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Chapter 6: HOUSING¹

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ARTICLE I. IN GENERAL

PUBLIC HEALTH AND SAFETY ORDINANCE²

Sec. 6-1 AUTHORITY.

This Ordinance is adopted by the Town of St. Johnsbury Select Board under authority granted in 24 V.S.A. Ch. 11, §§ 25(a)(5), (a)(8) and 25(b), 24 V.S.A. §§ 2291(13), (14), and (15), 24 V.S.A. § 2121, and 24 V.S.A. Chapter 59.

Sec. 6-2. STATEMENT OF FINDINGS AND PURPOSE.

Being that there exist in the Town of St. Johnsbury structures, buildings and parcels of land that have become dangerous or unsafe and numerous other structures that are vacant, abandoned, and in disrepair, the St. Johnsbury Select Board finds and declares that:

¹ Cross reference: Animals, Ch. 3

² Article I is a new Ordinance adopted May 27, 2014; no petitions were filed.

- (1) Structures that become dangerous and unsafe must promptly be made safe and secure to protect the public safety and public safety personnel.
- (2) Structures that are vacant and not properly secured are dangerous and unsafe in that they are extremely vulnerable to being set on fire by unauthorized persons.
- (3) Many structures that are vacant, whether secured or not, are a blight on their neighborhoods, cause deterioration and instability in their neighborhoods, and have an adverse impact upon adjacent and nearby properties.
- (4) Structures that were previously used as residential units and have since become vacant have a significant and detrimental impact on the local housing market.
- (5) Structures that are vacant and not properly secured attract vagrants and criminals and are prime locations to conduct illegal activities, including arson and drug use.
- (6) Structures that are vacant and unsecured pose serious threats to the public health and safety and therefore are declared to be public nuisances.
- (7) Quarterly abatement and rehabilitation of these structures is necessary to abate such public nuisances, prevent unsightly blight and the deterioration of neighborhoods with the consequent adverse impact on the value of adjacent and nearby properties, secure the public safety and to ensure and enhance the vitality and livability of our neighborhoods.
- (8) Communication between owners of dangerous and vacant buildings and the Town is essential for effective allocation of public resources and the maintenance of public health, welfare, and safety in regard to such structures.

The purpose of this article is to establish the reasonably necessary measures to abate the public nuisances, blight, negative housing market impact, and other harmful effects connected with dangerous and vacant or abandoned buildings, structures and lands, consistent with the authority vested in the Town to protect the health, safety and welfare of the public through the regulation of the construction, maintenance, repair, and alteration of buildings, structures and properties within the Town.

Sec. 6-3. DEFINITIONS.

For purposes of this Ordinance, the following words and/or phrases shall apply:

- a) **Dangerous Building or Dangerous Structure.** 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. **The identification and posting will be done by the Town Health Officer.** If a dangerous structure is found, it must be identified by a sign clearly showing the letters: DS. This is for the safety of all public safety personal that might need to enter that structure.

- b) **Vacant Building.** Any building or structure that is unoccupied by a person or occupied by unauthorized persons for more than one hundred and twenty (120) days, excepting any permitted warehouse, garage, vacation property, or building or structure used only on a seasonal basis.
- c) **The Town Health Officer.** The officer appointed by the Town of St. Johnsbury Select Board to enforce this Ordinance. The Town Health Officer may hold any other office in the Town of St. Johnsbury. Nothing in this Ordinance shall prevent the Town Health Officer from performing his or her duties under other regulations or ordinances that he or she may be designated to administer and enforce. The Town Health Officer shall have the authority to inspect buildings, structures or any portion of a property, interior or exterior, within the territorial limits of the Town of St. Johnsbury. In the event that the Town Health Officer is unavailable, or has a conflict of interest, the Fire Chief or his/her designee shall perform the functions of the Town Health Officer. At any time, the Fire Chief may serve as the Town Health Officer. If they are two separate positions, the Town Health Officer must be in constant contact with the Fire Chief and both must share all known pertinent information.
- d) **Trash.** Shall include rubbish, waste and refuse, including, but not limited to household wastes, food scraps, household appliances, automotive parts, automobiles, furniture and yard clippings, but shall not include junk at a duly licensed junkyard or salvage yard.
- e) **Hazardous Conditions.** Shall include, but not be limited to, situations where a property owner, tenant, any mortgagee in possession, or a designee of any of the foregoing allows:
 - 1) Trash to unreasonably accumulate or be discarded on a property in such a way that it causes an obvious hazard to public safety;
 - 2) The creation of an unsanitary condition likely to attract or harbor mosquitoes, rodents, vermin or disease-carrying pests;
 - 3) Trees and other plant life to dangerously obscure drivers' views that do not conform to the By-law site-line requirements.
 - 4) The placement of appliances, cars, and other objects that might constitute an attractive nuisance to children or attract vermin; or
 - 5) A vacant building to be left in an unsecured state.
- f) **Substantial rehabilitation.** Means rehabilitation the value of which exceeds fifty (50) percent of the assessed valuation of the building or structure.
- g) Showing that the building is being **actively marketed for sale or lease** means:
 - 1) evidence that the building or structure is being continuously marketed for sale or lease and is publicly available and viewable for sale or lease to prospective buyers or lessees until it is under contract, and
 - 2) The disclosure of a reasonable asking price.
- h) **Building and Property Owner.** The person or legal entity that is responsible to the Town for maintaining the property and paying taxes.

Sec. 6-4. AUTHORITY OF TOWN HEALTH OFFICER.

Nothing in this Ordinance shall affect the authority of the Town of St. Johnsbury Health Officer/Fire Chief or the Select Board to take any action permitted under 18 V.S.A. §§ 126, 127 *et seq.* The Health Officer and the Select Board retain the authority, in their discretion, to take action under Vermont state law or under this Ordinance.

Sec. 6-5. BUILDING AND PROPERTY OWNER OBLIGATIONS AND STANDARDS.

Building and property owners shall ensure that the following measures have been undertaken, whether the building or property is occupied or not, to secure the building or structure by satisfying the following building maintenance standards:

- a) Building Openings. Doors, windows, areaways and other openings shall be weather- tight and secured against entry by birds, vermin and trespassers. Missing or broken doors, windows and other such openings shall be covered by glass or other rigid materials which are weather protected, and tightly fitted and secured to the opening.
- b) Roofs. The roof and flashings shall be sound and tight, not admit moisture or have defects which might admit moisture, rain or roof drainage, and allow for drainage to prevent dampness or deterioration in the interior walls or interior of the building.
- c) Drainage. The building storm drainage system shall be functional and allow discharge in an appropriate manner.
- d) Sanitation and Sewage. All buildings shall maintain sewage facilities in a safe and sanitary condition.
- e) Building Structure. The building shall be maintained in good repair and be structurally sound. Structural members shall be free of deterioration and capable of safely bearing imposed dead and live loads.
- f) Foundation Walls. Foundation walls shall be maintained structurally sound and in a well-kept condition so as not to pose a threat to public health and safety, shall be capable of supporting the load which normal use may cause to be placed thereon, and shall be free from open cracks and breaks, free from leaks, and be animal and rodent- proof.
- g) Exterior Walls. Exterior walls shall be free of holes, breaks, and loose or rotting materials.
- h) Exterior Features. Cornices, belt courses, corbels, terra cotta trim, wall facings, exposed metal and wood, (and similar decorative features) shall be safe, anchored, and in good repair.
- i) Overhanging Extensions. All balconies, canopies, marquees, signs, metal awnings, stairways, fire escapes, standpipes, exhaust ducts and similar features shall be in good repair, anchored, safe and sound.

- j) Chimneys and Towers. Chimneys, cooling towers, smokestacks, and similar appurtenances shall be structurally safe and in good repair.
- k) Walkways. Walkways and driveways shall be safe for pedestrian travel.
- l) Accessory and Appurtenant Structures. Accessory and appurtenant structures such as garages, sheds, and fences shall be free from safety, health, and fire hazards and shall comply with these building maintenance standards.
- m) Premises. All properties located in the Town of St. Johnsbury shall be kept clean, safe, and sanitary, free from waste, trash, rubbish, debris or excessive vegetation, and shall not cause any hazardous condition or threat to the public health or safety.

