

CHAPTER X

UNSAFE BUILDING ORDINANCE

Pursuant to Title 24, Vermont Statutes Annotated, sections 1972 and 1973, the Board of Trustees of the Bellows Falls Village Corporation adopted the following Unsafe Building Ordinance on June 26, 1990.

The Trustees of the Village of Bellows Falls hereby ordain:

I. UNSAFE BUILDING ORDINANCE

The name of this ordinance shall be "Unsafe Building Ordinance."

II. PURPOSE

This ordinance is enacted to provide for the vacation, removal, repair, demolition, or isolation of any building, wall, structure, or building site, which is, or threatens to be, unsafe, a public nuisance, dangerous to the health, safety or general welfare of the people of Bellows Falls, or which might constitute a fire hazard. This ordinance will also serve to provide for the assessment of the cost of such vacation, removal, repair, demolition, securing or isolation thereof for purposes of assessment against such premises and to provide for the recovery of such costs in an action at law.

III. DEFINITIONS

A. Building - shall mean any structure, and shall apply to parts thereof and to walls.

B. Dangerous Buildings - shall be defined as:

- (1) Any building, shed, or other man-made structure which is dangerous to the public health because of its condition, or which may cause or aid in the spread of disease, or injury to the health of the occupants of it, or any neighboring structure.
- (2) Any building, shed, or other man-made structure which because of faulty or incomplete construction, lack of proper repair, vandalism, abandonment, fire, wind, or water damage, or any other cause, constitutes or creates a fire hazard.
- (3) Any building, shed, or other man-made structure which is subject to collapse or has parts thereof which are so attached that they may fall or injure members of the public or property.

- C. Structurally Unsafe Buildings - shall be those to which one or more of the following standards shall be applicable:
- (1) Those whose interior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.
 - (2) Those which, exclusive of foundation, show 33 1/3 percent or more of damage or deterioration of the supporting member or members, or fifty (50) percent of damage or deterioration to the non-supporting, enclosing or outside walls, roofs or covering.
 - (3) Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used.
 - (4) Those buildings which are existing in violation of any fire or safety codes which are applicable to structures within the Village of Bellows Falls.
- D. Nuisance - Shall mean any building or structure falling within the definitions set out in Section III of this ordinance.
- E. Working Days: Any day other than Saturday, Sunday or an observed holiday as listed in the Town of Rockingham & Bellows Falls Village Corporation Personnel Rules. **(added, October 8, 2013)**

IV. INITIAL SAFETY AND SECURITY MEASURES **(added February 9, 2009 – Book 2, Page 51-52)**

The owner of any Dangerous Buildings or Structurally Unsafe Building shall perform Initial Safety and Security Measures as directed by the Bellows Falls Fire Chief (or his/her deputy). Time frames shall be established for completion of required measures. These measures may include, but are not limited to:

- a. Securing the structure from public entry.
- b. Initial cleaning up and properly disposing of debris.
- c. Initial measures to make the structure and the site safe.
- d. Securing or shutting off utilities (e.g., electricity, water, wastewater, fuel oil, LP gas, chemicals)
- e. Contacting other appropriate local, state, and federal officials.

V. DECLARATION AND FINDING OF NUISANCE

Any building or other structure within the limits of the Village of Bellows Falls which is determined or found to be within the definition of a "Dangerous Building" or "Structurally

Unsafe Building" as defined herein is declared to be a public nuisance and shall be ordered repaired, vacated, secured, isolated, or demolished by the Board of Trustees. The Trustees shall make such orders as shall be equitable and appropriate in each case.

VI. STANDARDS

The Board of Trustees may consider, but shall not be bound, to the following standards to be considered as a basis for such orders and findings as they shall make:

- A. If the building or structure can reasonably be repaired so that it will no longer exist in violation of the terms of this ordinance, it shall be ordered repaired.
- B. If the building or structure is in such condition as to make it dangerous to the health, safety or general welfare of its occupants or the people of Bellows Falls, it shall be ordered to be vacated.
- C. If a building or structure is fifty (50) percent or more damaged or decayed or deteriorated, it may be ordered demolished and in all cases where a building cannot be repaired sufficiently to bring it to a standard outside of the definitions contained in this ordinance than it may be ordered demolished.
- D. If a "dangerous building" is a fire hazard, existing or erected in violation of the terms of this ordinance, it shall be ordered demolished.

VII. PROCEDURE

- A. The Trustees of the Village of Bellows Falls, upon their own motion or upon being notified in writing that a structure is unsafe, shall cause an inspection to be made by the Fire Chief or the Health officer or their deputies within 15 working days. The result of such inspection is to be reported immediately to the Board if in session or to the Chairman of the Board if the Board is not in session. The report shall be written. If the report of the inspection indicates that there is merit to the complaint, then the Trustees shall designate within three (3) days following the next regularly scheduled meeting of the Board of Trustees, a Committee of three who shall inspect within 15 working days from the date of their designation.
- B. The Committee will consist of a qualified structural engineer, the Fire Chief and the Health Officer or their deputies.

The Committee shall prepare one report. The report shall include the Findings of Fact of each member and the conclusions and recommendations of the Committee as a whole. A copy of the report shall be forwarded to the Board of Trustees within (15) fifteen working days following the inspection.

