

Title 9 Buildings

Chapter 16—Vacant Buildings

§ 1350. Authority

The Board of Aldermen 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)(15) and the Revised Charter of the City of Rutland Vermont.

§1351. Statement of Findings

1. Buildings that are in such a state of disrepair as to be public nuisances are a blight on their neighborhoods, cause deterioration and instability in their neighborhoods, have an adverse impact upon adjacent and nearby properties, and are a threat to public health, welfare, and safety.
2. Once a building becomes a public nuisance, the opportunity for rehabilitation is often passed; at that point, the cost of remediation can outweigh the value of the building.
3. Vacant buildings are particularly susceptible to falling into a state of disrepair and to becoming public nuisances.
4. It is in the best interests of the City and its taxpayers to encourage owners to maintain their vacant buildings and to rehabilitate their deteriorating, vacant buildings before those buildings become public nuisances, and to assess financial deterrents to the owners in the event that they fail to do so.
5. It is in the best interest of the City and its taxpayers that a comprehensive catalog of vacant residential, commercial, and industrial buildings in the City be established and maintained, identifying the name and contact information of each vacant building's current owner(s) (and, if necessary, a local agent), so that in the event that a vacant building falls into disrepair, city officials may readily contact a person responsible for the building, and encourage preemptive and curative steps be taken to prevent the building's further deterioration.

§1352. Purpose

The purpose of this ordinance is to create and maintain a catalog of vacant buildings within the City by requiring registration of these buildings by the vacant building owner, to document and define the responsibilities of vacant building owners, to abate the public nuisance caused by vacant buildings in a state of disrepair, and to bring vacant buildings back into productive use consistent with the authority vested in the City.

§1353. Scope of ordinance

The ordinance shall apply to any vacant building within the City of Rutland.

§1354. Designation of Effect

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

§1355. Severability

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.

§1356. Definitions

- a) **Blighted Structure:** A structure is blighted when it exhibits objectively determinable signs of deterioration sufficient to constitute a threat to human health, safety, and public welfare.
- b) **Building Inspector:** means the Building and Zoning Department staff position assigned to administer City housing standards and ordinances or their designee.
- c) **City Codes:** means all of the codes, certifications, standards, requirements, and ordinances promulgated by the City of Rutland, as applicable to a given vacant building, including without limitation: Rutland City Housing Standards, building codes, health codes, fire codes, water codes, sewer codes, and/or zoning permits.
- d) **Public Nuisance:** For the purposes of this ordinance, "public nuisance" means any one of the following:
 - i. Any building qualifying as a public nuisance, or an attractive nuisance, at common law;
 - ii. Any building that has unsanitary sewerage or plumbing facilities, or from which the plumbing, electrical, or heating systems have been removed or rendered permanently damaged;
 - iii. Any building that is in such a state of dilapidation, deterioration, decay, or damage as to adversely affect the character of the surrounding area; or which negatively affects the value of adjacent and nearby properties; or which constitutes a fire hazard; or is in danger of collapse or catastrophic failure; or is otherwise unsafe to persons or property; and,
 - iv. Any Blighted Structure.
- e) **Vacant Building:** means, generally:
 - i. For single family residential buildings, any building that is not legally used as a residence by a person for a period of at least 90 consecutive days.

- ii. For two family and multifamily residential buildings, any building in which none of the units are legally used as a residence by a person for a period of at least 90 consecutive days.
- iii. For commercial and industrial buildings, any building in which no employees are arriving on a regular basis and no work is being performed for a period of at least 90 consecutive days and where the building is not being utilized for its intended purpose.
- iv. Any building that would qualify under one of the above three definitions but for sporadic occupancy or use, in bad faith, for the principal purpose of avoiding classification of vacancy under this ordinance.

Notwithstanding the foregoing, the Building Inspector shall use his/her best judgment to determine, on a case by case basis, whether a building is or should be deemed vacant for the purposes of this ordinance.