Sec. 6-6. HEALTH AND SAFETY INSPECTION

Upon receiving information that any building, structure or property, or anything attached or connected therewith is in violation of the specifications of this Ordinance or is otherwise in such unsafe condition that the public safety is endangered, by the authority given in 18 V.S.A. Ch. 11§8, the Town Health Officer shall cause the building, structure or property to be inspected. Such inspection shall occur according to the following process:

- a) Written notice of intent to conduct an inspection pursuant to this Ordinance shall be given to the owner of the building, structure or property at least Forty-eight (48) hours prior to the inspection.
- b) If the Health 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.
- c) If the owner of a building, structure or property fails or refuses to consent to the inspection, the Health Officer shall be authorized to obtain a search warrant from the Vermont District Court for the purpose of determining and ensuring the structural integrity of the building, the repairs necessary to ensure its structural integrity, that it will be safe for entry by police officers and firefighters in times of exigent circumstances or emergency, and that the building and its contents will not present a hazard to the public.
- d) The Health Officer may also view the premises from any public space, or, with the permission of the property owner, from any nearby or adjacent property.
- e) The Health Officer may retain such law enforcement officers, fire officials, engineers, attorneys and other qualified experts as necessary to assist with a building safety inspection and the preparation of a Building Safety Order. All cost associated with such services will be the responsibility of the building owner.

Sec. 6-7. SAFETY ORDER.

- a) If, upon inspection, the Health Officer determines that a building, structure or anything attached or connected therewith, or any hazardous condition appears to endanger the public safety, the Health Officer shall commence an abatement action by issuing a Safety Order. The Safety Order shall:

- i. Identify the hazardous conditions that cause the premises, building, structure or anything attached or connected thereto to be dangerous.
 - ii. Identify the actions that must be taken by the owner to secure the Dangerous Building or Premises and abate the hazardous conditions identified in the order, including, where appropriate, removal of a Dangerous Building.
 - iii. Set a date by which the actions to secure a Dangerous Building or Premises 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.
 - iv. 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.
- b. The Safety Order shall be served upon the owner of the Dangerous Building or Premises by certified mail, return receipt requested, and by first class mail. A copy of the Order shall be provided to Town of St. Johnsbury Select Board.
- c. If it appears to the Health Officer and/or Fire Chief that such structure or premises would be especially dangerous, the officer may affix a notice of dangerousness in a conspicuous place upon the structure's exterior walls, or may affix a posted notice in the ground which shall not be removed or defaced without the officer's authority.
- d. If the owner continues such refusal or neglects to remove or make the building or premises safe, and the Order has become final by the failure to appeal, the Building Inspector shall be fully authorized to abate the nuisance, except where removal or demolition of a building is required. The Town Health Officer may, as necessary, install, or have installed boards or otherwise secure a dangerous building or order that a building be vacated by any occupants and removed.
- e. For removal or demolition, the Town Health Officer, or other appropriate Town officer, may seek approval from the appropriate Court for a remedy in equity to remove or demolish a dangerous building, or to order such steps as may be necessary to abate any hazardous condition. The Town Health Officer may also seek the imposition of fines in accord with Section 6- 9(a) of this Ordinance.
- f. The Town Health Officer may contract with such service providers or use such other Town employees as may be necessary to ensure public safety in the circumstances. The full cost of any work necessitated by a Safety Order shall constitute a lien chargeable against the property owner and may be recovered in the same manner as taxes for real estate pursuant to 32 V.S.A. Ch. 133.

Sec. 6-8. APPEAL OF SAFETY ORDER

- a) A person aggrieved by a Safety Order may appeal such Order to the Town of St. Johnsbury Select Board within fifteen (15) days of service of the Order. The notice of appeal shall be in writing and shall set forth a brief statement of the basis of the appeal.
- b) Within thirty (30) days of service of the notice of appeal, the Select Board shall hold a hearing on the appeal. The Select Board shall issue a written decision within fifteen (15) days of the close of the hearing. The decision may reverse or sustain the Safety Order and may contain such additional requirements as the Select Board deems necessary and appropriate to implement the purpose of this Ordinance.

Sec. 6-9. PENALTY AND ENFORCEMENT

- a) If the owner fails to comply with a Safety Order, the owner shall be considered to be in violation of the Order and this Ordinance. The Town shall be authorized to take such steps as may be allowed under Section 6-7(D) of this Ordinance. In addition, any violation shall be a civil matter which may be enforced in the Vermont Judicial Bureau or in the Caledonia County Superior Court, at the election of the Health Officer.
- b) The Health Officer shall notify the owner by issuing a ticket.
- c) A civil penalty of not more than \$100.00 per violation will be imposed for violation of this Ordinance. Each day that the violation continues shall constitute a separate violation of this Ordinance.
- d) 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 Health Officer shall be the designated enforcement officer. The Health Officer shall issue tickets and may be the appearing officer at any hearing.
- e) Violations enforced in the Superior Court shall be in accordance with the Vermont Rules of Civil Procedure. The Town of St. Johnsbury may pursue any and all remedies available at law or in equity.

Sec. 6-10. VACANT BUILDING PERMIT AND STANDARDS

- a) Any building vacant for more than 120 days requires a permit. Application by the owner of a vacant building or structure for a vacant building permit shall be made on a form provided by the ~~Health Officer~~ **Zoning Administrator**. Applicants shall disclose all measures to be taken to ensure that the building will be kept weather-tight and secure from trespassers, safe for entry by police officers and firefighters in times of exigent circumstances or emergency, and together

with its premises be free from nuisance and in good order in conformance with the building owner obligations (see Section 6- 5).

- b) The application shall include a "statement of intent." The statement of intent shall include but not necessarily be limited to information as to the expected period of vacancy (including the date of vacancy), the plan for regular maintenance during the vacancy to comply with the maintenance safety requirements of this subsection, and a plan and timeline for the lawful occupancy, rehabilitation or removal or demolition of the structure.
- c) Upon and at the time of application, the owner of a vacant building or structure shall arrange for an inspection of the premises by the Health Officer and the appropriate police and fire officials. The purpose of such inspection is to determine and ensure the structural integrity of the building, the repairs necessary to ensure its structural integrity, that it will be safe for entry by police officers and firefighters in times of exigent circumstances or emergency, that the building and its contents do not present a hazard to the public during the time that the building or structure remains vacant, and that the building or structure is ~~in compliance with~~ following the standards of this Ordinance.
- d) If the Health Officer has reason to believe that an emergency situation exists tending to create an immediate danger to the health, safety or welfare of the general public, no notification or warrant shall be necessary and the ~~Building Inspector~~ Health Officer shall enter and inspect the premises pursuant to Section 6-7 of this Ordinance.
- e) The ~~Health Officer~~ Zoning Administrator shall provide the Health Officer and the St. Johnsbury Police Department or the Vermont State Police with copies of vacant building permits at the time of issuance.
- f) If the owner of the vacant building or structure fails or refuses to consent to an inspection, the Health Officer may seek a search warrant from the Vermont District Court for the purpose of determining and ensuring the structural integrity of the building, the repairs necessary to ensure its structural integrity, that it will be safe for entry by police officers and firefighters in times of exigent circumstances or emergency, that the building and its contents do not present a hazard to the public during the time that the building remains vacant, and that the building and structure is in compliance with the standards of this Ordinance.
- g) The Health Officer, upon inspection, shall issue any order for work needed to:
 - 1) Adequately protect the building from intrusion by trespassers and from deterioration by the weather in accordance with the standards set forth in this Ordinance.
 - 2) Ensure that allowing the building to remain will not be detrimental to the public health, safety and welfare, will not unreasonably interfere with the reasonable and lawful use and enjoyment of other premises within the neighborhood, and will not pose an extraordinary hazard to police officers or firefighters entering the premises in times of emergency.

