

VACANT BUILDING AND PROPERTY REGULATIONS

8-12-1: DECLARATION OF POLICY:

The purpose of this chapter is to protect the public health, safety, and welfare by enactment of this chapter which:

- A. Establishes a program for identification, registration, and regulation of buildings which are or become vacant on and after the effective date of this chapter;
- B. Determines the responsibilities of owners of vacant buildings; and
- C. Provides for administration, enforcement of property regulations, including prevention and abatement of public nuisances, and imposition of penalties.

This chapter shall be construed liberally to affect its purposes. (Ord. 2687, 1-16-2012)

8-12-2: OTHER ORDINANCES:

This chapter shall not be construed to prevent the enforcement of other applicable ordinances, codes, legislation, and regulations that prescribe standards other than those provided herein, and in the event of conflict, the most restrictive shall apply. (Ord. 2687, 1-16-2012)

8-12-3: DEFINITIONS:

Unless otherwise expressly stated or clearly indicated by the context, the following terms shall, for the purpose of this chapter, have the meanings indicated in this section:

BOARDED BUILDING: A building which has had, in a manner intended to be temporary or permanent, any or all openings, which openings are windows or doors that were present for the purpose of light, ventilation or egress, some material whether opaque, solid or transparent, affixed to such openings, from the interior or exterior of the building, for the purpose of securing or preventing access or damage to the building or its components.

BUILDING: Any structure occupied or intended for supporting or sheltering any occupancy.

DANGEROUS BUILDING OR STRUCTURE: Any building or structure that is dangerous, in a state of dilapidation, deterioration or decay; faulty construction; unsecure; vacant and the doors, windows, or other openings are boarded up or secured by any means other than conventional methods used in the design of the building or permitted for new construction of similar type; damaged by fire to the extent as not to provide shelter, in danger of collapse or failure; and dangerous to anyone on or near the premises.

DIRECTOR: The director of community development or the director's designee.

OWNER: Any person, agent, operator, firm, or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county, or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

PERSON: Includes an individual, corporation, partnership or any other group acting as a unit.

PREMISES: A lot, plot, or parcel of land, including any structure thereon.

PUBLIC NUISANCE: Includes the following:

- A. The physical condition, or uses of any building, structure or premises regarded as a public nuisance at common law, under the Illinois Compiled Statutes, or under this code; or
- B. Any physical condition, use or occupancy of any premises, structure, building or appurtenances considered an attractive nuisance to children, including, but not limited to, abandoned wells, shafts, basements, excavations, and unsafe fences or structures; or
- C. Any building which has unsanitary sewerage or plumbing facilities; or
- D. Any building designated by the director as unfit for human habitation or use; or
- E. Any building which is manifestly capable of being a fire hazard, or manifestly unsafe or insecure so as to endanger life, limb or property; or
- F. Any building or premises which is unsanitary, or which is littered with rubbish or garbage, or which has an uncontrolled growth of weeds; or
- G. Any building or structure defined as a "dangerous building" herein.

UNOCCUPIED BUILDING: A building or portion thereof which lacks the habitual presence of human beings who have a legal right to be on the premises, including buildings ordered vacated by the director pursuant to authority granted to him by section 8-1-3 of this title. In determining whether a building is "unoccupied", the director may consider these factors, among others:

- A. A building at which substantially all lawful residential or business activity has ceased.
- B. The percentage of the overall square footage of occupied to unoccupied space or the overall number of occupied and unoccupied units shall be considered.
- C. The building is substantially devoid of contents. The condition and value of fixtures or personal property in the building are relevant to this determination.
- D. The building lacks utility services, i.e., water, sewer, electric or natural gas.
- E. The building is not actively for sale as part of a contractual agreement to sell the building, the building lacks "for sale", "for rent" or similar signage.
- F. The presence or recurrence of uncorrected code violations.

VACANT BUILDING: A building or portion of a building which is:

- A. Unoccupied and subject of a mortgage foreclosure action; or
- B. Unoccupied and unsecured; or
- C. Unoccupied and secured by boarding or other similar means; or
- D. Unoccupied and a dangerous structure; or
- E. Unoccupied and designated unfit for human occupancy by the director pursuant to applicable provisions of this code; or
- F. Unoccupied and has multiple code violations; or
- G. Unoccupied and the building or its premises has been the site of unlawful activity within the previous six (6) months; or
- H. Condemned by the director and unlawfully occupied; or
- I. Unoccupied for over one hundred eighty (180) days and during which time the director has issued an order to correct public nuisance conditions and same have not been corrected in a code compliant manner; or
- J. Unoccupied for over two (2) years.