- f) **Housing Board of Review:** means the City body formed pursuant to 24 V.S.A. Chapter 123.
- g) **Vacant Building Owner:** means the property owner of the vacant building and the first mortgagee of record, who jointly or severally, may be held responsible for the vacant building under this ordinance.
- h) **Vacant Building Owner Responsibilities:** refers to the responsibilities of a vacant building owner. In order to meet his or her vacant building owner responsibilities, a vacant building owner shall:
 - i. Register a vacant building in accordance with this ordinance.
 - ii. Take steps reasonably necessary to prevent the vacant building from becoming a public nuisance, including without limitation:
 - A. Keeping the vacant building secured;
 - B. Ensuring that the vacant building complies with City Codes;
 - C. Preventing the building's exterior condition from deteriorating and maintaining the general aesthetic appearance of the building when viewed from the street and/or from adjacent properties;
 - D. Providing regular maintenance and repair, including regular mowing and upkeep of vegetation, and preventing accumulation of excessive trash or debris;
 - E. Taking all reasonable steps during winter months to ensure that the vacant building is not damaged by freezing weather, including by ruptured water pipes, ice dams, etc.

§1357. Registration

- a) Any vacant building owner shall register a vacant building with the building inspector within 90 days of the effective date of this ordinance, or of the building becoming vacant, whichever later occurs.
- b) Registration shall be submitted on a properly completed registration form adopted by the Building Inspector. Among other information, the registration form shall:
 - i. Identify the name, mailing address, and phone number of the vacant building owner;
 - ii. If the vacant building owner does not reside within the State of Vermont, the registration shall appoint and identify the name, address, and phone number of a local agent who is responsible for the vacant building and who can gain ready access to the building in the event of an emergency or inspection;
 - iii. Include a certification by the vacant building owner that he or she is currently in compliance with all vacant building owner responsibilities with respect to the subject building; and,
 - iv. Grant a temporary right of entry to the Building Inspector onto the premises for the purpose of conducting inspections of the vacant building in accordance with this ordinance.
- c) It shall be the vacant building owner's responsibility to inform the Building Inspector of any changes in the identity, mailing address, or phone number of the vacant building owner.
- d) In the event that the occupancy or use of a vacant building changes such that the building is no longer vacant under this ordinance, the vacant building owner shall certify to said change on a form adopted by the Building Inspector, upon the receipt of which the Building Inspector shall cause the subject building to be removed from the vacant building registry, at which time the provisions of this ordinance no longer will apply to said building.

§1358. Inspection

- a) As soon as practicable after initial registration, or upon determination that a building is vacant, the Building Inspector shall make an inspection of the exterior of the vacant building to determine if the building then constitutes, or is in danger of becoming, a public nuisance.
- b) From time to time, the Building Inspector shall make additional exterior inspections of all vacant properties to ensure that:
 - i. Such building does not then constitute, nor is in danger of becoming, a public nuisance; and,
 - ii. The vacant building owner is in compliance with the vacant building owner responsibilities.

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- c) The Building Inspector shall notify the vacant building owner that such inspection shall occur on a date and time certain not sooner than seven (7) days nor later than fourteen (14) days from the date of the notice.
- d) A notice sent via certified mail to the vacant building owner at the address listed on the vacant building registry or the most recent City tax bill shall be deemed received by the vacant building owner.
- e) It is encouraged that the vacant building owner be available at the time of inspection.
- f) After every inspection of a vacant building, the Building Inspector shall complete an inspection report. The inspection report shall, among other things:
 - i. Describe the general condition of the inspected portions of the building;
 - ii. Articulate the Building Inspector's conclusions as to whether the vacant building then constitutes, or is in danger of becoming, a public nuisance, as well as to whether the vacant building owner is in compliance with the vacant building owner responsibilities;
 - iii. Set forth any conditions or required abatement measures that must be taken to prevent the building from becoming a public nuisance; and,
 - iv. Attach photographs of the building taken during the inspection depicting principal areas of concern.
- g) A copy of every inspection report shall be forwarded to the vacant building owner at the address set forth on the registry or the most recent City tax bill.

§1359. Remediation

- a) If the Building Inspector determines that the vacant building constitutes, or is in danger of becoming a public nuisance, that conclusion shall be articulated in the inspection report sent to the vacant building owner.
- b) In the event that the vacant building receives an inspection report requiring remediation, the vacant building owner shall, within thirty (30) days, either:
 - i. Complete the required remediation, or
 - ii. Submit a remediation plan. Any remediation plan shall, at a minimum:
 - A. Propose a plan for complying with the conditions and requirements set forth in the inspection report; and,
 - B. Propose a schedule by which each condition or deficiency set forth in the inspection report shall be addressed or redressed.
- c) If a remediation plan is submitted under Article V(B)(2):
 - i. The Building Inspector shall advise the vacant building owner if the proposed remediation plan is approved or rejected as soon as practicable.