3) When issuing such orders, the Town Health Officer shall specify the time for completion of the work. The Order shall act as an interim vacant building permit, the duration of which shall be for the time set forth in the Town Health Officer's order. No interim permit shall be effective for a period of more than ninety (90) days. All work done pursuant to this article shall be done in compliance with the applicable building, fire prevention, and zoning statutes and ordinances.

4) The ~~Town Health Officer~~ **Zoning Administrator** shall issue a vacant building permit upon his or her satisfaction that the building has been inspected and is in compliance with the standards set forth in this Ordinance, and **that the building** is adequately protected from intrusion by trespassers and from deterioration by the weather. This permit shall be effective for a period of three hundred sixty-five (365) days.

5) A vacant building or structure shall be deemed adequately protected from intrusion by trespassers and from deterioration by the weather if it satisfies the building maintenance standards in Section 6-5 of this Ordinance.

Sec. 6-11. FEES.

- a) A fee of ~~one hundred dollars (\$100.00)~~ **set by the Selectboard** ~~shall~~ **may** be charged for a vacant building permit or interim permit. This ~~one hundred dollar~~ fee ~~shall~~ **may** also be charged upon the renewal of such permits. ~~The~~ **Any** fees ~~is~~ **are** to be paid at the time of application or renewal. No permit shall be issued ~~prior to payment of the permit or renewal fee.~~ **if there are outstanding fees.**
- b) Upon a showing that the building or structure is being actively marketed for sale or lease and maintained pursuant to its vacant building permit or renewal thereof, the ~~Town Health Officer~~ **Zoning Administrator** shall waive ~~the any fees.~~ ~~The waiver of the permit fee for the active marketing and maintenance of the building or structure shall be for a period of twelve (12) months from the time the fee first becomes due. This waiver may be extended for an additional year for such buildings~~ **only** if the owner (i) continues to show that the building or structure is being actively marketed for sale and maintained and (ii) discloses the details of how the building was actively marketed for sale during the waiver year (i.e., offers, appraisals, or consultants engaged). Upon the expiration of the initial twelve-month period or its extension, the fee ~~shall~~ **may** be charged.
- e) When a building is in need of substantial rehabilitation (see Section 6-3 (f)), as determined by the Health Officer, to comply with the obligations and standards set forth in this Ordinance, ~~no initial vacant building permit fee is required if the owner~~ **has must:** (a) developed and submitted a statement of intent, scope of work which meets the applicable building and zoning standards and the obligations and standards set forth in this article, and a reasonable schedule for the completion of the work, approved by the Health Officer, and (b) secured all necessary building and zoning permits. ~~To qualify for a continued exemption upon renewal, the owner must certify that the improvements set forth in the~~

~~scope of work are being made according to the schedule of work or prove to the Town Health Officer that the schedule will be completed within a reasonable amount of time.~~

- d) If an owner has secured all the duly required permits to demolish the building or structure, ~~no fee shall be required~~ fees may be waived.

Sec. 6-12. REPEAL OF PRIOR CONFLICTING ORDINANCES.

The enactment of this Ordinance shall repeal all other ordinances of the Town of St. Johnsbury that regulate the topics addressed herein.

Sec. 6-13. 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.

Sec. 6-14. EFFECTIVE DATE.

This Ordinance shall become effective upon its adoption by the Town of St. Johnsbury Select Board in accordance with 24A V.S.A. Ch. 11, § 11.

Secs. 6-15--6-25. RESERVED.

ARTICLE II. HOUSING CODE³

DIVISION 1. GENERALLY

Sec. 6-26. PURPOSE⁴

It is hereby found that there exist, and may in the future exist within the town, dwellings, dwelling units, rooming units or parts thereof which by reason of their structure, equipment, sanitation, maintenance, use or occupancy affect adversely the public health, including the physical, mental and social well-being of persons and families, safety and general welfare. To correct and prevent the existence of such adverse conditions and to achieve and maintain such levels of residential environmental quality as will protect and promote public health, safety and general welfare, it is further found that the establishment and enforcement of minimum housing standards are required.

(Ord. of 12-11-78, §4-01)

Sec. 6-27. SCOPE⁵

(a) The housing code shall apply to residential premises as follows:

- (1) All multiple dwelling units located in the town and including those structures known as rooming houses;
- (2) Residential buildings, including two-family dwellings, except as specifically excluded in subsection (b) below;
- (3) Residential occupancies in buildings of mixed occupancy; and
- (4) Accessory structures to residential occupancies (ex. laundry rooms, garages, etc.).

(b) The housing code shall not apply to rooms in motels and hotels which are not occupied as dwelling units.

(Ord. of 12-11-78, §§ 4-02, 4-03)

Sec. 6-28. APPLICATION.

Where a provision of the housing code is found to be in conflict with a provision of a zoning, building, electrical, plumbing, fire, safety, health, water supply or sewage disposal law or ordinance or other local or state law or ordinance, the provisions or requirement which is the more restrictive or which establishes the higher standard shall prevail.

(Ord. of 12-11-78, §4-04)

³ Cross references: Fire prevention and protection, Ch. 5; Utilities, Ch. 13.

⁴ State law reference: Similar provision, 24 V.S.A. 5001 et seq.

⁵ State law references: Municipal housing code, 24 V.S.A. 5001 et seq.; fair housing, 9 V.S.A. 4503 et. Seq.

Sec. 6-29. INTENT.

(a) Nothing in this article shall be construed to impair or limit in any way the power of the town to define and declare nuisances and to cause their removal or abatement under any town ordinance or law.

(b) Any person, who violates any of the provisions of this article, fails to comply with any order made under the housing code from which he does not appeal or who fails to comply with a decision made on appeal, upon conviction, shall be fined as provided by section 1-13. The fact that a fine has been imposed for any violation shall not excuse the violation or permit it to continue. It is a separate offense to violate a provision of this article or fail to comply with an order, as aforesaid, after the first offense, each day the violation or failure to comply is continued. A violation of this section of the code shall not be construed to prevent the imposition of the penalties provided in section 6-51(c).
(Ord. of 12-11-78, §3-09)

Sec. 6-30. RESPONSIBILITIES OF OWNERS.

- (a) Responsibilities of owners shall be the same as set forth in the state health regulations, Chapter 5, Environmental Health, subchapter 16, Rental Housing Health Code under Responsibilities of Owners, General, Sanitation Utilities, Transfer of Responsibilities. (Ord. of 12-11-78, § 13-01)
- (b) **Notify the Zoning Administrator of any rental unit changes of information as defined in Article IV.**

Sec. 6-31. RESPONSIBILITIES OF OCCUPANTS.

(a) No occupant shall use or occupy his dwelling unit in such a way as to cause noncompliance with this article. More particularly, the occupant shall be responsible for compliance with the housing code as to:

- (1) Limiting occupancy of that part of the premises which he occupies or controls to the maximum which may be established by the housing code;
- (2) Maintenance of that part of the premises which he occupies or controls in a clean, sanitary, and safe condition;
- (3) Damage done by his visitors;
- (4) Keeping exits from his dwelling unit clear and unencumbered;
- (5) Disposal of garbage and refuse into provided facilities in a clean and sanitary manner,
- (6) If pets are allowed by landlord, the occupant must keep his or her domestic animals and pets in and appropriate manner and under control.

(b) If the occupant does not adhere to the above, is found to be in violation of any section of this article by the health officer, or neglects to comply with an order of the health

officer within the time prescribed, the landlord shall have cause to evict the occupant, in accordance with 12 V.S.A 4761 et seq. and 12 V.S.A. 4851 et seq.

(Ord. of 12-11-78. §13-02)

Sec. 6-32. LANDLORD EVICTION PROCEDURES.

