

## CHAPTER IV - BUILDINGS AND BUILDING REGULATIONS

### Article 1. - Building Code<sup>1</sup>

#### **Sec. 4-1. Additions, insertions, deletions and changes to state building code.**

The following additions, insertions, deletions and changes to the state building code are hereby adopted:

*Section 107.1* is hereby deleted in its entirety and the following substituted therefor:

*107.1 Municipal officer to administer code.* The building official shall be appointed by the town manager.

*Sections 118.2, 118.3 and 118.4* shall be deleted in their entirety and the following substituted therefor:

- (1) *Building permit fees.* There is due the town a building permit fee for the construction, alteration, removal, or demolition of all buildings or structures at the rate listed in the town fee schedule of the value of such construction, alteration, removal or demolition work. The value of such work shall be as determined by the building department. There is no limit as to the maximum fee for any one permit. Failure to obtain the required permit will result in an additional fee listed in the town fee schedule of such work.
- (2) *Certificate of occupancy fees.* All persons desiring a certificate of occupancy for one-family or two-family dwellings shall pay to the town, before such certificate is issued, a fee as listed in the town fee schedule for each visit to the dwelling by the building official or his delegate. All persons desiring a certificate of occupancy for any other type of structure or dwelling shall pay a per visit fee listed in the town fee schedule.

*Section 119 of the BOCA National Building Code.* The chief building official is hereby authorized to issue citations in the amount listed in the town fee schedule for violations of section 119 of the BOCA National Building Code, which would be for the occupancy of a new building or change of use of an existing building, without a certificate of use and occupancy. Each day of occupancy for which there is not a certificate of occupancy shall be considered a separate violation. Any such fine issued pursuant to this section may be appealed to the town manager.

*Section 1721.0 and sections following,* entitled, "Septic tanks, privies, cesspools and other receptacles for domestic sewage: public toilet accommodations" are hereby deleted in their entirety.

(Ord. No. 1-87, § 2, 3-16-1987; Ord. No. 5-91, § 2, 6-18-1991; Ord. No. 3-97, § 6, 8-19-1997; Ord. No. 2-98, § 2, 7-14-1998)

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<sup>1</sup> **State law references**—State building code, state statute § 29-252; state building code applicable to municipalities, state statute § 29-253; amendments to state building code, state statute § 29-254; penalty for violation of state building code, state statute § 29-254a.

**Secs. 4-2—4-9. Reserved.**

**Article 2. - Vacant and Blighted Buildings<sup>2</sup>**

**Sec. 4-10. Purpose of article.**

This article is authorized pursuant to state statutes §§ 7-148(C)(7)(A)(ii), and 7-148(C)(7)(H)(ii), (xi), (xiii), (xv). It is hereby found and declared that there exists within the town a significant number of real properties which contain vacant and blighted buildings. It is further found that the existence of these vacant and blighted buildings adversely effects property values within the town and threatens the health, safety and general welfare of its residents.  
(Ord. No. 1-00, § I, 1-25-2000)

**Sec. 4-11. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Accessory structure* means a structure, the use of which is customarily incidental and subordinate to that of the principal building, structure or use on the same lot.

*Blighted premises* means:

- (1) Any vacant building or structure, or any vacant part of a structure that is a separate unit, or a vacant parcel of land, or any accessory structure, or a fence, and in which at least one (1) of the following additional conditions exists:
  - a. The building official determines that existing conditions pose a serious threat to the health and safety of the persons in the town;
  - b. It is not being maintained, as evidenced by the existence of one (1) or more of the following conditions:
    1. Missing or boarded windows or doors;
    2. Collapsing or missing walls, roof or floor;
    3. Exterior walls which contain holes, breaks, loose or rotting materials or which are not properly surface coated to prevent deterioration;
    4. Foundation walls which contain open cracks and breaks;
    5. Overhang extensions including, but not limited to, canopies, marquees, signs, awnings, stairways, fire escapes, standpipes and exhaust ducts, which contain rust or other decay;
    6. Chimneys and similar appurtenances which are in a state of disrepair;
    7. Insect screens which contain tears or ragged edges;
    8. Vermin infestation;
    9. Garbage, trash or abandoned vehicles on the premises, unless the premises is a junkyard licensed by the state;
    10. Overgrown grass or weeds at least one (1) foot in height; or
    11. In the case of a fence, missing or rotted boards or in an otherwise dilapidated condition;
  - c. It is attracting illegal activity as documented in police department records;

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<sup>2</sup> **State law references**—Authority to regulate unsafe buildings, state statute § 29-253(b); state demolition code, state statutes § 29-401 et seq.