But not including: Unoccupied buildings which are actively undergoing construction, renovation, or rehabilitation and which are in compliance with all applicable ordinances, codes, legislation, and regulations, and for which construction, renovation or rehabilitation is proceeding diligently to completion. (Ord. 2687, 1-16-2012)

8-12-4: VACANT BUILDING DETERMINATION:

A. General: Within sixty (60) days after the effective date of this chapter, the director shall evaluate all buildings in the city he believes to be unoccupied on the effective date of this chapter and make a

determination for each as to whether the building is a "vacant building" within the meaning of this chapter. For buildings the director determines to be "vacant buildings", s/he shall, within seven (7) days of making such determination, send a written notice of determination with the factual findings to the last taxpayer of record listed on the most recent DuPage County tax roll. Said notice of determination shall be sent certified mail, return receipt requested. Failure of delivery shall not excuse a person from complying with this chapter.

The notice of determination shall contain a statement of the obligations of the owner of a building determined to be a vacant building, a copy of the registration form the owner is required to file pursuant to section 8-12-5 of this chapter and a notice of the owner's right to appeal the determination. (Ord. 2687, 1-16-2012)

8-12-5: REGISTRATION OF VACANT BUILDINGS:

A. General: The owner or mortgage lender who has acquired title to a vacant building shall register the building with the director, on a form provided by the director and pay the required nonprorated vacant building registration and initial inspection fee. The form shall include, as a minimum, the name, street address, e-mail address and telephone number of the owner; the case name and number of any litigation pending concerning or affecting the building, including bankruptcy cases; and the name, street address, e-mail address, and telephone number of all persons and financial institutions/lenders with any legal financial interest in the building or the premises. The form shall require the owner to identify a natural person twenty one (21) years of age or older who maintains a permanent address in DuPage County, Illinois, to accept service on behalf of the owner with respect to any notices the director sends pursuant to this chapter or service of process in any proceeding commenced to enforce any provision of this chapter, and file with the director on the registration form, the name, street address, e-mail address, telephone number, of said person. A street address is required. A post office box is not an acceptable address.

The form shall require the owner to indicate his or her "acceptance of notice by posting", consenting to service of notices sent or required to be sent, pursuant to this chapter, by posting on the building if the owner fails to renew the registration, if required, or maintain as current with the director the information required regarding the person designated to accept notice and service of process.

The obligation to register vacant buildings shall extend to mortgage lenders that have obtained title to unoccupied buildings through a mortgage foreclosure action. Mortgage lenders shall register unoccupied buildings with the director within fifteen (15) days of obtaining title to same.

Registration does not exonerate the owner from compliance with all applicable codes and ordinances, including this chapter, nor does it preclude any of the actions the city is authorized to take pursuant to this chapter or elsewhere in this code.

B. Renewal And Amended Registration Requirements: The owner of a vacant building shall renew the vacant building registration each year no later than the anniversary date of the first registration filing; and file an amended registration within fifteen (15) days of any change in the information contained in the annual registration. A new registration is required for any change in ownership whatsoever.

C. Fees: The initial vacant building registration and inspection fee shall be one hundred seventy five dollars (\$175.00). The annual renewal registration fee shall be one hundred dollars (\$100.00). There is no charge to update the owner's registration information. (Ord. 2687, 1-16-2012)

8-12-6: VACANT BUILDING PLAN:

A. Contents Of Plan: At the time a building is registered as required herein, the owner shall submit a vacant building plan. The plan shall contain the following as a minimum:

