

Chapter 23 – VACANT BUILDINGS
New Chapter Added Ord. No. 2009-02, 09-08-09

ARTICLE I. GENERAL PROVISIONS

Sec. 23.1. Authority.

(a) The City Council has enacted this ordinance under the authority granted to the City in Title 24 Vermont Statutes Annotated (V.S.A.), Chapter 61, §§2291(13), (14), and (15) to compel the cleaning and repair of premises and to identify and abate public nuisances.

Sec. 23-2. Purpose.

(a) 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 city and have other undesirable effects. Allowing buildings to remain indefinitely vacant 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. The purpose of this ordinance is, therefore to abate these public nuisances caused by vacant buildings and to mitigate their impacts.

Sec. 23-3. Scope of ordinance.

(a) The ordinance shall apply to all vacant buildings and their associated properties within all areas of the City of Barre.

Sec. 23-4. Designation of Effect.

(a) This ordinance shall constitute a civil ordinance within the meaning of 24 V.S.A. Chapter 59.

Sec. 23-5. Severability

(a) If any portion of this Ordinance is found to be unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected and shall remain in full force and effect. If any statute referred to in this ordinance is amended, this ordinance shall be deemed to refer to such amended statute.

ARTICLE II. DEFINITIONS

Sec. 23-10. Definitions.

(a) **Administrative officer**- see Vacant Building Administrative Officer.

(b) **City Council**- is the Barre City Council

(c) **Vacant building**- Any building or structure that is not legally occupied by a person for a period of at least 60 consecutive days.

(1) For residential buildings this 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 this means the building is not open for business on a regular basis.

(3) For industrial building there are no employees arriving on a regular basis and no work being performed.

(4) For these (section 23-10 (a)(1-3)) and other uses the administrative officer shall use his/her best judgment to establish standards to determine whether a building is vacant.

(d) **Vacant Building Administrative Officer**- the Vacant Building Administrative Officer shall be annually appointed by the City Manager to administer this ordinance.

ARTICLE III. ADMINISTRATION, APPEALS, & ENFORCEMENT

Sec. 23-20. Duties and powers of vacant building administrative officer.

(a) The vacant building administrative officer (hereinafter administrative officer) is hereby authorized and directed to administer and enforce the provisions of this ordinance.

(b) The administrative officer shall not have the power to waive any requirements of this ordinance.

(c) The administrative officer shall carry proper identification when inspecting structures or premises in the performance of his/her duties.

(d) Where it is necessary to make an inspection to enforce this ordinance, or where the administrative officer has reasonable cause to believe there is a structure which is vacant, the administrative officer 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 the administrative officer must first secure a search warrant duly issued by a court [13 V.S.A. §4701].

(e) The administrative officer shall have the following powers to administer the provisions of this ordinance, including, but not limited to:

(1) Registering vacant structures;

(2) Renewing registration of vacant buildings;

(3) Periodic inspections of registered buildings for compliance.

(4) Issuing municipal tickets as directed under 24 V.S.A. Chapter 59 and section 23-23 of this ordinance.

(5) If allowed by the adopted fee schedule, the waiver of registration fees.

Sec. 23-21. Appeals of administrative officer actions.

(a) Any owner or agent aggrieved by an order of the administrative officer may appeal within fifteen (15) days of said order to a three person appeal committee appointed by the City Council.

(b) Appeals to the appeal committee shall be made by filing a written complaint and any required fee with the administrative officer.

(1) The administrative officer shall notify the appeal committee (or the City Council in cases where the appeal committee is not a standing committee) within 15 days to schedule a hearing.

(2) The appeal committee shall be composed of disinterested persons who are also residents of the City.

(3) The board shall meet within ten (10) days of receiving the notice from the administrative officer of the notice of appeal. All hearings shall be public, and the owner or agent shall be given an opportunity to be heard and to present evidence and arguments. Any owner or agent may appeal a decision of the appeal committee by instituting relief in Superior Court under V.R.C.P. 74.

Sec. 23-22. Enforcement

(a) The administrative officer is required to serve a notice of violation or other order on the property owner, property owner agent or person in control of property for any violation of this ordinance. Such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.

(b) Where a person fails to remedy a violation to the satisfaction of the administrative officer, the administrative officer may bring appropriate action to enforce the provisions of this ordinance. Enforcement may be by any means allowed under state law including, but not limited to:

(1) The administrative officer may issue, or direct to have issued, a Municipal Complaint and pursue enforcement before the Judicial Bureau in accordance with the provisions of 24 V.S.A. §1974 and §1977 with penalties as prescribed below:

i. First offence. A first offence of this ordinance shall be punishable by a fine of \$100.