- ii. If the Building Inspector rejects the proposed remediation plan as inadequate to fully address the deficiencies noted in the inspection report, the Building Inspector will work with vacant building owner to revise the remediation plan. If the vacant building owner fails or refuses to implement changes required by the Building Inspector, the Building Inspector shall commence enforcement action in accordance with Article VII of this ordinance.
 - iii. The Building Inspector shall make regular visits to the building to ensure that the remediation is progressing in accordance with the remediation plan, and if such progress is not being made, the Building Inspector may commence enforcement action in accordance with Article VII of this ordinance.
- d) Upon the Building Inspector's satisfaction that each condition or deficiency has been remedied a certificate of remediation will be issued and placed in the file.

§1360. Administration

- a) The Building Inspector, in addition to all powers granted in the Revised Charter and Ordinances of the City of Rutland Vermont, is hereby authorized and directed to administer and enforce the provisions of this Ordinance and, except where expressly provided, shall not waive any requirements of this Ordinance.
- b) The Building Inspector shall carry proper identification when inspecting buildings in the performance of his/her duties.
- c) The Building Inspector shall have all powers reasonably necessary to carry out the provisions of this ordinance, including, but not limited to:
 - i. Registering vacant buildings;
 - ii. Inspecting registered buildings for compliance with this Ordinance; and,
 - iii. Issuing municipal tickets for violations of this Ordinance pursuant to Article VII and 24 V.S.A. Chapter 59.
- d) The Building Inspector shall keep official records of:
 - i. The vacant building registry for the City;
 - ii. Inspection reports and related correspondences, photographs, and notices; and,
 - iii. Any records, complaints, correspondences or other documents, and orders associated with the enforcement of this Ordinance.
- e) The Building Inspector is responsible for recording all registrations, notices of violation, and certificates of remediation in the municipal land records of the City Clerk.

§1361. Enforcement

- a) In the event of a violation of this Ordinance, the Building Inspector may commence enforcement proceedings by serving a notice of violation upon the vacant building owner. Such notice shall direct compliance with this ordinance and/or the discontinuance,

remediation, and/or abatement of the violation. The notice of violation shall attach a copy of any inspection reports from which the violations arise.

- b) If the vacant building owner fails to comply or to remedy the violation, as appropriate, within thirty (30) days of the issuance of the notice of violation, the Building Inspector shall enforce the terms of this Ordinance by any appropriate action allowed under state law including, but not limited to:
 - i. Issuance of a Municipal Complaint and enforcement before the Judicial Bureau in accordance with the provisions of 24 V.S.A. Chapter 59, provided that:
 - A. A civil penalty of not more than one hundred dollars (\$100), with a waiver fee of fifty dollars (\$50), may be imposed for a violation of this ordinance.
 - B. A civil penalty of not more than five hundred dollars (\$500), with a waiver fee of two hundred fifty dollars (\$250), may be imposed for a violation of this ordinance by a vacant building owner who:
 - 1. Fails to complete required remediation or submit a remediation plan within sixty (60) days after the inspection report is issued pursuant to Article V hereof;
 - 2. Acts in bad faith with an apparent intent to undermine the purposes of this ordinance; or
 - 3. Within the past two (2) years has been the subject of a prior enforcement action under this ordinance.
 - C. Each day a violation continues under subsections (a) or (b) shall constitute a separate violation.
 - ii. Commencement of an action in Superior Court seeking any remedies at law or equity, including injunctive relief, or other penalties as prescribed by law.
 - iii. In any action brought to enforce the provisions of this ordinance, the City shall be entitled to reimbursement of costs and reasonable attorneys' fees.

§1362. Appeals of Building Inspector Actions

Any vacant building owner aggrieved by an act or decision of the Building Inspector may appeal as applicable under law.

§1363. Vacant Building Remediation Fund

- a) A Vacant Building Remediation Fund is hereby created to further the objectives of this ordinance.
- b) All fines or penalties collected in connection with administering or enforcing the provisions of this ordinance shall be deposited into this fund.