

Chapter 4 -- BUILDINGS AND BUILDING CONSTRUCTION
(entire chapter Amended Ord. No. 2009-01, 08-04-09)

ARTICLE I. GENERAL PROVISIONS

Sec. 4.1. Authority.

(a) The City Council has enacted this ordinance under the authority granted to the City through its Charter (Section 501) and under the authority granted to all Vermont municipalities under Title 24 Vermont Statutes Annotated (V.S.A.), Chapter 83 to regulate buildings and building construction.

Sec. 4-2. Purpose.

(a) The purpose of this ordinance is to establish the minimum requirements to safeguard public health, safety, and general welfare through structural strength, means of egress, stability, adequate light and ventilation, energy conservation, safety to life and property from fire and other hazards, and to provide safety to firefighters and emergency responders during emergency situations.

Sec. 4-3. Building codes adopted.

(a) The City hereby adopts the most recent editions of the International Building Code and National Fire Code for the purpose of establishing rules and regulations. Where these rules are not consistent with the current rules and standards adopted by the Commissioner of Public Safety under 20 V.S.A. Chapter 173, subsection 2, the Vermont Fire and Building Safety Codes shall take precedence.

(b) The City hereby adopts the non-mandatory Fire District rules found in Appendix D of the 2006 International Building Code. The fire district limits of the City shall be all properties within the Central Business District as identified on the current zoning map.

Sec. 4-4. Scope of ordinance.

(a) Within limits established in the adopted codes, the ordinance shall apply to construction, enlargement, alteration, relocation, demolition, and change of use or occupancy of all structures within all areas of the City of Barre.

(b) This ordinance shall not apply to general maintenance and repair of structures or the replacement of individual components including, but not limited to the replacement of roofs, doors and windows as long as the rough opening is not altered. Electrical alterations are regulated separately under Chapter 5 of the City Ordinances and therefore are not covered under these regulations.

Sec. 4-5 Effect of regulations.

(a) Unless exempted within these regulations, no property owner in the City shall construct, enlarge, alter, relocate, demolish, or change the use or occupancy of a structure without first obtaining a building permit from the building official.

(b) Unless exempted within these regulations, no structure shall be used or occupied until the building official has issued a Certificate of Occupancy or Temporary Certificate of Occupancy, as appropriate.

Sec. 4-6 Designation of Effect.

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

Sec. 4-7 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. 4-10. Adoption; definitions.**

(a) Unless otherwise expressly stated, the definitions as given in the International Building Code adopted in section 4-3 shall be used for the purposes of this chapter.

(b) Building Official. Building Inspector or designee.

(c) Council. City of Barre City Council.

ARTICLE III. ADMINISTRATION, APPEALS, & ENFORCEMENT**Sec. 4-20. Duties and powers of building official.**

(a) The building official is hereby authorized and directed to administer and enforce the provisions of the adopted codes. The building official shall have the authority to render interpretations of the codes. Such interpretations, policies and procedures shall be in compliance with the intent of the adopted codes and 24 V.S.A. Chapter 83.

(b) The building official shall not have the power to waive any requirements of the adopted codes.

(c) The building official 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 building official has reasonable cause to believe there exists in a structure or upon a premise a dangerous, unsafe, or hazardous condition, the building official is authorized to enter the structure or premises at reasonable times. Where such structure or premises is occupied, the building official must present credentials to the occupant and request entry. If such structure or premises is unoccupied the building official 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 building official must first secure a search warrant duly issued by a court [13 V.S.A. §4701].

(e) The building official shall have all the powers set forth under state law to administer the provisions of these regulations, including, but not limited to:

- (1) Issue building permits (subject to Council approval);
- (2) Issue temporary or permanent certificates of occupancy.
- (3) In writing suspend or revoke a certificate of occupancy or completion issued under the provisions of this ordinance whether the certificate is issued in error, or on the basis of incorrect information supplied, or where it is determined that the building or structure or portion thereof is in violation of any ordinance or regulation and or code.
- (4) Authorize disconnection of utility service to the building, structure or system regulated by these codes referenced in case of an emergency where it is necessary to eliminate an immediate hazard to life and property. The building official shall notify the utility, and wherever possible the owner and occupant(s) of the building, structure or service system, of the decision to disconnect prior to taking such action. If not notified prior to disconnecting, the owner or occupant(s) of the building, structure, or service system shall be notified in writing as soon as possible thereafter.
- (5) Serve a written order upon the person responsible for the violation directing discontinuance of the alleged action and ordering the remedy of the condition that is in violation;
- (6) Serve a written stop-work order requiring the suspension of all further work until the condition that is in violation has been corrected. Any person who shall continue any work after having been served with a stop work order, shall receive fines and penalties as described in sec. 4-22;
- (7) Issue municipal tickets as directed under 24 V.S.A. Chapter 59 and Section 4-22 of this ordinance.
- (8) Declare structures to be unsafe and, in accordance with Article V of this ordinance, order the securing and/or removal of the structure.

Sec. 4-21. Appeals of building official actions.

(a) Any owner or agent aggrieved by an order of the building official may appeal within fifteen (15) days of said order to either the board of arbitrators or the district court at the election of the appellant.

(b) For appeals to the board of arbitrators a request for appeal shall be made by filing a written complaint and any required fee with the building official.

- (1) The building official shall convene a board of arbitrators within 15 days to schedule a hearing.
- (2) The board of arbitrators shall be composed of two disinterested persons, who are qualified building professionals (eg. architect, engineer or contractor) and residents of the City, one of whom is appointed by the appellant and one by the building official.
- (3) The board shall meet within ten (10) days of receiving notice from the building official 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 board of arbitrators by instituting relief in Superior Court under V.R.C.P. 74.
- (4) If such arbitrators cannot agree, a third member shall be chosen by the arbitrators. On failure to agree as to such third member, the third member shall be appointed by a district or superior judge.
- (5) A decision of a majority of the board of arbitrators, when reduced to writing, sworn to and filed in the building official's office, shall be final and conclusive upon the parties. Upon the filing of such decision, it will take effect immediately. The expense, if any, of such arbitration shall be paid by the appellant.

Sec. 4-22. Enforcement

(a) The building official is required to serve a notice of violation or other order on the person responsible for the construction, enlargement, alteration, relocation, demolition, and change of use or occupancy of any structure where such change is in violation of this ordinance or the adopted codes. 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 building official, the building official 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 building official 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 building official may notify the City Attorney of the violation who can take action in Superior Court seeking injunctive relief as appropriate with penalties as prescribed below:
 - i. Any person who violates this ordinance shall be fined not more than the amount prescribed under 24 V.S.A. Chapter 83 which at the time of the development of these regulations is \$200.

(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.

(d) Where a building official finds that a violation is to such a degree that a building is declared unsafe, the building official may initiate procedures to secure or remove such structure under the provisions found in Article V.

(e) Once a structure has received a notice of violation it cannot be reoccupied until a permanent or temporary certificate of occupancy has been issued by the building official;

Sec. 4-23. Fees.

(a) The City Council may prescribe reasonable fees to be charged with respect to the administration of this ordinance. The applicant may be charged the cost of recording fees as required by law.

Sec. 4-24. Records.

(a) The building official shall keep official records of permits and certificates issued, and fees collected. Reports of inspections, notices and other orders issued shall be retained.

(b) The building official is responsible for recording all permits, certificates of occupancy, temporary certificates of occupancy, and notices of violation in the municipal land records of the City Clerk.

ARTICLE IV. PERMITS

Sec. 4-30. Building permit.

(a) Unless exempted within these regulations, no property owner in the City shall construct, enlarge, alter, relocate, demolish, or change the use or occupancy of a structure without first obtaining a building permit from the building official.

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

(c) No permit shall be granted until the required fee is paid to the City and until the building official is satisfied from an examination of the plans and specifications or the detailed memoranda of the proposed building or alteration that such structure when completed will be safe and secure and built in a proper manner. Applicants have the burden to demonstrate compliance with the adopted codes.

(d) Other provisions of the code and building law notwithstanding, no permit, certificate or license required under provisions of this chapter shall be issued or granted by the building official, until the matter has been presented to the Council, with recommendations for review.

When approved by the Council, the clerk shall so attest in writing on the permit, license or certificate. A permit, license or certificate shall not be valid unless it bears the City Clerk's attestation.

(e) Where equipment replacement and repairs must be performed in an emergency situation the permit application shall be submitted the next business day to the building official.

