend the Administrative Code;
Chapter 7. Health, Sanitation, Nuisances
Article II. Nuisances
Amended: §§7-170 - 7-177

CATEGORY: Major Amendment

PROCEDURE: 1) Introduction-First Review: Read and amended at regular
Selectboard meeting on May 14, 2018 and entered in the
minutes of that meeting which were approved on 5-29-2018 .
2) Second Review and Public Hearing: May 29, 2018.
3) Additional Second Review and Public Hearing: 6-11-2018 .
4) Notice of Hearing posted in public places on May 15, 2018.
and published on May 22, 2018.
5) Date of adoption 07-28-2018 .
6) Other actions.

AUTHORITY: This ordinance is adopted by the Selectboard of the Town of Springfield .
under authority of Vt. Statutes, Title 24 Sec. 1971, Springfield Charter
Art. One, §V.

PURPOSE: It is the purpose of this ordinance to amend Chapter 7, Article III
Nuisances, Division 8 to authorize the Town Manager or the Manager's
designee to approve redevelopment plans with estimated costs of
\$500,000.00 or less, and to clarify some existing language and to protect
of the health and safety of the public and the protection of property by
requiring the securing and maintenance of vacant buildings and to provide
for enforcement.

Approved as to form on: May 14, 2018.

And as revised on: _____.

And as revised on: _____.

And as adopted on: 07-28-2018 .



Stephen S. Ankuda, Esquire
Town Attorney

TOWN OF SPRINGFIELD
Ordinance 2018-3

SHORT TITLE: An ordinance to amend the Administrative Code;
 Chapter 7. Health, Sanitation, Nuisances
 Article II. Nuisances
 Amended: §§7-170 - 7-177

That the Code of Ordinances of the Town of Springfield, Vermont is hereby amended by amending Sections 7-170 to 7-177 which read as follows:

DIVISION 8. CERTAIN NUISANCES CAUSED BY VACANT BUILDINGS

SECTION 7-170. AUTHORITY. This ordinance is adopted by the Selectboard of the Town of Springfield under authority granted in 24 V.S.A. §§ 2291 (13), (14), and (15) and 24 V.S.A. Chapter 59.

SECTION 7-171. PURPOSE. The Springfield Selectboard finds and declares that:

- (a) There exist in the Town of Springfield, vacant buildings or mobile homes that have become dangerous or unsafe.
- (b) 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 of Springfield.
- (c) 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.
- (d) 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.
- (e) 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 of Springfield where there are commercial areas, industrial areas, and residential neighborhoods.
- (f) Allowing buildings to remain indefinitely vacant in the developed portions of Springfield, 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.
- (g) 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.

- (h) The purpose of this ordinance 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 of Springfield to protect the health, safety, and welfare of the public.
- (i) This ordinance shall apply to all vacant buildings and their associated properties within areas served by water or the municipal sewer in the Town of Springfield.

SECTION 7-172. DEFINITIONS. For purposes of this ordinance, the following words and/or phrases shall apply:

- (a) Vacant Building. Any building or structure that is unoccupied by a person or occupied by unauthorized persons for more than sixty (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.
 - 1. For residential buildings "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.
 - 2. For businesses "vacant building" means the building is not open for business on a regular basis.
 - 3. For industrial buildings "vacant building" means there are no employees arriving on a regular basis and no work is being performed.
 - 4. 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 five hundred thousand dollars (\$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:
 - i. Proof of reasonable liability insurance coverage for the premises.
 - ii. 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 fourteen 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 Springfield Town Manager and confirmed by the Selectboard.

Where the bona fide estimate of the cost of redeveloping or rehabilitating the building is five hundred thousand dollars (\$500,000.00), or less, then 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 above in Paragraph (a), 4., ii, 6 & 8. Such plan must be approved by the Town Manager.

5. For these (Sections 7-172 (a) 1 through 5) and other uses, the Town Manager or the Town Manager's designee(s) shall use his/her 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(s) 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(s) shall make such a determination within thirty (30) days unless there has been a previous determination within the last twelve (12) months.
 - (b) Town Manager or the Town Manager's designee(s) is the officer appointed by the Springfield Selectboard to enforce this ordinance. Nothing in this ordinance shall prevent the Town Manager or Town Manager's designee(s) from performing his or her duties under other regulations or ordinances that he or she may be designated to administer and enforce. This ordinance shall be considered cumulative in nature and therefore may be enforced in addition to any other ordinance which may also apply. A determination made under the provisions of this ordinance shall not be considered a determination by a zoning official, but rather strictly a determination regarding enforcement of a nuisance ordinance of the Town.

SECTION 7-173. OBLIGATIONS OF VACANT BUILDING OWNERS. A Vacant Building owner shall ensure that the following measures have been undertaken to secure a Vacant Building:

- (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 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.

(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. The use of tarps to secure the structure from the elements shall not be allowed to exceed fourteen (14) days.

(c) 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.

(d) Foundation Walls. Foundation walls shall be maintained structurally sound 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.

(e) 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.

(f) 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.

(g) 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.

(h) 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.

(i) Walkways. Walkways shall be safe for pedestrian travel.

(j) 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.

(k) 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.

(l) Liability Insurance. Owners of a vacant building(s) 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(s), provide proof of such insurance within fourteen (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.

(m) The obligations of owners of vacant buildings are continuing obligations that are effective throughout the time of vacancy.

SECTION 7-174. PENALTY AND ENFORCEMENT. A violation of this ordinance shall be a civil matter which may be enforced in the Vermont Judicial Bureau or at the election of the Town Manager or the Town Manager's designee(s), in the Vermont Superior Court, Civil Division, Windsor Unit.

(a) Where it is necessary to make an inspection to enforce this ordinance, or where the Town Manager or the Town Manager's designee(s) has reasonable cause to believe there is a structure which is vacant, the Town Manager or the Town Manager's designee(s) 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(s) may secure access by commencing an action in the Vermont Superior Court, Civil Division, Windsor Unit.

(b) Where requested by the Town Manager or the Town Manager's designee(s), 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.

(c) 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 ordinance.

1. Upon receipt of information that a building is vacant and in violation of this Ordinance, the Town Manager or the Town Manager's designee(s) shall mail a written notification of violation to the building owner and a copy shall be posted on the entrance of said building.

2. The Selectboard, Town Manager, or the Town Manager's Designee(s) 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.

3. A municipal ticket will be issued thirty (30) days after written notification of violation is mailed by the Town Manager or the Town Manager's designee(s) if the violation has not been corrected in accordance with this ordinance. Each day that the violation continues shall constitute a separate violation of this ordinance.

4. For purposes of enforcement in the Judicial Bureau, the Town Manager or the Town Manager's designee(s) shall be the designated enforcement officer(s). Said designee(s) shall issue tickets and may be the appearing officer at any hearing.

(d) Violations enforced in the Superior Court shall be in accordance with the Vermont Rules of Civil Procedure. The Town of Springfield 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 ordinance.

1. A civil action may be initiated in the Superior Court within thirty (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 ordinance. Each day that the violation continues shall constitute a separate violation of this ordinance.

SECTION 7-175. APPEALS OF TOWN MANAGER 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(s) under this ordinance, may appeal within seven (7) 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.

SECTION 7-176. OTHER LAWS. This ordinance is in addition to all other ordinances of the Town of Springfield and all applicable laws of the State of Vermont.

SECTION 7-177. 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.

SELECT BOARD

Dated: May 28, 2018

Walter E. Radon
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