- d. It is a fire hazard as determined by the fire marshal or as documented in fire department records; or
  - e. It is a factor creating a substantial and unreasonable interference with the use and enjoyment of other premises within the surrounding area as documented by neighborhood complaints, police reports or the cancellation of insurance on proximate properties.
- (2) Any nonvacant building or structure, or any nonvacant part of a structure that is a separate unit, of which the building official determines that existing conditions pose a serious threat to the health and safety of the persons in the town.
- (3) Blighted premises shall not include any such building or structure located on any active farm.

*Building citation hearing officer* means such individual as is appointed by the town manager to conduct hearings authorized by this article.

*Building official* means such individual as is designated the chief building official by the town manager pursuant to state statutes.

*Legal occupancy* means occupancy in accordance with state building, state fire, local zoning, local housing and all other pertinent codes.

*Neighborhood* means an area of the town comprised of all premises or parcels of land any part of which is within a radius of one thousand (1,000) feet of any part of another parcel or lot within the town.

*Owner* means any person, institution, foundation, entity or authority which owns or leases real property within the town.

*Proximate property* means any premises or parcel of land within one thousand (1,000) feet of a blighted premises.

*Vacant* shall mean a period of sixty (60) days or longer during which a building or structure or part thereof is not legally occupied by human beings.

*Vacant parcel* shall mean a parcel of land with no structures thereon.

(Ord. No. 1-00, § II, 1-25-2000)

**Cross reference**—Definitions generally, chapter I § 1-2 of this code book.

#### **Sec. 4-12. Administrative responsibility.**

The town manager may prescribe administrative procedures for the purpose of effectuating this article.

(Ord. No. 1-00, § VII, 1-25-2000)

#### **Sec. 4-13. Appointment of building citation hearing officer.**

The town manager shall appoint one (1) or more town residents as building citation hearing officers, other than police officers or employees or persons who issue citations, to conduct the

hearings authorized by this article. Further, no zoning enforcement officer, building official or employee of the municipal body exercising code compliance authority may be appointed to be a hearing officer for citations issued for violations under this article.

(Ord. No. 1-00, § VI, 1-25-2000)

**Sec. 4-14. Creating or maintaining.**

No owner of real property within the town shall cause or allow blighted premises to be created, nor shall any owner allow the continued existence of blighted premises.

(Ord. No. 1-00, § III, 1-25-2000)

**Sec. 4-15. Certification of list of blighted premises.**

- (1) The town manager shall request that all town department heads report any property of which they are aware which appears to be blighted, as defined by this article. Such reports shall be submitted within thirty (30) days of the town manager's request.
- (2) The town manager shall use this information and any other available information to complete a list of blighted properties within sixty (60) days of his original request.
- (3) Within thirty (30) days of its completion, the town manager shall present the list to the town council which shall approve, disapprove, or modify the list. If the town council fails to approve, disapprove or modify the list within seventy-five (75) days from the date it receives it, then the list shall be deemed to have been approved.
- (4) Thereafter, the town manager may request the addition of any premises to or deletion from the blighted properties list for consideration by the town council. On or before January 15 of each year, the town manager shall renew the process of completing a list of blighted properties as specified in this section.
- (5) Any individual, or any civic organization or municipal agency, affected by the action or inaction of an owner of property subject to the provisions of this article, may file, in writing, a complaint of violation of this article with the town manager. If the town manager has reason to believe that an owner has violated the provisions of this article, he shall request the addition of the subject property to the blighted properties list for consideration by the town council.

