

DANGEROUS AND/OR DERELICT BUILDING ORDINANCE
Town of Cavendish, Vermont

SECTION 1. AUTHORITY. This ordinance is adopted by the Board of Selectmen of the Town of Cavendish under authority granted 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 and/or derelict buildings and structures in the Town of Cavendish.

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

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 or pose other public nuisance.

B. Derelict Building: Any building or structure that is unoccupied by a person or is occupied by unauthorized persons and, due to lack of proper maintenance, repair or sanitation is hazardous to the health and/or safety of the public or pose other public nuisance. Unoccupied buildings which are part of a property which is in a pending estate or sale may not necessarily be considered derelict by vacancy alone, however, such status specifically does not preclude the building from action per this ordinance if it is found by way of a safety inspection to be dangerous per section 3A.

C. Building Safety Officer: The officer appointed by the Cavendish Board of Selectmen to enforce this ordinance. The Building Safety officer may hold any other office in the Town of Cavendish. Nothing in this ordinance shall prevent the Building Safety Officer 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 Officer is unavailable, or has a conflict of interest, the Board of Selectmen shall temporarily appoint an alternate person to perform the functions of the Building Safety Officer.

SECTION 4. ABATEMENT OF DANGEROUS BUILDINGS.

A. Building Safety Inspection. Upon receiving credible information or complaint that any building or structure in the Town of Cavendish may be a Dangerous or Derelict Building, the Building Safety Officer 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 has reason to believe that an emergency situation exists which poses an immediate danger to the health or safety of the public, no notification shall be necessary prior to inspection however the Building Safety Officer shall make a good faith effort to seek out the building's owner and serve notice of the inspection and deliver a copy of this ordinance to her/him at the earliest possible time. The Building Safety Officer should have a second party present in the event it is necessary that they enter the building without the building's owner being present.
3. The Building Safety Officer may retain such law enforcement officers, fire officials, engineers and other qualified experts as may be necessary to assist with a building safety inspection and the preparation of a Building Safety Order.
4. If the owner of a building or structure fails or refuses to consent to the inspection, the Building Safety Officer shall obtain a search warrant from the Vermont District Court for the purpose of conducting the inspection.

B. Building Safety Order. If, upon inspection, the Building Safety Officer determines that a building or structure is a Dangerous and/or Derelict Building, the Building Safety Officer shall issue a Building Safety Order. The Building Safety Order shall:

1. Identify the hazardous conditions that cause the building or structure to be a Dangerous Building or the conditions which cause the building to be deemed derelict.
2. Identify the actions that must be taken by the owner to secure the Dangerous and/or Derelict Building and abate the hazardous conditions identified in the order, including, where appropriate, removal of the Dangerous Building.
3. Set a date by which the actions to secure the Dangerous Building and abate the hazardous conditions must be completed by the owner, which shall be not less than fifteen (15) days from the date of service of the order unless the dangerous conditions are so extreme and imperiling as to warrant more immediate action in order to protect human life or safety.
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 and/or Derelict Building by certified mail, return receipt requested; by first class mail, by personal service by a law enforcement officer, or any combination of the these delivery methods. A copy of the Order shall also be delivered to the Selectmen of the Town of Cavendish.

C. Appeal.

1. A person aggrieved by a Building Safety Order may appeal such Order to the Town of Cavendish Board of Selectmen 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 Board of Selectmen shall hold a hearing on the appeal. The Board of Selectmen shall issue a written decision within fifteen (15) days of the close of the hearing. The decision may reverse, sustain or modify the Building Safety Order and may contain such additional requirements as the Board of Selectmen deems necessary and appropriate to implement the purpose of this ordinance.

D. Penalty and Enforcement.

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 Windsor County Superior Court, at the election of the Building Safety Officer.

1. A civil penalty of not more than \$500. per violation may be imposed for violation of this ordinance. Each day that the violation continues shall constitute a separate violation of this ordinance.
2. Violations enforced in the Judicial Bureau shall be in accordance with the provisions of 24 V.S.A. §§ 1974a and 1977 et seq. For purposes of enforcement in the Judicial Bureau, the Building Safety Officer shall be the designated enforcement officer. The Building Safety Officer shall issue tickets and may be the appearing officer at any hearing. The Cavendish Board of Selectmen may authorize the Town Attorney to provide legal counsel to the Building Safety Officer when it deems it necessary or appropriate.
3. Violations enforced in the Superior Court shall be in accordance with the Vermont Rules of Civil Procedure. The Town of Cavendish may pursue all appropriate injunctive relief.

SECTION 5. OTHER LAWS. This ordinance is in addition to all other ordinances of the Town of Cavendish 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 shall become effective 60 days after its adoption by the Cavendish Board of Selectmen. If a petition is filed under 24 V.S.A. § 1973, that statute shall govern the taking effect of this ordinance.

Cavendish Board of Selectmen

James Ballantine
James Ballantine, Chairman

January 9, 2012
DATE

Edward R. Garro
Edward Garro

Robert Glidden
Robert Glidden

Scott Ranney
Scott Ranney

George Timko
George Timko

Received for the record at 9 o'clock 20, this 10 day of January January, 2012

Jane S. Pixley
Jane S. Pixley, Town Clerk
Town of Cavendish

Adoption History

1. Agenda item at regular Board of Selectmen meeting held on 10/11/11, 10/24/11, 12/12/11.
2. Read and approved at regular Board of Selectmen meeting on 01/09/2012 and entered in the minutes of that meeting which were approved on _____.
3. Posted in public places on _____.
4. Notice of adoption published in the _____ newspaper on _____ with a notice of the right to petition.
5. Other actions [petitions, etc.]