No landlord shall be authorized to use self-help measures in an effort to evict a tenant, and a landlord who locks a tenant out of his or her apartment, physically removes a tenant or his or her belongings from the apartment, or terminates supplied utilities (such as water, heat, electricity) to a tenant's apartment without a court order authorizing him to do so shall be charged with a misdemeanor and fined as provided by law.

(Ord. of 12-11-78 § 13-03)

Sec. 6-33. CONFLICT OF PROVISIONS.

To the extent that there is any inconsistency or conflict between the provisions of this housing code and the Rental Housing Health Code promulgated by the state department of health, the latter shall govern. In the event that the State Rental Housing Health Code contains a provision which is more stringent than that provided by this housing code, the applicable provisions of the State Rental Housing Health Code shall control.

(Ord. of 12-11-78, §13-04)

Secs. 6-34--6-45. RESERVED.

DIVISION 2. ADMINISTRATION⁶

Sec. 6-46. HOUSING BOARD OF REVIEW.

There is hereby established a housing board of review as provided by 24 V.S.A. 5005. The housing board of review shall be appointed by the board of selectmen. The housing board of review shall have such powers and responsibilities, and shall be governed by the procedures set forth in 24 V.S. A. 5005. (Ord. of 12-11-78, §3-07)

Sec. 6-47. ENFORCEMENT.

This article shall be administered and enforced by the ~~housing inspector~~ **Code Compliance Officer** and such other persons as the board of health may from time to time designate,

⁶ Cross reference – Administration, Ch. 2.

under the general supervision of the board of selectmen, acting in their capacity as the board of health. (Ord. of 12-11-78, §3-01)

Sec. 6-48. POWERS AND DUTIES OF ~~INSPECTOR~~ The Code Compliance Officer

In addition to any other powers and duties of the ~~inspector~~ **Code Compliance Officer**, he shall:

- (a) Make inspections, by request of a landlord or tenant, of all premises in the town within the scope of this housing code;
 - (b) Issue, in writing, notices directing the remedying of conditions found to exist in or on any premises not conforming with the requirements of this housing code;
 - (c) Keep a record of all inspections, complaints and violations found in the course of performing his duties;
 - (d) Cooperate with other municipal, governmental and private agencies engaged in the study of improvement of housing conditions;
 - (e) All inspections and enforcement shall be conducted in accordance with Article III: Code Compliance and Enforcement.**
- (Ord. of 12-11-78, §3-02)

Sec. 6-49. LIABILITY.

Except as otherwise provided for by state or local law or ordinance, no officer, agent or employee of the town charged with the enforcement of the housing code shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties in the enforcement of the housing code nor shall he be liable for damages hereunder unless he acted with actual malice and without probable cause for believing that the person charged with having violated this housing code was guilty of an unlawful act or omission.

(Ord. of 12-11-78, §3-06)

(The next section has been moved to Article III)

Sec. 6-50. ~~INSPECTION.~~

~~(a) Whenever the inspector is informed that any provision of the housing code is being violated, he shall, after notifying the landlord in writing of the complaint, enter the dwelling in question in the town for the purpose of determining whether such violation in fact exists therein.~~

~~If entrance is refused he shall notify the town attorney. In the event of an emergency threatening life, health or property, the health officer, in his discretion, shall have the~~

~~authority to enter the premises in question for purposes of conducting inspections without prior written notice.~~

~~(b) While making the inspections under section 6-48, the inspector shall have the right to enter any building or dwelling for the purpose of such inspection or survey, provided that:~~

~~(1) Reasonable measures are taken to obtain permission to enter any building in the town;~~

~~(2) Inspections are made only during daylight hours;~~

~~(3) If permission for the inspection is not granted within a reasonable time by the owner, tenant or person in charge of any such building, the inspector, if in his judgment such inspection is necessary to effectuate the purposes of this article, shall request the town attorney to make application for an order or warrant from any superior or district court judge in the state granting the inspector the right to enter such building or domicile for the purpose of such inspection.~~

~~(Ord. of 12-11-78, §3-03)~~

Sec. 6-51. DWELLINGS UNFIT FOR HABITATION, ETC.; PROCEDURE FOR ABATEMENT.

~~(a) Whenever it appears to the inspector that any dwelling is unfit for human habitation or that a violation of the housing code exists, the inspector shall, if his preliminary investigation discloses a basis for such charges, give written notice of violations to the owner and all parties in interest in such premises and give a reasonable time not exceeding sixty (60) days for the correction thereof. If the matter is not corrected, the inspector shall issue and cause to be served upon the owner and parties in interest in such premises a complaint stating the charges and containing a notice that a hearing will be held before the board of health pertaining to the complaint. A copy of the complaint shall be filed with the town attorney and the town manager.~~

~~(b) If after such hearing, the board of health determines that the dwelling under consideration is unfit for human habitation or that a violation of the housing code exists, they shall state in writing the findings of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order to repair or close the dwelling within the time specified in the order which shall not be more than sixty (60) days.~~

~~(c) If the owner fails to comply with an order issued by the board of health under the provisions of this section, to repair or close a dwelling, he shall be subject to the penalties set forth in 18 V.S.A. 609, 610, 610(A), 614, and 616.~~

~~(Ord. of 12-11-78, §3-04)~~

Sec. 6-52. SERVICE OF COMPLAINT OR ORDER.

~~Complaints or orders issued by the inspector or board of health pursuant to this article shall be served upon the person personally, but if the whereabouts of such persons are unknown and cannot be ascertained by the inspector in the exercise of reasonable diligence, the inspector shall make affidavit to the effect, and the serving of such complaint or order upon such person may be made by publishing it once each week for three (3) successive weeks in a newspaper of general circulation in the town. A copy of the complaint or order issued by the inspector shall be posted in a conspicuous place on the premises affected by the complaint or order and a copy of such complaint or order shall be filed in the office of the town clerk. Service upon persons living at a distance of more than twenty five (25) miles from the town shall be accomplished by certified mail, return receipt requested. In addition, service in any manner provided in the state rental housing health code shall be acceptable.~~
(Ord. of 12-11-78, §3-05)

Sec. 6-53. APPEALS.

~~Any person who is aggrieved by an order or decision of the inspector or board of health may appeal to the housing board of review as provided in 24 V.S.A. 5005. Further appeal rights shall be subject to the provisions of 24 V.S.A. 5006.~~
(Ord. of 12-11-78, §3-08)

Secs. 6-54⁵⁰--6-65. RESERVED.

DIVISION 3. STANDARDS

Sec. 6-66. HOUSING CODE ADOPTED.

There is hereby adopted a housing code for the Town by authority of 24 V.S.A. 5001 et seq. enabling municipalities to adopt local housing codes.
(Ord. of 12-11-78, §1-01)

Sec. 6-67. GENERAL PROVISIONS RELATING TO HOUSING.

- (a) ~~An inspector~~ **The Health Officer** may determine that a dwelling is unfit for human habitation, if he finds that conditions exist in such dwelling which:
- (1) Are dangerous or injurious to the health or safety of the occupants of such dwelling, the occupants of neighboring dwellings or other residents of the town; or

- (2) Do not comply with or meet the standards or requirements of the housing code.
 - (b) Conditions mentioned in subsection (a) above may include any or all of the following:
 - (1) Defects increasing the hazards of fire, accidents, or other calamities;
 - (2) Lack of adequate ventilation, light, or sanitary facilities;
 - (3) Dilapidation;
 - (4) Disrepair;
 - (5) Structural defects;
 - (6) Un-cleanliness.
- (Ord. of 12-11-78, §2-01, 2-02)

Sec. 6-68. HABITABLE SPACE-LIGHT AND VENTILATION.

(a) Habitable space shall be provided with natural light through one (1) or more windows, skylights, transparent or translucent panels, or any combinations thereof, that face directly on legal open spaces, at least six (6) inches above the adjoining finished grade. A legal open space must admit an amount of light equivalent to that transmitted through clear glass equal in area to ten (10) percent of the floor area of the habitable space.