(Ord. No. 1-00, § IV, 1-25-2000)

**Sec. 4-16. Enforcement and hearings with property owners.**

- (1) Once such list of blighted properties, or any additions thereto, has been approved by the town council, the town manager, or his designee, shall notify in writing by certified mail, return receipt or in-hand service by any proper officer or indifferent person, any owner of a blighted premises of the conditions in violation of this article. Further, that person shall be directed to correct such condition within fifteen (15) days of receipt of notification or to contact the town manager within fifteen (15) days of receipt of notification. Any fines, costs and fees for noncompliance within the provisions of the enforcement section of this article shall be included in such notice. If, within such fifteen (15) days, the owner contacts the town manager, the town manager may, upon representation of the owner that he intends to correct the blighted condition of his property, extend the period for correcting such blighted condition up to an additional one (1) year. If, after such fifteen (15) days, the conditions referred to within the notice have not been corrected and the owner has not contacted the town manager and received an extension pursuant to this

paragraph, the town manager shall issue a citation and impose a fine as listed in the town fee schedule for each day that the blighted premise(s) is in violation of this article. Each day that the blighted premise(s) is in violation of this article shall constitute a separate offense.

- (2) Within five (5) days of the issuance of such citation, the town manager shall send notice of it via certified mail, return receipt or in-hand service by any proper officer or indifferent person, to the person cited. Such notice shall inform the person cited:
  - (a) Of the allegations against him and the amount of the fines, costs and fees due;
  - (b) That he may contest his liability before a building citation officer by delivering in person, or by mail, written notice within ten (10) days of the date thereof;
  - (c) That if he does not demand such a hearing, any unpaid fine, cost or fee shall constitute a lien upon the subject real estate against which the fine, cost or fee was imposed as set forth in § 6 of this section; and
  - (d) That such lien may attach without further notice.
- (3) If the person who is sent notice pursuant to § (2) of this section wishes to admit liability for any alleged violation, he may, without request a hearing, pay the full amount of the fines, costs and fees admitted to in person or by mail to an official designated by the town manager. Such payment shall be inadmissible in any proceeding, civil or criminal, to establish the conduct of such person or other person making the payment. Any person who does not deliver or mail written demand for a hearing within ten (10) days of the date of the first notice provided for in § (2) of this section shall be deemed to have admitted liability, and the designated municipal official shall certify such person's failure to respond. The hearing officer shall thereupon enter and assess the fines, costs and fees provided for within the town fee schedule and shall follow the procedures set forth in § 6 of this section.
- (4) Any person who requests a hearing shall be given written notice via certified mail of the date, time and place for the hearing. Such hearing shall be held not less than fifteen (15) days, nor more than thirty (30) days from the date of the mailing of notice of hearing, provided that the hearing officer shall grant, upon good cause shown, any reasonable request by any interested party for postponement or continuance. An original or certified copy of the initial notice of violation issued by the town manager, or his designee, shall be filed and retained by the municipality, and shall be deemed to be a business record within the scope of state statute § 52-180 and evidence of the facts contained therein. The presence of the town manager, or his designee, shall be required at the hearing if such person so requests. A person wishing to contest his liability shall appear at the hearing and may present evidence on his behalf and shall have the right to cross examine all witnesses. A designated municipal official, other than the hearing officer, may present evidence on behalf of the municipality. If such person fails to appear, the hearing officer may accept from such person copies of police reports, investigatory and citation reports, and other official documents by mail, and may determine thereby that the appearance of such person is unnecessary. The hearing officer shall conduct the hearing in the order and form and with such methods of proof as he deems fair and appropriate. The rules regarding the admissibility of evidence shall not be strictly applied, but all testimony shall be given under oath or affirmation.
- (5) The hearing officer shall announce his decision at the end of the hearing. If he determines that the person is not liable, he shall dismiss the matter and enter his

determination in writing accordingly. If the person demonstrates that he intends to rehabilitate or demolish the blighted structure, the hearing officer shall stay the matter, and enter his determination in writing accordingly. Such stay shall be expressly conditioned upon the rehabilitation or demolition of the blighted structure within three (3) months. If the conditions of the stay have not been met within three (3) months, the hearing officer shall enter and assess the fines, costs and fees against such person as provided by this article retroactive to the date of the hearing. If the hearing officer determines that the person is liable for the violation, he shall forthwith enter and assess the fines, costs and fees against such person as provided by this article.