- C. If the Committee is unable to obtain access to the building or structure subject hereto, from the owner of record or someone authorized to act on the owner's behalf, then the Committee shall render its report based on available information.

VIII. DUTIES OF THE TRUSTEES

Upon receipt of the Committee's report the Trustees may adopt the findings of the Committee in whole or in part. The Trustees may, but shall not be required to inspect the subject premises prior to taking action on the Committee report. The Trustees shall, if the report and/or their inspection of the premises dictates, declare the building or structure a nuisance within the purview of Section III and order one or more of the remedies set forth in Section IV and V of this Ordinance.

IX. NOTICE AND SERVICE

If the Board of Trustees determines that the building or structure falls within the purview of Section III, and remedial action is necessary, then notice, findings and an order shall be served on the owners of record of said premises, and all lien holders of record.

X. ORDER AND NOTICE

The order shall contain the report of the Committee, the Findings of Fact of the Trustees, the remedial procedures ordered, a copy of this Ordinance, and the time for compliance. Notice shall be by delivery of a copy of the Order to each interested party in hand or by certified mail, return receipt. If service cannot be made, then notice may be had by publication in a newspaper of general circulation in the Village of Bellows Falls for (2) two successive weeks.

XI. APPEAL

Any party entitled to notice hereunder may appeal from the order of the Trustees at any time within (10) ten days of the receipt of notice or within (10) ten days of the last date of publication, if service of notice is by publication, by filing a Notice of Appeal in writing with the Village Clerk.

XII. HEARING BY TRUSTEES

Upon the filing of the Notice of Appeal, the Trustees shall at their next regular meeting or at a special meeting set a date for a full hearing before a majority of the Board of Trustees, which hearing shall commence within (40) forty days from the date of the filing of the Appeal. Notice of the hearing shall be sent to interested parties first class mail, postage prepaid. The Fire Chief, the Health Officer and the Village Manager shall also be notified and may appear and participate in the hearing in the interest of the Village.

XIII. PROCEDURE

The Trustees shall conduct the hearing, make Findings of Fact and Order consistent with the provisions of 3 VSA Chapter 25 and as the same shall from time to time be amended.

XIV. APPEAL FROM THE TRUSTEES

Appeal from such an order of the Trustees shall be made consistent with those procedures for obtaining appellate judicial review as is set out in 3 VSA Chapter 25 and as the same shall from time to time be amended.

XV. ENFORCEMENT

A. Initial Safety and Security Measures. The Bellows Falls Fire Chief (or his/her designee), shall set a time for compliance with the Initial Safety and Security Measures. In the event of non-compliance, the Chief may seek an Order from the Bellows Falls Village Trustees. **(Added February 9, 2009 – Book 2, Page 51-52)**

The Trustees, when required in their order, shall set a time for compliance with the terms thereof, and in the event of non-compliance, the Trustees may enforce the terms of the Order by:

1. Resorting to an appropriate judicial remedy where available.
2. Correcting the defect or causing the building or structure and/or site to be secured, cleaned of debris, and/or shutting off utilities, pay the cost thereof and recover the cost from the owners thereof.
3. In the event that the Trustees resort to the remedy set out in Paragraph 2 of this subsection, the Village shall have a lien against the remaining property to recover its costs. The Trustees shall not be limited to this procedure and shall be entitled to any other statutory action for remedy. Such costs shall also include the recovery of all reasonable costs for the enforcement of such order and any recovery shall include reasonable attorney's fees. Any lien established by the Trustees shall be subject to enforcement consistent with the provisions for enforcement of liens under 9 VSA § 1924.

XVI. PENALTIES

A violation of this ordinance shall be a civil matter enforced in accordance with the provisions of 24 V.S.A. §1974a and §1977 et seq. A civil penalty of not more than Five Hundred Dollars (\$500.00) may be imposed for each violation of this civil ordinance and the waiver fee shall be set at One Hundred Dollars (\$100.00) for each violation. Each day that the violation continues will constitute a separate violation of this ordinance. **(added October 8, 2013)**

XVI. EMERGENCY MEASURES

In the event that the Fire Chief or the Health Officer or their deputies inspecting the premises subject to a Complaint or the committee which inspects said premises, finds that there is an existing condition which is hazardous and which requires immediate action, they may so report to the Trustees who immediately thereafter may make such necessary response as may be necessary to secure the premises so as to protect the public from any dangerous condition which might exist, and they may post said premises prohibiting trespass thereon, barricade, board up or take any other necessary action which may be necessary to protect the health and safety of the citizens of the Village of Bellows Falls after reasonable attempts to contact the property owner. Any expense incurred providing for such emergency or immediate security, shall be assessed against the owner of said premises consistent with the provisions of Paragraph XIV.

XVII. RISK

In the performance of the duties required by this ordinance, no Trustee, Committee member, Fire Chief, Deputy Fire Chief, Health officer or Deputy Health Officer or any other Village employee shall be required to enter any building or structure which would expose him or her to any danger to his or her life, health or body.

XVIII. EMERGENCY ORDINANCE UNAFFECTED

The right of the Trustees or any Village Official to react to any emergency or to condemn property in the event of an emergency or catastrophe shall not be enlarged or abridged by this ordinance.

Revised: October 8, 2013