(b) Habitable space shall be provided with artificial light fixtures, as provided in section 2.2 of the State Rental Housing Health Code.

(c) Habitable space shall be provided with natural ventilation through open able parts of windows or other openings in exterior walls that face legal open spaces above the adjoining finished grade, or through open able parts of skylights, providing total clear ventilation area equal to not less than five (5) percent of the total floor area of each habitable space.

(d) Habitable space may also be provided with mechanical ventilation in addition to natural ventilation.

(Ord. of 12-11-78, §5-01)

Sec. 6-69. SAME-MISCELLANEOUS REQUIREMENTS.

(a) Dwelling units shall be separated from each other and from other spaces outside the dwelling unit. Lodging units shall be separated from each other and from other spaces outside the lodging unit.

(b) A communal kitchen or dining room in a lodging house shall be accessible to the occupants sharing such kitchen or dining room without going through a sleeping room or a lodging unit.

(c) It shall be prohibited to use habitable space or public space for sleeping purposes. (Ord. of 12-11-78, §6-01)

Sec. 6-70. PUBLIC SPACE-HEIGHT.

Public space shall have minimum height of seven (7) feet measured from finished floor to finished ceiling. (Ord. of 12-11-78, §6-01)

Sec. 6-71. SAME-LIGHT AND VENTILATION.

- (a) Public space shall be provided with functional artificial light fixtures;
 - (b) In public stairs, stairways, and passageways artificial light shall be electric lighting available at all times so as to afford safe passage for occupants and users.
- (Ord. of 12-11-78, §6-02)

Sec. 6-72. NON-INHABITABLE SPACE; HEIGHT.

Non-inhabitable space, except crawl spaces, attics, closets, locker, storage, utility heater, boiler room and other spaces for service and maintenance of building, in multiple dwelling shall have over fifty (50) percent of the floor areas, a minimum height of seven (7) feet measured from floor to ceiling. (Ord. 12-11-78, §7-01)

Sec. 6-73. TOILET ROOMS AND BATHROOMS.

- (a) Toilet rooms and bathrooms in all dwelling units subject to this chapter shall have provisions for privacy;
- (b) Unless located within dwelling units or directly connected with sleeping rooms, toilet rooms and bathrooms in multiple dwellings shall be provided in each story containing habitable space and shall be accessible thereto;
- (c) In all dwelling units subject to provisions of this article, toilet rooms and bathrooms shall be provided with floors impervious to water and easily cleanable;
- (d) All doors to bathroom and toilet compartments, except in a dwelling unit, shall have locks in operable condition to assure privacy. (Ord. 12-11-78, §7-02)

Sec. 6-74. LIGHT AND VENTILATION IN CERTAIN OTHER AREAS.

- (a) Kitchenettes, bathrooms, and toilet rooms shall be provided with artificial light fixtures appropriate for the use of such rooms;
- (b) Laundry rooms, furnace rooms, and similar non-inhabitable space shall be provided with artificial light fixtures appropriate for the intended use of such rooms;
- (c) Stairs shall be provided with functional artificial light fixtures to allow safe ascent or descent.

(d) Kitchenettes, bathrooms, and toilet rooms shall be provided with ventilation in accordance with either of the following:

(1) Natural ventilation shall be as required for habitable space; mechanical ventilation, if provided, shall be equivalent to required natural ventilation.

(2) Any combination of natural and mechanical ventilation which meets the requirements set forth for natural ventilation shall be adequate.

(e) Ventilation shall be provided in unheated attics, spaces below flat roofs, and crawl spaces. Location and net areas of ventilation openings shall be such as to minimize deterioration of structural members from condensation or other causes, in conformity with generally accepted standards. (Ord. of 12-11-78, §7-03)

Sec. 6-75. EXITS.

(a) Safe, continuous and unobstructed exits shall be provided from the interior of the building to the exterior at street or grade level;

(b) Exits shall be arranged, constructed and proportioned so that occupants may escape safely from the building in case of emergency;

(c) In all dwellings subject to the provisions of this article in addition to a primary exit from the building, there shall be provided a secondary exit or, in lieu thereof, one (1) or more exit openings for emergency use. (Ord. of 12-11-78, §8-01)

Sec. 6-76. CONSTRUCTION, INSTALLATION, AND MAINTENANCE OF STRUCTURAL ELEMENTS.

The provisions as required under Vermont Health Regulations, Chapter 5, Environmental Health, and subchapter 16, Rental Housing Health Code under Construction, Installation and Maintenance of Structural Elements are hereby adopted by reference. (Ord. of 12-11-78, §9-01)

Sec. 6-77. INSECTS AND RODENTS PROTECTION.

The provisions under Vermont Health Regulations, Chapter 5, Environmental Health, subchapter 16, Rental Housing Health Codes under Insects and Rodents are hereby adopted by reference. (Ord. of 12-11-78, §9-02)

Sec. 6-78. FIRE SAFETY REQUIREMENTS-PROHIBITED ACCUMULATIONS AND STORAGE⁷

It shall be prohibited:

(a) To accumulate or store on residential premises, except in approved locations, any highly flammable or explosive matter, such as paints, volatile oils, cleaning fluids, and similar materials or any combustible refuse liable to spontaneous combustion, such as waste paper, boxes, rags or similar materials; or

(b) To accumulate or store materials on fire escapes or stairs, in stairways or passageways, at doors or windows or in any other locations where in the event of fire such materials may obstruct egress of occupants or interfere with firefighting operations. Fuel oil, gas and other combustible fuel materials shall be stored in accordance with regulations issued by the state Fire Protection Division and enforced by the town fire department. (Ord. of 12-11-78, §10-01)

Sec. 6-79. PREVENTION OF FIRES.

(a) Walls and ceilings shall be maintained free from cracks and openings which would permit flame or excessive heat to enter the concealed space.

(b) In buildings of mixed occupancy, nonresidential space shall be separated from residential space by approved fire separations which will retard the spread of fire.

(c) Garages in or attached to a residential building shall be separated from other spaces in the buildings by approved fire separations which will retard the spread of fire and prevent flammable or toxic vapors originating within the garage from being transmitted to other parts of the building. (Ord. of 12-11-78, § 10-02)

Sec. 6-80. INTERIOR FINISHES, TRIM AND DECORATIVE MATERIALS.

Interior finish materials for acoustical correction, surface insulation and decorative treatment on the surfaces of walls and ceilings and interior trim shall be of materials that will not, in burning, give off excessive amounts of smoke or objectionable gases. (Ord. of 12-11-78, § 10-02)

Sec. 6-81. FIREPLACES AND WOODSTOVES.

(a) Fireplaces, woodstoves, and similar construction used, or intended to be used, for burning fuel in open fires shall be connected to approved chimneys and shall be installed so that nearby or adjacent combustible material and structural members shall not be heated to unsafe temperatures;

⁷ Cross reference – Fire prevention and protection, Ch. 5.

(b) Hearths and lining or other parts of fireplaces and woodstoves exposed directly to flame shall be of materials that will not melt, disintegrate, spall or shatter at high temperatures;

(c) Wood mantels and trim on fireplaces shall be placed and attached so that they cannot be heated to unsafe temperatures or ignited by sparks or embers from the fire. (Ord. of 12-11-78, § 10-04)

Sec. 6-82. OTHER FIRE REGULATIONS.

In addition to the standards set forth in this division, the rules and regulations promulgated by the state department of labor and industry, fire prevention division and enforceable by the town fire department and the fire code shall govern in all matters of fire safety. (Ord. of 12-11-78, § 10-05)

Sec. 6-83. EQUIPMENT REQUIREMENTS.