- (6) If such assessment is not paid on the date of its entry, any unpaid fine, cost or fee shall constitute a lien upon the real estate against which the fine, cost or fee was imposed from the original date of such assessment. Each such lien may be continued, recorded and released in the manner provided by the state statutes of continuing, recording and releasing property tax liens. Each such lien shall take precedence over all other liens and encumbrances filed after the effective date of the article from which this article is derived, except taxes, and may be enforced in the same manner as property tax liens.
- (7) In addition to any fines imposed in this section, this article may be enforced by injunctive procedure in the superior court. The town may further recover from such owner any and all costs and fees, including reasonable attorneys' fees, expended by the town in enforcing the provisions of this article.

(Ord. No. 1-00, § V, 1-25-2000)

**Secs. 4-17—4-19. Reserved.**

### **Article 3. - Numbering**

#### **Sec. 4-20. Definitions.**

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Building unit* means a single-family dwelling, multifamily dwelling, permanent trailer home, apartment or condominium building or any unit therein with a separate exterior ground floor entrance, motel, commercial establishment, industrial building or governmental building, which may be occupied at any time by any person.

*Building unit number* means a number consisting of one (1) or more digits, each digit being no less than four (4) inches in height and two (2) inches in width, and such digits being of such color as to contrast with the color of the structure to which such building unit is attached; provided, however, that a digit for the numeral "one" shall not be subject to the stated width requirement.

*Street* means any public street or private way servicing the building unit.

(Ord. No. 5-88, § 1, 10-24-1988; Ord. No 1-90 §1, 2-13-1990)

**Cross reference**—Definitions generally, chapter I § 1-2 of this code book.

**Sec. 4-21. Town engineering department to ascertain proper numbers.**

The owner of a building unit shall ascertain the proper building unit number for the building unit from the town engineering department.

(Ord. No. 5-88, § 2, 10-24-1988)

**Sec. 4-22. Display of building unit numbers.**

The owner of a building unit shall display the building unit number on the building unit so as to be visible from the street to which it relates. In the case of a building unit being more than fifty (50) feet from the street, the owner shall, in addition to the number on the building unit, display a building unit number on a fence or post which is located within fifty (50) feet of the street and visible from the street. Any apartment or condominium building which contains units with separate exterior ground floor units shall comply with this article by displaying the building unit number on the corresponding building unit's exterior entrance.

(Ord. No. 5-88, § 3, 10-24-1988)

**Sec. 4-23. Compliance with article provisions required.**

Prior to the issuance of a certificate of occupancy for any building unit by the town building official, the owner shall fully comply with the provisions of this article.

(Ord. No. 5-88, § 4, 10-24-1988)

**Sec. 4-24. Repair of damaged numbers.**

If a building unit number becomes damaged, the owner shall repair the number within fourteen (14) days of written notice by the town police department to the owners' most recent mailing address as listed with the town assessor.

(Ord. No. 5-88, § 5, 10-24-1988)

**Sec. 4-25. Penalty for violation of article.**

Any owner who violates the provisions of this article shall be subject to a fine as listed in the town fee schedule. Each day of failure to comply shall be considered a separate violation.

(Ord. No. 5-88, § 6, 10-24-1988)

**Secs. 4-26—4-29. Reserved.**

**Article 4. - Demolition**

**Sec. 4-30. Safety measures required.**

Whenever a building or structure is removed or demolished, safety measures for all workmen there employed shall be provided and suitable protection shall be provided for the general public.

