

## NUISANCE STRUCTURES-DANGEROUS BUILDING ORDINANCE TOWN OF CONCORD, VERMONT

**SECTION 1: AUTHORITY.** This ordinance is adopted by the Selectboard of the Town of Concord under authority in 24 V.S.A §§ 2291 (13), (14), and (15) and 24 V.S.A. Chapter 59.

**SECTION 2. PURPOSE.** The purpose of this ordinance is to establish measures to abate the public nuisances, health and safety hazards, and other harmful effects that arise from dangerous buildings and nuisance structures in the Town of Concord.

**SECTION 3. DEFINITIONS.** For purposes of this ordinance, the following words and/or phrases shall have the following meanings:

- A. **Dangerous Building:** Any building or structure or part thereof that, for the lack of proper maintenance, repair, or sanitation, is hazardous to the health or safety of the public or likely to endanger other buildings or property.
  
- B. **Nuisance Structure:** Any building or part thereof that is in a state of dilapidation, deterioration, or decay, has faulty construction, or is open (unsecured), abandoned, or damaged by fire or other casualty to the extent that it is not habitable, or that is considered to be an attractive nuisance to children, wild or feral animals, and that detracts from the value, use, and enjoyment of neighboring or adjacent property.
  
- C. **Buildings Safety Officers.** The Building Safety Officers (Fire Chief, Assistant Fire Chief, Health Officer, Zoning Administrator) appointed by the Town of Concord Selectboard to enforce this ordinance. The Building Safety officers may hold any other office in the Town of Concord. Nothing in this ordinance shall prevent the Building Safety Officers from performing his or her duties under other regulations or ordinances that he or she may be designated to administer and enforce. In the event that the Building Safety Officers are unavailable, or have a conflict of interest, any Issuing Official for the Town of Concord (as defined in Chapter 1 7B) may perform the functions of the Building Safety Officer.

## SECTION 4. ABATEMENT OF DANGEROUS BUILDINGS

A. **Building Safety Inspection.** Upon receiving information that any building or structure in the Town of Concord may be a Dangerous Building or Nuisance Structure, one of the Building Safety Officers shall cause the building or structure to be inspected.

1. Written notice of intent to conduct an inspection shall be given to the owner of the building or structure at least seventy-two (72) hours prior to the inspection. A copy of this ordinance shall be attached to the notice.
2. If the Building Safety Officer(s) have reason to believe that an emergency situation exists, which poses an immediate danger the health or safety of the public, no notification shall be necessary prior to inspection.
3. If the owner of a building or structure fails or refuses to consent to the inspection, the Building Safety Officer(s) shall obtain a search warrant from the Vermont Superior Court for the purpose of conducting the inspection.
4. The Building Safety Officer(s) may retain such law enforcement officers, fire officials, engineers and other qualified experts as necessary to assist with a building safety inspection and the preparation of a Building Safety Order.

B. **Building Safety Order.** If, upon inspection, the Building Safety Officer(s) determine(s) that a building or structure is a Dangerous Building or Nuisance Structure, the Building Safety Officer(s) shall issue a Building Safety Order. The Building Safety Order shall:

1. Identify the hazardous condition(s) that cause(s) the building or structure to be a Dangerous Building or Structure.
2. Identify the action that must be taken by the owner to secure the Dangerous Building or Nuisance Structure and abate the hazardous conditions identified in the Building Safety Order, including, where appropriate, removal of the Dangerous Building or Nuisance Structure.
3. Set a date by which the actions to secure the Dangerous Building or Nuisance Structure and to abate the hazardous conditions(s) must be completed by the owner, which shall be not less than fifteen (15) days from the date of service of the Building Safety Order.
4. Inform the owner of his/her right to appeal the Building Safety Order and the right to be represented by legal counsel at the appeal hearing.

The Building Safety Order shall be served upon the owner of the Dangerous Building or Nuisance Structure by certified mail, return receipt requested, and by first class mail. A Copy of the Building Safety Order shall be given to the Town of Concord Selectboard.

### **C. Appeal.**

1. A person aggrieved by a Building Safety Order may appeal such Order to the Town Of Concord Selectboard within fifteen (15) days of service of the Order. The notice of an appeal shall be in writing and shall set forth a brief statement of the basis of the appeal.
2. Within thirty (30) days of service of the notice of appeal, the Selectboard shall hold a hearing on the appeal. The Selectboard shall issue a written decision within fifteen (15) days of the close of the hearing. The decision may reserve or sustain the Building Safety Order and may contain such additional requirements as the Selectboard deems necessary and appropriate to implement the purpose of this ordinance.

### **D. Penalty and Enforcement**

1. If the owner fails to comply with a Building Safety Order, the owner shall be considered to be in violation of the Order and this ordinance. The violation shall be a civil matter, which may be enforced in the Vermont Judicial Bureau or in the Essex County Superior Court, at the election of the Building Safety Officer(s).
2. This ordinance is a civil ordinance and enforcement shall follow the procedures described in 24 V.S.A. §1974a, including but limited to:
  - a. A civil penalty of not more than \$800.00 may be imposed for a violation of this ordinance unless stated to be otherwise for a specific violation. Each day the violation continues shall constitute a separate violation. A waiver fee of \$200.00 may be paid into the Town Treasury in lieu of an appearance before the Judicial Bureau unless stated to be otherwise.
  - b. Violations of this ordinance where the penalty is \$800.00 or less shall be brought before the Judicial Bureau. If the penalty for all continuing violations is greater than \$800.00, or injunction relief other than as provided in subsection (c.) is sought, the action shall be brought in Superior Court.

- c. The Judicial Bureau hearing officer, on application of the Town of Concord, may order that the ordinance violation cease.

**SECTION 5. OTHER LAWS.** This ordinance is in addition to all other ordinances of the Town of Concord and all applicable laws of the State of Vermont.

**SECTION 6. SEVERABILITY.** If any section of this ordinance is held by a court of competent jurisdiction to be invalid, such finding shall not invalidate any other part of this ordinance.

**SECTION 7. EFFECTIVE DATE.** This ordinance was adopted on September 1, 2020. It will take effect on October 30, 2020 unless a petition signed by at least 5% of the voters of Concord is filed with the Municipal Town Clerk by October 15, 2020, asking for a vote to disprove the ordinance. If a petition is received, the Concord Selectboard will warn a special meeting and the voters may vote on that question. 24 V.S.A. § 1973.

Adopted by the Town of Concord Selectboard at its meeting held on the   1   day of   September  , 2020.

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George Morehouse-Chairman

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Mike Sorrell

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Bill Humphrey-Vice-Chairman

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Roger Wood

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Harold Lunnie

## Adoption History

1. Agenda item at Special Selectboard Meeting held on \_\_August 25, 2020\_\_.
2. Agenda item at Regular Selectboard Meeting held on \_\_ September 1, 2020\_\_.
3. Read and approved August 25, 2020 minutes at Regular Selectboard meeting on \_\_September 2, 2020\_\_.
4. Read and approved September 1, 2020 minutes at Regular Selectboard Meeting on \_\_October 6, 2020\_\_.
5. Posted in public places on \_\_\_\_\_.
6. Notice of adoption published in the Caledonian Record on \_\_\_\_\_ with a notice of the right to petition.
7. Recorded at Town Clerk's Office on \_\_\_\_\_.