(a) Plumbing, heating, electrical, ventilating air conditioning, refrigerating, cooking, fire protection and radiation production equipment, elevators dumbwaiters, escalators, and other mechanical additions, installations, or systems for the use of the building, if installed shall be located and maintained so that under normal conditions of use such equipment and systems will not be a danger to health or welfare, a danger because of structural defects, a source of ignition, or a radiation hazard, and will not create excessive noise, or otherwise become a nuisance. Equipment and systems include, but are not limited to, apparatus, devices, fixtures, piping, pipe hangers, pipe covering, wiring, fittings, and materials used as part of or in connection with such installations;

(b) Equipment and systems subject to damage from freezing shall be adequately protected against freezing;

(c) Moving parts of equipment which may be a potential hazard shall be guarded to protect against accidental contact;

(d) Every supplied facility, piece of equipment or utility, and chimney and smoke pipe shall be constructed and installed so that it will function safely and effectively. (Ord. 12-11-78, §11-01)

Sec. 6-84. HEALTH REQUIREMENTS.

Any dwelling unit, rooming unit or other habitation subject to the provisions of this article which is rented shall comply with the minimum standards found in state health regulations, Chapter 5, Environmental Health, subchapter 16, Rental Housing Health Code, under Sanitation Facilities. (Ord. of 12-11-78, § 11-02)

Sec. 6-85. ELECTRICAL REQUIREMENTS.

The owner shall have electricity available for every dwelling unit, dwelling, rooming house or rooming unit as provided in the state health regulations, Chapter 5, Environmental Health, subchapter 16, Rental Housing Health Code, under Lighting. (Ord. of 12-11-78 § 11-03)

Sec. 6-86. HEATING.

Standards for heating shall be the same as those found in the state health regulations, Chapter 5, Environmental Health, subchapter 16, Rental Housing Health Code, under Heating. (Ord. 12-11-78, § 11-04)

Sec. 6-87. SMOKE CONTROL.

Fuel-burning heat producing equipment shall be installed and maintained so that the emission or discharge into the atmosphere of smoke, dust, particles, odors or other products of combustion will not create a nuisance or be detrimental to the health, comfort, safety or property of any person. (Ord. of 12-11-78, § 11-05)

Sec. 6-88. PROHIBITED LOCATIONS FOR HEAT PRODUCING EQUIPMENT.

Fuel-burning water heaters shall not be located in sleeping rooms. (Ord. of 12-11-78, §11-06)

Sec. 6-89. PLUMBING FACILITIES IN MULTIPLE DWELLINGS AND ROOMING HOUSES.

Where multiple dwelling or rooming houses contain sleeping accommodations arranged as individual rooms or suites, for each multiple of six (6) sleeping rooms or fraction thereof, there shall be provided plumbing fixtures consisting of at least one (1) toilet, one (1) sink, and one (1) bathtub or shower. (Ord. of 12-11-78, §11-07)

Sec. 6-90. GAS FUEL.

Fuel gas piping systems, valves and gas appliances shall be installed and maintained in compliance with the rules and regulations promulgated by the state department of labor and industry, fire prevention division and enforceable by the town fire department and the fire code. (Ord. of 12-11-78, §11-08)

Sec. 6-91. PROPERTY MAINTENANCE REQUIREMENTS.

Residential premises shall be maintained in conformity with the provisions of this article so as to assure the desirable residential character of the property. (Ord. of 12-11-78, §12-01)

Sec. 6-92. MAINTENANCE OF OPEN AREAS.

- (a) Surface and subsurface water shall be appropriately drained to protect buildings and structures and to prevent development of stagnant ponds;
- (b) Fences and other minor constructions shall be maintained in safe and substantial condition;
- (c) Steps, walks, driveways, parking spaces, and similar paved areas shall be maintained by either occupant or owner so as to afford safe passage under normal use and weather conditions;
- (d) Yards and courts shall be kept clean and free of physical hazards by either owner or occupant;
- (e) Heavy undergrowth and accumulations of plant growth which are noxious or detrimental to health or area fire hazard shall not be permitted on the grounds surrounding a dwelling. (Ord. of 12-11-78, §12-02)

Sec. 6-93. MAINTENANCE OF BUILDING STRUCTURES.

- (a) Exterior wood surfaces of buildings and structures that are not inherently resistant to deterioration shall be periodically treated with a protective coating of paint or other suitable preservative;
- (b) Residential buildings shall be maintained in clean and sanitary condition, and free of conditions detrimental to safety or health, by occupant, and/or landlord, as applicable;
- (c) No lead-based paint shall be used in painting the interior or exterior of any dwelling unit;
- (d) Accessory structures shall be maintained so as to be free of conditions detrimental to safety or health. (Ord. of 12-11-78, §12-03)

Sec. 6-94. INFESTATION PREVENTION; SCREENING.

- (a) Grounds, buildings and structures shall be maintained free of insect, vermin and rodent harborage and infestation. Methods used for exterminating insects, vermin and rodents shall conform to generally accepted professional practice;

(b) Where the potential for rodent or vermin infestation exists, windows and other openings in basements and cellars shall be appropriately screened with wire mesh or other suitable materials. (Ord. of 12-11-78, §12-04)

Sec 6-95. Garbage and refuse storage and collection.

(a) Adequate sanitary facilities and methods shall be used for the collection, storage, handling and disposal of garbage and refuse;

(b) In multiple dwellings, it shall be prohibited to store or accumulate garbage or refuse in public halls and stairways;

(c) In multiple dwellings, by agreement between landlord and occupant, receptacles for disposal of garbage and refuse shall be provided and arrangements made for its removal, in accord with the state rental housing health code;

(d) In multiple dwellings, garbage disposal facilities and outside storage shall be screened from view of any public access or roadway.

(Ord. of 12-11-78, § 12-05)

Article III -- Housing Code Compliance and Enforcement⁸

DIVISION 1. GENERAL PROVISIONS

Sec. 6-96. AUTHORITY.

The Select Board has enacted this Ordinance under the authority granted to the Town through its Charter and under the authority granted to all Vermont municipalities under Title 24 Vermont Statutes Annotated (V.S.A.), Chapter 123, and 9 V.S.A. Chapter 77, to regulate Municipal Housing Codes.

Sec. 6-97. PURPOSE.

The purpose of this Ordinance is to protect, preserve and promote the health, safety, and welfare of all citizens of the Town of St. Johnsbury through establishment of an office for code compliance. The intent of this Ordinance is to establish an inspection process that will ensure that rental units throughout the Town meet the standards outlined in Section 6.0. Additionally, this Ordinance establishes a complaint process that is equitable to both the landlord and tenant alike.

Sec. 6-98. FIRE CODE ADOPTED.

The Town hereby adopts the most recent edition of the Vermont Building & Safety Code, as adopted by the Vermont Department of Safety, for the purposes of establishing rules and regulations as the minimum fire safety requirements for all rental units.

Sec. 6-99. 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.

Sec. 6-100. EFFECTIVE DATE OF ORDINANCE.

This Ordinance shall become effective upon its adoption by the Town of St. Johnsbury Select Board in accordance with 24A V.S.A. Ch. 11, § 11.

⁸ New Ordinance revised from Ch. 6.50-53

Sec. 6-101. DESIGNATION OF EFFECT.

This Ordinance shall constitute a civil ordinance within the meaning of 24 V.S.A. Chapter 123.

Sec. 6-102. DEFINITIONS.

For the purposes of this chapter, definitions of the terms, phrases, words and their derivations shall be as defined in Section 6.3 of the Town of St. Johnsbury Code of Civil Ordinances. Otherwise, the following listed words shall have the meanings indicated:

OWNER OCCUPIED: A property in which the owner has established primary residency.

DWELLING UNIT: A building or a part of a building that is used as a home or residence, with one or more rooms including kitchen designed as a unit for occupancy by one family for the purpose of cooking, living and sleeping or, having one or more rooms used as sleeping units with shared access to common areas including a kitchen designed to accommodate unrelated individuals for the purpose of cooking, living and sleeping

RENTAL UNIT: A dwelling unit that is not owner occupied, and is occupied for longer than thirty (30) consecutive days; including but not limited to occupancies at hotels, motels, homeless shelters and other accommodations.

