

A. Statement of purpose:

The purpose of this ordinance is to prevent dangers to public health and safety caused by unsecured vacant buildings in the Town of Wilmington.

B. Statutory authority:

- (1) By authority of 24 V.S.A. ch. 59 (§§ 1971, et seq.), municipalities are authorized to adopt and enforce municipal ordinances and rules;
- (2) By authority of 24 V.S.A. § 2291(14), municipalities may adopt ordinances to provide procedures for abatement of public nuisances for public health, safety, and/or welfare.
- (3) By authority of 24 V.S.A. § 2291(15), municipalities may provide penalties for violation of any ordinance adopted under the aforementioned authority.

C. Statement of findings and purpose:

- (1) Structures that are vacant and not properly secured attract vagrants and criminals and are prime locations to conduct illegal criminal activities, including, but not limited to, arson and drug use.
- (2) Structures that are vacant and unsecured pose serious threats to the public's health and safety, as well as that of adjoining property owners, and therefore are declared to be public nuisances.
- (3) The purpose of this article is to establish the reasonably necessary measures to abate the public nuisance caused by unsecured vacant buildings and structures.

D. Definitions:

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

- (1) Health Officer: The town Health Officer shall be the officer appointed by the Town of Wilmington Select Board to enforce this Ordinance.
- (2) Vacant structure means any structure or building that is unoccupied by a person or occupied by unauthorized persons for 90 days, excepting permitted warehouse or permitted storage structures, garages, vacation or resort facilities or those buildings or structures only used on a seasonal basis, and those structures being newly constructed within the terms of their building and zoning permits or under substantial rehabilitation for a period of 1 year from the date that the building permit or zoning permit is issued— whichever is later.

- (3) Vacant Space shall mean any 500 sq. ft. or greater portion of a building (as defined in the State of Vermont Building Code), other than basements, attics or utility rooms, that is unoccupied by any person or is occupied by persons not authorized by the owner for more than 90 days, except for space under construction pursuant to the terms of a building and/or zoning permit, or under substantial rehabilitation for a period of up to one year from the date that such permit(s) was issued, whichever is later.
- (4) Unsecured shall mean that an unauthorized person may easily gain access to the interior of the building through an opening of any kind.
- (5) Owner shall mean any and all owners of record. The obligations of owners under this article extend to the agents of such owner(s) or other persons interested in the building or structure.

E. Enforcement authority:

- (1) The Health Officer appointed by the Town of Wilmington Select Board shall enforce this Ordinance. Nothing in this Ordinance shall prevent the Health Officer from performing his or her duties under other regulations or ordinances that he or she may be designated to administer and enforce. The Health Officer shall have the authority to inspect buildings, structures or any portion of a property, interior or exterior, within the territorial limits of the Town of Wilmington. In the event that the Health Officer is unavailable, or has a conflict of interest, the Town Manager or his/her designee shall perform the functions of the Health Officer.
- (2) Nothing in this Ordinance shall affect the authority of the Town of Wilmington 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.

F. Obligations of owners of vacant structures and buildings:

- (1) The owner of a vacant structure or space shall immediately notify the Health Officer upon such space or structure becoming vacant (under the terms defined in Section D: 2 and 3 of this ordinance).
- (2) The owner of a vacant structure or space shall immediately lock, barricade or secure all doors, windows and other openings in the structure or space to prohibit entry by unauthorized persons. 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 rigid materials which are tightly fitted and secured to the opening.

G. Enforcement and Penalties:

- (1) The Health Officer may inspect a vacant structure or space if the the structure or space is perceived to be unsecured.
- (2) When, in the Health Officer's judgment, the structure or space is found to be unsecure and as such to endanger public safety, the Health Officer shall notify the ower by certified mail and require the owner to make the premises secure within 15 days of notification.
- (3) Beginning 15 calendar days from notification, for every day's continuance of such refusal or neglect, the owner or person interested shall forfeit to the town fifty dollars (\$50.00), to be recovered in a civil action on this article. If the owner shall refuse or fail to make the premises secure for an additional period of 15 calendar days, (a total of 30 calendar days from notification), the fine shall increase to one hundred dollars (\$100.00) per day, and the Health Officer shall cause the vacant structure or space to be made secure at the cost of the building owner. The fine shall continue each day until such time as the owner or the health officer has secured the building. Failing payment, all fines and costs 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 32 V.S.A. § 5061, so long as the lien is recorded in the office where the land records are kept.