The waiver fee shall be \$50.

ii. Subsequent offences. Any subsequent offences of the same provision of the bylaws within a 12 month period shall be punishable by a fine of \$200. The waiver fee shall be \$100.

(2) The administrative officer may notify the City Attorney of the violation who can take action in Superior Court seeking injunctive relief with penalties as prescribed by law.

(c) Each day that a violation continues after the initial seven (7) day notice shall constitute a separate offense. All fines imposed and collected shall be paid to the City of Barre.

Sec. 23-23. Fees.

(a) The City Council may prescribe reasonable fees to be charged with respect to inspections, registrations and renewals. The applicant may also be charged the cost of recording fees as required by law.

(b) In the adoption of a fee schedule, the City Council may authorize the administrative officer to waive registration fees where a property owner complies with all provisions of this ordinance.

(c) In the adoption of a fee schedule, the City Council may authorize the administrative officer to waive renewal fees where a property owner has maintained compliance with the ordinance (e.g. no notices of violation) throughout the previous quarter.

Sec. 23-24. Records.

(a) The administrative officer shall keep official records of registrations issued, and fees collected. Reports of inspections, notices and other orders issued shall be retained.

(b) The administrative officer is responsible for recording all registrations and notices of violation in the municipal land records of the City Clerk.

ARTICLE IV. REGISTRATION

Sec. 23-30. Registration.

(a) Unless exempted within these regulations, all vacant properties shall register with the City within 60 days of the effective date of the ordinance or within 60 days of a building becoming vacant thereafter. Registrations will run from April 1 to September 30 and October 1 to March 31.

(b) The administrative officer shall develop all forms and applications necessary for the administration of vacant buildings permits. Applications shall be reviewed by the administrative officer in a timely manner and decisions issued promptly.

(c) No registration shall be approved until both required fees are paid (inspection fee and either a registration or renewal fee) to the city and until the administrative officer is satisfied from an examination of the application and any inspections deemed necessary. Applicants have the burden to demonstrate compliance with the adopted codes.

i. Initial registration fees shall be prorated to cover the remaining cost of the period in which they are presently in.

Sec. 23-31. Registration Renewal

- (a) The administrative officer shall process vacant building registration renewals semi-annually.
- (b) Applicants shall be required to submit renewal registration applications and all applications shall be processed in the same manner as a registration (Sec. 23-30).

ARTICLE V. RESPONSIBILITIES OF BUILDING OWNERS**Sec. 23-40. Responsibilities of Vacant Building Owners**

(a) Owners of vacant buildings have the responsibility to keep the vacant buildings safe and to minimize the impact of the vacancy on adjacent and proximate property owners. To this end, they are required to:

- (1) Security. The owner and subsequent owners shall keep the building secured per the requirements of Chapter 4 of the City Ordinances- Buildings and Building Construction.
 - i. Where the administrative officer makes a written determination that a vacant building is not secure, the owner shall provide bonded, licensed, and insured security guard service at the building between the hours of 6:00 p.m. and 6:00 a.m. Such service to remain in place until the administrative officer gives written notice that the building has been secured.
- (2) Code Compliance. Where requested by the Administrative Officer, 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 City property, building, health, fire, water, and sewer codes. The City shall send the inspection report to the owner within thirty (30) days.
 - i. Prior to and during winter months the administrative officer may require additional measures to be instituted by owners of vacant buildings to help prevent against freezing of pipes and other winter damage.
- (3) Maintain curb appeal. A vacant building, including adjoining yard areas, shall be maintained free of debris, garbage, graffiti, litter, portable toilets, rodents, standing water, and other deleterious features. If present, lawns shall be maintained such that they do not exceed 6 inches in length during the summer months.
- (4) Demonstrate proper liability insurance. Owners of vacant buildings shall be required to maintain liability insurance for as long as the building is vacant, and file evidence of such insurance with the administrative officer, as follows: \$500,000 for a vacant building in the conservation district or R-10 residential district; \$750,000 for a vacant building in the planned residential district; \$1,000,000 for a vacant building in the commercial district, industrial/commercial district, industrial district, and downtown mixed use district; and \$2,000,000 for a vacant building in the central business district.

- i. Owners of properties who choose to self insure shall be required to demonstrate a bond or other proof of insurance. The City reserves the right to review such records with the City Attorney to determine the validity of the self insurance claim. The applicant maintains the burden of proof to demonstrate compliance with this provision.
- ii. Liability policies shall include and follow generally accepted insurance provisions and practices. (New Chapter Added Ord. No. 2009-02, 09-08-09)