RENTAL AGREEMENT: All agreements, written or oral, embodying terms and conditions concerning the use and occupancy of a dwelling unit or premises.

RENT: All considerations to be made to or for the benefit of the owner under the rental agreement, not including security deposits.

TENANT: Any person entitled under a rental agreement to occupy a dwelling unit to the exclusion of others, or any persons occupying a rental unit as a permanent residence.

DIVISION 2. ADMINISTRATION, APPEALS AND ENFORCEMENT

Sec. 6-103. DUTIES AND POWERS OF THE CODE COMPLIANCE OFFICER.

(a) The St. Johnsbury Town Manager shall appoint the Town Health Officer and a Code Compliance Officer who shall hereby be authorized and directed to administer and enforce the provisions of the adopted Housing codes;

(b) The Town Health Officer and the Code Compliance Officer shall have the authority to render interpretations of the codes. Such interpretations, policies and procedures shall be in compliance with the intent of the adopted codes and 24 V.S.A. Chapter 123;

(c) The Code Compliance Officer may delegate this authority to any trained inspector.

Sec. 6-104. RESPONSIBILITIES OF THE CODE COMPLIANCE OFFICER.

(a) The Town of St. Johnsbury Code Compliance Officer shall be responsible for the administration of this Ordinance;

(b) The Code Compliance Officer may enter, examine and survey all rental units that are subject to routine, complaint-based, and emergency inspections of this Ordinance in accordance with Section 6-111 Inspection Procedures;

(c) The routine inspection schedule will be set by the Town Manager.

Sec. 6-105. WRITTEN DOCUMENTATION AND ISSUED ORDERS.

(a) Where an inspection indicates that a violation of this Ordinance exists, the Code Compliance Officer shall issue written documentation notifying the party responsible of the existence of the violation(s) and the measure(s) required to correct or eliminate it. At the direction of the Code Compliance Officer, the documentation may require the violations to be corrected, or significant action taken to begin corrections, within a defined number of business days or require that the premises be vacated and secured until the rental unit meets the standards of this chapter. The written documentation shall be based on a finding that the premises are a danger to the health, welfare or safety of the tenants or the general public and a violation of the Minimum Housing Standards. Written documentation may further direct:

(1) That the rental unit(s) be repaired so that they meet the standards of this chapter;

(2) That the rental unit is unfit or unsafe for human habitation because it constitutes an imminent danger to the health, welfare and safety of the tenants or the general public, and the rental unit be vacated and secured until the unit is repaired so that it meets the standards of this chapter;

(3) That the rental unit is unfit for human habitation because it constitutes a danger to the health, welfare, or safety of the tenants or the general public, and that the rental unit be demolished pursuant to the provision of § VSA 24-3114.

(b) When the responsible party has failed to take corrective action of any written documentation, an Order may be issued by the Code Compliance Officer. The written Order shall state:

(1) That a violation exists;

(2) The measure(s) required to correct or eliminate the violation(s);

(3) A compliance date for which such violation(s) shall be corrected;

(4) Appeal rights;

(5) Penalties for non-compliance.

(c) When the Code Compliance Officer investigates, and issues an Order, such Order shall be sent to the owner, and if applicable, the tenant of the rental unit;

(d) Orders shall be sent by one or more of the following means:

- United States Postal Service (USPS) Certified Mail Return Receipt Requested; or
- Hand Delivery.

(e) Orders become effective immediately if hand-delivered. If mailed, the Order will take effect three (3) business days from the date the Order is issued;

(f) An Order shall be recorded in the municipal land records, and the Order shall thereby be effective against any purchaser, mortgagee, attaching creditor, lien holder or other person whose claim or interest in the property arises after the recording of the Order;

(g) When an Order is cured and any related assessed penalties are paid, the Zoning Administrator shall record an Order removal or cancellation in the municipal land records.

Sec. 6-106. DWELLINGS UNFIT FOR HABITATION, ETC. PROCEDURE FOR ABATEMENT.

(a) Whenever it appears to the Code Compliance Officer that any dwelling is unfit for human habitation or that a violation of the housing code exists, the Code Compliance Officer shall, if the preliminary investigation discloses a basis for such charges, give written notice of violations to the owner and all parties in interest in such premises and specify a reasonable time for the correction thereof. If the matter is not corrected, the Code Compliance Officer shall issue and cause to be served upon the owner and parties in interest in such premises a complaint stating the charges and containing a notice that a hearing will be held before the Housing Board of Review pertaining to the complaint. A copy of the complaint shall be filed with the town attorney and the town manager.

(b) If after such hearing, the Housing Board of Review (HBR) determines that the dwelling under consideration is unfit for human habitation or that a violation of the housing code exists, the HBR shall state in writing the findings of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order to repair or close the dwelling within the time specified in the order.

(c) If the owner fails to comply with an order issued by the Housing Board of Review under the provisions of this section, to repair or close a dwelling, the owner shall be subject to the penalties set forth in Section 6.108 Enforcement and Penalties.

(Ord. of 12-11-78, §3-04)

Sec. 6-107. APPEALS.

(a) Written notice of appeal shall be submitted to the Housing Board of Review within ten (10) business days of the date of the Order(s);

(b) The Housing Board of Review as provided in 24 V.S.A. 5005 shall review the appeal and all related documentation and make a written determination within twenty (20) business days of receipt of an appeal;

(c) The aggrieved party may further appeal to the Select Board within seven (7) business days of the date of the Housing Board of Review findings in accordance with 24 VSA §5005;

(d) Any person including the enforcement officer aggrieved by any decision of the Select Board may appeal to Superior Court, in accordance with 24 V.S.A. §5506;

(e) When an owner/tenant appeals an action of the Code Compliance Officer, the Code Compliance Officer shall not be prevented from completing the inspection of the rental unit and issuing any necessary Orders. When an appeal is filed, the Orders issued will be stayed pending resolution of the appeal, unless the Orders issued are to correct life-threatening issues which will not be stayed.

Sec. 6-108. ENFORCEMENT AND PENALTIES.

(a) The Code Compliance Officer and/or his delegates or any certified Vermont Law Enforcement Officer shall be the designated Enforcement Officer. They shall issue, or direct to have issued, Municipal Complaints and pursue enforcement before the Judicial Bureau in accordance with the provisions of 24 VSA §1974a and §1977 with penalties as prescribed below:

(1) The Code Compliance Officer shall be required to issue an Order on the person or party responsible for any violations of this Ordinance or the adopted codes. Where the party fails to remedy a violation to the satisfaction of the Code Compliance Officer, the Code Compliance Officer may bring appropriate action to enforce the provisions of this Ordinance. Enforcement may be by any means allowed under state law including, but not limited to:

(a) First offense. A first offense of this Ordinance shall be punishable by a fine of one hundred dollars (\$100.00); the waiver fine shall be \$50 dollars (\$50.00);

(b) Second and subsequent offenses. Any second offense of the same provision of the bylaws within a twelve-month period shall be punishable by a fine of two hundred dollars (\$200.00); the waiver fine shall be one hundred dollars (\$100.00).

(2) The Code Compliance Officer may notify the Town Attorney who shall bring suit in the name of the municipality to enforce such Order. Such suit may be brought in any court of competent jurisdiction appropriate. The Town may seek a temporary injunction or Order in any such proceedings. The court may award costs of suit including reasonable attorney fees.

(b) Each day that a violation continues shall constitute a separate offense;

(c) Where the Code Compliance Officer finds that a violation(s) is to such a degree that a dwelling is declared unsafe, or that significant corrective action has not been taken within the timeframe provided, the Office may suspend occupancy ("Order") of a unit (or units) and require the relocation of the rental unit's occupants until such time as the rental units meet the Housing Codes as outlined in this Ordinance.

Sec. 6-109. FEES.

The rates for any inspection fee shall be designated by the Town Manager and adopted by the Select Board, and upon adoption of the rates, the Select Board shall publish in the local newspaper the rate change thirty (30) days prior to the effective date of the rate change;

Sec. 6-110. RECORDS.

