

Town of Royalton

Health and Sanitation Nuisance Ordinance

Article I

PURPOSE.

Any property within the Town of Royalton (hereafter referred to as “Town”) which is in a state of disrepair and deterioration, including vacant buildings, unsafe structures and potentially dangerous land conditions, are deemed to be public nuisances because their existence contributes to the decrease in value of surrounding properties, precipitates disinvestment by neighboring owners, provides a location for criminal activity, undermines the aesthetic character of the Town and its neighborhoods and environs, and has other undesirable effects. Allowing public nuisances to remain indefinitely, even in the absence of code violations, structural boarding and other security measures, is detrimental to the public health, safety and welfare, unreasonably interferes with the reasonable and lawful use and enjoyment of other neighboring or adjacent property, 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 to abate public nuisances and to mitigate their impacts.

Article II

DEFINITIONS.

(1) As used in this Article, the term "nuisance" and “public nuisance" shall mean:

(a) The physical condition or occupancy of any premises or property regarded as a public nuisance at common law; or

(b) any physical condition or occupancy of any premises or property considered an attractive nuisance to children, including, but not limited to, abandoned wells, shafts, basements, excavations, and unsafe fences and structures, or

(c) any premises that has unsanitary sewage or plumbing facilities; or

(d) any premises designated as unsafe for human habitation; or

(e) any premises or property that is manifestly capable of being a fire hazard, or is manifestly unsafe or unsecure so as to endanger life, limb or property; or

(f) any premises from which plumbing, heating or other facilities have been permanently removed or disconnected, destroyed or rendered ineffective, or the adequate precautions against trespassers have not been provided; or

(g) any premise that is unsanitary, or that is littered with rubbish or garbage; or

(h) any structure that is in a state of dilapidation, deterioration or decay, faulty construction, overcrowded, open, vacant or abandoned, or damaged by fire or other casualty to the extent so as to not to be habitable, or in danger of collapse or failure; or dangerous to anyone on or near the premises, or detracts from the value, use and enjoyment of neighboring or adjacent property

As used in this Ordinance, the term "Inspection Officials" shall mean the Town Building Inspector, Town Health Officer or Town Fire Department Chief, or such other person so designated and appointed by the Selectboard.

As used in this Ordinance, the term "Owner" shall mean the person holding record title to premises or property, as well as any person occupying, using, controlling or operating such premises or property as tenant, lessee or any other capacity recognized at law.

Article III

PROHIBITION.

- (1) No person shall create, operate or maintain a public nuisance within the Town.
- (2) No person shall fail to comply with the terms of an order of abatement issued under this ordinance.

Article IV

INSPECTION.

- (1) Upon receipt of information that a violation of this ordinance has occurred, an Inspection Official shall undertake a physical inspection of the premises or property. The Inspection Official may enter any building, structure or premises within the Town for the purpose of inspections or investigations at all reasonable hours; provided that, except in case of emergency, the right and authority conferred by this section shall not apply to the entry of any premises or property unless advance written notice is served on the Owner thereof. Such written notice shall contain a statement of the date and time that an inspection will be made and shall also contain a statement of the purpose of such inspection.
- (2) The Inspection Official shall prepare a written report of their inspection of the premises or property and any corrective or abatement recommendations, and shall deliver a copy thereof to the Owner of the premises and to the Selectboard.

Article V.

HEARING ENFORCEMENT.

- (1) Upon at least ten days advance written notice to the Owner of the premises, the Selectboard shall convene a public hearing to consider and act upon the inspection report of the Inspection Official. At such hearing, Selectboard shall allow testimony and evidence from the Owner and/or

tenant of the premises or property, Town officials and employees, and the public relating to the condition of the premises.

(2) Following such hearing, the Selectboard shall deliberate and may determine that the premises constitute a public nuisance based upon specific findings. In the event the Selectboard determines that the premises constitute a public nuisance, it shall direct that the Owner thereof produce and deliver to the Selectboard a plan and schedule of remediation and abatement, such submission to be made within a reasonable time frame established by the Selectboard, but in no event less than ten days of receipt of the Selectboard's findings.

(3) In the event the Owner's remediation and abatement plan is accepted and approved by the Selectboard, the Owner shall implement said plan immediately, and shall complete the same within the time limits imposed by the Selectboard.

(4) In the event the Owner fails to submit a plan of remediation and abatement in accordance with Subsection (2), or if the Owner fails to comply with Subsection (3), or if the Owner fails to draft a plan accepted by the Selectboard or fails to comply with Subsection (3), the Town shall proceed to enforce this ordinance as provided herein, and shall seek such injunctive relief, enforcement remedies, and penalties as permitted by law, including, without limitation, abatement of common law nuisances, abatement of public health hazards, demolition of structures determined to be in violation of this ordinance, enforcement and foreclosure of liens for unpaid fees imposed under Article VII, and recovery in a civil action for remediation, mitigation and abatement costs incurred by the Town.

(5) In addition to being subject to penalties imposed for violating this ordinance, an Owner whose property is found to be in violation or noncompliance of Article IV (4) shall be liable for all costs incurred by the Town under Article IV (4), and for fees imposed under Article VII, payment of which shall be secured by a lien in the nature of a contractor's lien for labor and material in favor of the Town upon such property.

Article VI

APPEALS

A person, including the Owner, aggrieved by any action taken hereunder by the Selectboard or a Town official or employee may appeal any decision made by the Selectboard under Article V. Such appeal shall be taken in the manner provided by law for appeals from governmental agencies and bodies.

Article VII

FEES

Commencing thirty days from the date of delivery of the Inspection Official's report pursuant to Article IV (2) hereof, the Inspection Official shall conduct periodic inspections of the premises until the remediation plan has been completed in the judgment of the Selectboard, and shall

furnish a report of such inspection to the Owner and the Selectboard. An inspection fee of \$50 for residential properties and \$100 for commercial properties for each such inspection is hereby established, such fee payable upon receipt by the Owner of an invoice from the Town Treasurer.

Article VIII

SCOPE OF ORDINANCE.

This Ordinance shall apply to all property within all areas of the Town of Royalton.

Article VIX

DESIGNATION; PENALTIES.

The Ordinance shall constitute a civil ordinance within the meaning of 24 V.S.A. Chapter 59, for a violation of which there is hereby imposed a penalty of \$100.00 per day for each day the Owner fails to comply with Article V (2)(3) or (4), in addition to any other penalties provided by law.

Article X.

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.

Article XI.

AUTHORITY.

This Ordinance is enacted under authority granted to the Town under 24 V.S.A., 2291(14)