(Ord. of 12-17-1962, § 1)

**Sec. 4-31. Fence or barricade.**

- (1) During demolition operations, a substantial fence or barricade, not less than eight (8) feet high, shall be erected and maintained for the entire time that demolition work is performed on the building or structure.
- (2) The fence or barricade shall extend along the street line for the entire length of the building facing on the street, and each end shall be returned back to the building line.

Such fence shall be built solid for the entire length, except for such openings provided with sliding doors or doors swinging inward as may be necessary for a proper prosecution of the work.

- (3) The building inspector may waive the above fence or barricade requirements if, in his opinion, the absence of such would not create any hazard to person or property or he may impose similar requirements if in his opinion such are necessary for the protection of adjoining property or persons thereon or to prevent substantial interference with the use of such adjoining property.

(Ord. of 12-17-1962, § 2)

#### **Sec. 4-32. Sidewalk sheds.**

- (1) Whenever a building or structure, or part thereof, within six (6) feet of the street line and twelve (12) feet or more in height is to be demolished, or whenever a building or structure, or part thereof, within six (6) feet of which building the owner or lessee of the premises provides and invites the public to use a portion of the premises as they would a public way, is to be demolished, (unless the street is officially closed during demolition) a sidewalk shed shall be erected and maintained for the full length of the building on all street fronts for the entire time that demolition work is performed on the building. Buildings further than six (6) feet from the street line, or from an area where the owner or lease of the premises provides and invites the public to use a portion of their premises as they would a public way, shall require a sidewalk shed provided the distance from the street line to building is less than one-half ( $\frac{1}{2}$ ) the total height of the building to be demolished, except that the building inspector may waive the requirement of a sidewalk shed where the building is more than forty (40) feet from the street line and its demolition is accomplished by the removal of one story at a time. Such sidewalk shed shall be not less than four (4) feet wide and eight (8) feet high in the clear. Such sheds shall be made water-tight and provisions shall be made for adequate lighting of walkways.
- (2) When the roofs of such sheds are used for the storage of material or for the performance of work of any kind, substantial railings not less than three (3) feet high and solid toe boards not less than six (6) inches high shall be placed along the open sides and ends of such roofs.
- (3) The roofs of such sheds shall be of sufficient strength and stability to maintain safely the weight of materials that may be placed thereon or sustain the shocks incidental to the handling of such materials or their preparation for use and to the accidental jars from trucks or material being delivered. In no case shall the design of this roof be such that it will not sustain a minimum live load of one hundred and fifty (150) pounds per square foot.
- (4) When the area occupied by the sidewalk or temporary walkway is to be excavated, such walkway shall be designed to support a total of not less than one hundred and fifty (150) pounds per square foot and shall be provided with suitable ramps at each end.

(Ord. of 12-17-1962, § 3)

#### **Sec. 4-33. Certificate of insurance required.**

Every applicant for a permit to demolish a building or structure or any part thereof within the city or town shall file with the building inspector evidence of the applicant's financial responsibility in the form of a certificate of insurance. The certificate of insurance shall provide



liability insurance covering bodily injury to persons with limits of at least one hundred thousand dollars (\$100,000) per accident with an aggregate of at least three hundred thousand dollars (\$300,000). The certificate of insurance shall provide liability insurance covering property damage of at least fifty thousand dollars (\$50,000) per accident with an aggregate of at least one hundred thousand dollars (\$100,000). The certificate of insurance shall provide that the town or city and its agents shall be saved harmless from any claim or claims resulting from the operations of the demolition which are caused by the negligence of the applicant, his agents, or employees. (Ord. of 12-17-1962, § 4)

**Sec. 4-34. Utility connections to be severed.**

Before a building or structure or any part thereof can be demolished, the applicant for a demolition permit shall furnish written evidence to the building inspector that all public utilities having service connections within the premises of the proposed demolition have severed such connections and service upon said premises. (Ord. of 12-17-1962, § 5)

**Sec. 4-35. Protection required immediately upon obtaining permit.**

After obtaining a permit for demolition from the building inspector the applicant shall immediately proceed to provide all protection as required by this article. (Ord. of 12-17-1962, § 6)