(a) Records, including inspection reports, records of complaints or other Orders shall be available for public inspection at the Zoning Administrator's Office;

(b) Owners and/or a designated managing agent shall receive a copy of the inspection report within ten (10) business days of the completion of the inspection. Inspection reports shall be emailed to the designated recipient unless paper copies are requested or the recipient does not use email;

(c) To obtain copies of inspection reports, records of complaints or other Orders, requests must be made in writing to the Zoning Administrator and the designated records fee paid in full.

DIVISION 3. PROCEDURES

Sec. 6-111. INSPECTION PROCEDURES.

(a) Inspection requirements are for fire and life safety requirements only, as adopted by the Vermont-Department of Safety;

(b) The Code Compliance Officer shall make periodic inspections of all registered rental units within the Town;

(c) The Code Compliance Officer may enter, examine and survey all rental units within the Town that are subject to periodic inspections pursuant to this Ordinance at any reasonable time between the hours of 8 am to 5 pm, or a time that is mutually agreed upon between the owner and the Code Compliance Officer;

(d) The owner and tenant(s) shall cooperate with the Code Compliance Officer so that such inspections shall be made so as to cause the least inconvenience to the owner(s) or occupant(s) of the rental unit(s);

(e) If the Code Compliance Officer has reason to believe that an emergency situation exists tending to create an immediate danger to the health, welfare, or safety of the tenants of a rental unit, or the general public, they may enter, examine and survey the unit at any time;

(f) The Code Compliance Officer shall notify the owner of a rental unit by either telephone or in writing of its intent to schedule an inspection;

(g) Upon receipt of an inspection schedule request, the owner or their agent shall contact the Code Compliance Officer within fifteen (15) days to respond and to arrange the date and time for the inspection;

(h) Once scheduled, the owner shall provide the tenant(s) with notice of an inspection not less than forty-eight (48) hours prior to the actual inspection being performed, as provided in 9 VSA §4460;

(i) During the inspection, the owner or their designated representative shall be present to provide access to the rental unit(s);

(j) Failure to comply with inspection procedures is subject to the penalties set forth in Section 6-108: Enforcement and Penalties.

Sec. 6-112. COMPLAINT PROCEDURES.

(a) It is expressly provided that the public, owners and tenants of any property in the Town of St. Johnsbury may file a complaint to the Code Compliance Officer of violations under this Ordinance and all such complaints shall be treated accordingly;

(b) To initiate a complaint against an owner or tenant, the complainant must first complete and sign a Town of St. Johnsbury Code Complaint Form. A copy of which can be found at the Town Clerk's office, at the Zoning Administrator's office or on the Town Website www.stjvt.com. Complaints must be signed and dated in order to be investigated;

(c) The Code Compliance Officer shall investigate each complaint received within seven (7) business days of its receipt to determine if violations exist and to commence corrective actions;

(d) There shall be a written record of each complaint, the findings of the investigation and the action taken, if any;

(e) If no action is required to be taken at the time of inspection, this finding shall be noted on the written record and the complaint will be closed;

(f) Frivolous complaints shall be a violation of this Ordinance. A frivolous complaint shall be one for which there is no good faith basis for the complaint outlined within this Ordinance, and this is known to the complainant at the time.

Sec. 6-113. SPECIAL PROVISIONS; RELOCATION SERVICE.

If any person is displaced from a rental unit by enforcement of this chapter, the party determined to have caused the unsafe condition shall be responsible for paying the cost of relocation of the displaced person(s) at the most economical local facility available as approved by the Town, for up to twenty-nine (29) days.

ARTICLE IV. HOUSING RENTAL UNIT REGISTRATION⁹

DIVISION 1 GENERALLY

Sec. 6-114. AUTHORITY.

The Select Board has enacted this Ordinance under the authority granted to the Town through its Charter and under the authority granted to all Vermont municipalities under Title 24 Vermont Statutes Annotated (V.S.A.), Chapter 123, and 9 V.S.A. Chapter 77, to regulate Municipal Housing Codes.

Sec. 6-115. PURPOSE.

The purpose of this Ordinance is to protect, preserve and promote the health, safety, and welfare of all citizens of the Town of St. Johnsbury through establishment of enforceable minimum rental housing standards. The intent of this Ordinance is to establish a Rental Unit registration process through which the Town can fulfill an inspection process that will ensure that rental units throughout the Town meet the standards outlined in Article II, Division 3 Minimum Housing Standards.

Sec. 6-116. 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.

Sec. 6-117. EFFECTIVE DATE OF ORDINANCE.

This Ordinance shall become effective upon its adoption by the Town of St. Johnsbury Select Board in accordance with 24A V.S.A. Ch. 11, § 11.

Sec. 6-118. DESIGNATION OF EFFECT.

This Ordinance shall constitute a civil ordinance within the meaning of 24 V.S.A. Chapter 123.

Sec. 6-119. DEFINITIONS.

For the purposes of this chapter, definitions of the terms, phrases, words and their derivations shall be as defined in Section 6.3 and 6.102 of the Town of St. Johnsbury Code of Civil Ordinances.

⁹ New Ordinance

DIVISION 2. REGISTRATION PROCEDURES.

Sec. 6-120. REGISTRATION REQUIREMENTS.

(a) The owners of all rental units, including motel and hotel manager units, and extended stay rental units within hotels, motels, or other buildings, shall be required to have on file with the Zoning Administrator current information including the following:

- (1) The address of the building within which rental unit(s) exist;
- (2) the name(s), address(es) and phone number(s) of the property owner(s);
- (3) The name, address, and phone number of any managing agent;
- (4) The name(s), address(es), and phone number(s) of any emergency contact(s) for this building;
- (5) The number of rental units at the building address and the identifier for each unit (e.g. unit 1, 2, 3; unit A, B, C; unit 1a, 2a, 3a); and
- (6) Any other information deemed appropriate to administer Chapter 6y Rental Housing Minimum Standards Ordinance;

(b) The owner of any rental unit shall have a continuing obligation to notify the Zoning Administrator of any changes in the information required above;

(c) Upon purchase or transfer of property containing rental units, the purchaser(s) shall notify the Zoning Administrator within 30 days of transfer of ownership to ensure all information is current and correct;

(d) Prior occupancy of any newly constructed rental unit or conversion of use to a rental unit, the owner shall notify the Zoning Administrator of information changes.

Sec. 6-121. EXEMPTIONS.

(a) The following properties shall be exempt from registration, fees and/or inspections:

- (1) A unit that is currently maintained as part of a nursing, rest or convalescent home licensed and inspected by the state;
- (2) Owner occupied single family home;
- (3) A rental unit that is occupied for less than thirty (30) consecutive days in a calendar year;
- (4) A rental unit that is occupied less than thirty consecutive (30) days by the same tenant(s) and the rental unit is not the current primary residence of a tenant.

(b) An owner-occupied unit of multi-family dwelling is exempt from fees, but must still register and be inspected for fire and life safety requirements only, as adopted by the Vermont Department of Safety.

Sec. 6-122. RECORDS.

Records, including registration reports, inspection reports, records of complaints or other Orders shall be available for public inspection at the Zoning Administrator's Office.

Sec. 6-123. ENFORCEMENT AND 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.

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| A. First offense | \$50.00 full penalty | \$25.00 waiver penalty |
| B. Second offense within 6 months | \$100.00 full penalty | \$50.00 waiver penalty |
| C. Third and subsequent offenses within 6 months | \$200.00 full penalty | \$100.00 waiver penalty |

Sec. 6-124. SEVERABILITY.

Each of the provisions of the ordinance is severable, and if any provision is held invalid for any reason, the remaining provisions shall not be affected but shall remain in full force and effect.

Sec. 6-125. EFFECTIVE DATE.

This Ordinance shall become effective upon its adoption by the Town of St. Johnsbury Select Board in accordance with 24A V.S.A. Ch. 11, § 11.