(f) Construction or work for which a permit is required shall be subject to inspection by the building official and such construction or work shall remain accessible and exposed for inspection purposes until approved. It shall be the duty of the permit applicant to cause the work to remain accessible and exposed for inspection purposes. Neither the building official nor the City of Barre shall be liable for the expense entailed in the removal or replacement of any material required to allow inspection.

(g) Building permits shall be invalid after three (3) years from the date of issuance. The building inspector shall have the discretion to approve extensions of time beyond the three-year limit provided that all extensions are in writing and are for a specified duration which is consistent with the permits issued by the department of planning and zoning for the subject permit.

(h) Structures hereafter constructed, enlarged, altered, or relocated without a permit or not in conformance with the adopted codes or conditions of permit approval shall be removed.

Sec. 4-31. Certificate of occupancy

(a) Unless exempted within these regulations, no structure shall be used or occupied until the building official has issued a Certificate of Occupancy or Temporary Certificate of Occupancy, as appropriate.

(b) Upon completion of construction involving a building permit, the applicant shall request the issuance of a certificate of occupancy. After the building official inspects the structure and finds no code violations the building official shall issue a certificate of occupancy.

Sec. 4-32. Temporary occupancy permits

(a) The building official is authorized to issue a temporary certificate of occupancy before the completion of the entire work covered by the permit, provided that such portion or portions shall be occupied safely. The building official shall set a time period during which the temporary certificate of occupancy is valid.

(b) The building official is authorized to, in writing suspend or revoke a certificate of occupancy or temporary certificate of occupancy issued under the provisions of this ordinance whether the certificate is issued in error, or on the basis of incorrect information supplied, or where it is determined that the building or structure or portion thereof is in violation of any ordinance or regulation and or code.

ARTICLE V. SPECIAL CIRCUMSTANCES**Sec. 4-40. Abatement and Rehabilitation of Dangerous Structures****(a) Statement of findings and purpose.**

(1) Being that in the City of Barre there are structures that have or may become dangerous or unsafe, the Barre City Council finds and declares that:

- i. Structures that become dangerous and unsafe must promptly be made safe and secure to protect the public safety.
- ii. Immediate abatement and rehabilitation of these structures is necessary to secure the public safety and to ensure and enhance the vitality and livability of our neighborhoods.
- iii. Communication between owners of dangerous structures and the City is essential for effective allocation of public resources and the maintenance of public health, welfare, and safety in regards to such structures.

(2) The purpose of this article is to establish the reasonably necessary measures to protect the public safety and welfare threatened by dangerous and unsafe structures, consistent with the authority vested in the City 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 City.

(b) The building official is authorized to administer and enforce the provisions of this article. The building official may take such measures as are necessary for the proper enforcement of the article, including, but not limited to, securing and/or removing structures at the expense of the property owner.

(c) Obligations of owners of dangerous structures and buildings.

(1) A structure 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 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 building or structure pursuant to this section shall comply with all applicable building, fire prevention, zoning ordinances and other codes.

(2) The building official shall inspect a structure upon receiving information that the 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 building official 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 building official shall enter and inspect the premises. Absent an emergency situation, if the owner of the suspect structure fails or refuses to consent to an inspection, the building official 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.

- (3) If, in the building official's judgment, the structure or building appears to endanger the public safety, the director shall in his/her discretion elect to commence action to abate as herein provided. To commence an abatement action, the building official 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 structure or make the structure or condition safe and secure in the time specified for in the notice. If it appears to the director that such structure would be imminent harm to persons or property, the building official 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 building official's authority.
- (4) Any person notified as provided in subsection (c) shall within the time specified commence to secure or remove such structure. If the public safety so requires, the building official 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) If the owner continues such refusal or neglects to remove or make the structure safe within 60 days, the building official shall 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 structure is situated and shall be enforced within the time and in the manner provided for the collection of taxes on land, pursuant to 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 City fifty dollars (\$50.00), to be recovered in a civil action on this article.
 - i. Any violation of this section 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 section and shall restrain the further construction, alteration or repair of a building or structure reported to be unsafe under a survey authorized by this section.
 - ii. An abatement action under this section 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 article, 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 section shall not bar relief or remedy if such failure does not prejudice a person interested and merely constitutes harmless error. (Entire Chapter Amended Ord. No. 2009-01, 08-04-09)