**Sec. 4-36. Responsibility of permittee for compliance with article and application of regulations.**

The demolition company, or the individual who obtains the permit for the demolition of the building, structure, or part thereof, shall be responsible for full compliance with all regulations contained in this article and any other statutes or ordinances pertaining to demolition. Demolition procedures shall not be used if they involve undue hazard or risk to the general public or unnecessary danger to the workmen; and any and all procedures followed in demolition operations shall be in accordance with good practice. The demolition contractor shall make suitable provision for the disposal of all materials accumulated during the demolition operations. No part of the protective structures erected during the demolition operations shall be overloaded by storage, materials, or debris to an extent beyond the per square foot live load capacity; and, in the event any protective structure shall become loaded to the extent of its live load capacity per square foot, then the demolition contractor shall immediately proceed to remedy such situation as it is construed to be a hazardous condition within the meaning of this article. Materials, which in their nature, would in removal cause or create excessive amounts of debris, dirt or dust to accumulate in the air shall be wet down to prevent the creation of any such nuisance. The requirements of this section are designated as the minimum necessary for average conditions. In unusual or dangerous situations adequate provisions shall be made by the demolition contractor and all precautions taken for the protection of the safety of the public and workmen employed on the site, in compliance with the requirements of the building inspector. (Ord. of 12-17-1962, § 7)

**Sec. 4-37. Filling of basements, cellars, holes.**

Where in the demolition of any building, structure, or part thereof, there remains on the premises, basements, cellars or holes and the like or any other such receptacles or containers of

percolating or rain waters shall be so altered to allow the drainage of said waters, and then such excavations shall be filled to grade and all excess materials, rubbish and debris, shall be removed from the premises. If a new building or structure is to be created upon the site of the demolished premises, then subject to the approval of the building inspector any of the aforesaid provisions of this section may be waived.

(Ord. of 12-17-1962, § 8)

**Sec. 4-38. Notice of demolition to owners of adjoining property.**

Prior to the commencement of any demolition operations under this code, notice by registered or certified mail shall be sent to the owners of any adjoining property.

(Ord. of 12-17-1962, § 9)

**Sec. 4-39. Penalty for violation.**

Any person or persons convicted of the violation of any of the provisions of this article shall be subject to a fine as listed in the town fee schedule or imprisonment for not more than one (1) year, or both.

(Ord. of 12-17-1962, § 10)

**Article 5. Withhold Permits when Taxes are Delinquent**

**Sec. 4-40. Payment of delinquent taxes required for permit issuance.**

The issuance of building permits, certificates of occupancy or other certificates, permits, licenses, or approvals related to the construction, alteration, occupancy or use of structures or land shall be withheld when there are delinquent real or personal property taxes with respect to the subject property. All building or zoning certificates, permits, licenses, or approvals for construction, alteration, occupancy or use of structures or land must be withheld by the building or zoning official until the Revenue Collector verifies that no tax delinquencies exist on the property for which the permit, license, or certificate is sought. This ordinance shall apply to property owners and tenants who jointly or severally have delinquent real property taxes. Nothing contained herein shall be construed as permitting the Town to withhold permits, certificates of occupancy or other certificates, licenses, or approvals sought by the owner of real property where the tenant(s) at such real property is delinquent with respect to personal property obligations to the Town. However, the Town may withhold permits, certificates of occupancy and other certificates, licenses, and approvals if the fee owner of the real property is delinquent with respect to such owner's personal property tax obligations to the Town.

The Town Manager, or designee in his or her absence, shall have the authority to override the withholding of such certificates, permits, or licenses on the property for which a delinquency exists if it is determined by the Town Manager, or his or her designee, that health or safety concerns, or other extraordinary circumstances, warrant such an override of this ordinance. Notification of such override shall be provided, along with the reasons for such override, to the Revenue Collector and the Building or Zoning Official.

(Ord. 03-11, 06-07-2011; Ord. 02-13, 05-21-2013; Ord. 06-18, 07-24-2018)