1. A plan of action to repair any doors, windows, or other openings which are boarded up or otherwise secured or covered by any means other than conventional methods used in the design of the building or permitted for new construction or similar type. The proposed repair shall result in openings being secured by conventional methods used in the design of the building or by methods permitted for new construction of similar type with board removed. The owner shall maintain the building in an enclosed and secure state until the building is reoccupied or made available for immediate occupancy.
2. For buildings and/or premises which are determined by the director as being or containing public nuisances, as defined in section 8-12-3 of this chapter, then the vacant building/premises plan shall contain a plan of action to remedy such public nuisance(s).
3. A time schedule identifying a date of commencement of repair and date of completion of repair for each improperly secured opening and nuisance identified by the director.
4. When the owner proposes to demolish the vacant building, the owner shall submit a plan and time schedule for such demolition.
5. A plan of action to maintain the building and/or premises thereof in conformance with this chapter.
6. A plan of action, with a time schedule, identifying the date the building will be habitable and occupied or offered for occupancy or sale. The time schedule shall include date(s) of commencement and completion of all actions required to achieve habitability. No plan which fails to provide for compliance with this chapter or, which will not, as determined by the director, achieve such compliance, within three (3) months, in the case of a vacant boarded building, and two (2) years, in the case of a vacant, unboarded, and code compliant building will be approved, except that the director may approve an extension of the time during which the building will be unoccupied beyond two (2) years to a date certain, but then only based upon clear and documented evidence of good cause shown by the owner as determined by the director.

B. Premises; Building Exterior: All premises upon which vacant buildings are located, and the building exteriors, shall at all times be maintained in compliance with this code.

C. Exterior Lighting: Exterior lighting shall be maintained in conformance with city property maintenance and zoning ordinances.

D. Ground Floor Windows: All ground floor windows facing street frontage, including, but not limited to, all display windows in unoccupied or vacant commercial buildings, shall be kept in a well maintained condition. All ground floor windows facing street frontage, except display windows in unoccupied or vacant commercial buildings, shall be covered on the interior side in a professionally finished manner with an opaque window covering material manufactured for that purpose and approved by the director.

E. Fire Alarm And Sprinkler Systems: All vacant commercial buildings must maintain in working order all fire alarm and fire sprinkler systems, maintain the heat on and set at a minimum of forty two degrees (42°), keep current all building access keys in the knox box, and post roof/truss indicators on the exterior of the building.

F. Review And Approval Of Plan: The director shall review and approve the proposed vacant building plan if it satisfies the standards below. The director shall send notice to the owner of the vacant building of his or her approval or denial of the proposed vacant building plan. In considering the appropriateness of a vacant building plan, the director shall include the following in his or her consideration. All denial notices issued by the director shall identify the reason(s) the proposed vacant building plan is not consistent with the following standards:

1. The purposes of this chapter and intent of the city council to minimize the time a building is boarded or otherwise vacant.
2. The effect of the building and the proposed plan on adjoining property.
3. The length of time the building has been vacant.
4. The presence of any public nuisances on the property.
5. The likelihood that the plan or portion(s) thereof will prevent or ameliorate the condition it is designed to address.

G. Failure To Obtain Or Comply With Approved Vacant Building Plan: Failure to have an approved plan within thirty (30) days of filing the registration form, failure to submit a revised plan within fifteen (15) days of the date of the director's written denial of a proposed plan, or failure to comply with the approved plan shall constitute a violation of this chapter subjecting the owner of the building to penalties as provided in this chapter and to any remedies the city may avail itself of as provided for herein and elsewhere in this code, including, but not limited to, an action to compel correction of health or fire code violations. (Ord. 2687, 1-16-2012)

8-12-7: VACANT BUILDING INSPECTIONS:

A. General: The city shall conduct a code compliance inspection of the interior of the vacant building. Such inspection will determine the extent of compliance with city property maintenance and fire codes. The city shall send the inspection report to the owner within thirty (30) days. Periodic reinspections shall take place, as necessary, until code compliance is achieved. Timely code compliance is required.

B. Fees: The one hundred seventy five dollar (\$175.00) initial registration and inspection fee shall cover the initial compliance inspection and one reinspection. The city will charge the owner a seventy five dollar (\$75.00) reinspection fee for the second and any additional reinspections necessary to confirm compliance has been achieved. The owner shall pay the reinspection fee to the city within thirty (30) days of receipt of the bill for the same. (Ord. 2687, 1-16-2012)

8-12-8: CERTIFICATION OF COMPLIANCE:

A certificate of compliance with this vacant buildings chapter issued by the director and payment in full of all fees imposed pursuant to this chapter are required prior to any occupancy of a vacant building. (Ord. 2687, 1-16-2012)

8-12-9: TIME RESTRICTIONS; BOARDING VACANT BUILDINGS:

It is the policy of the city that boarding is a temporary solution to prevent unauthorized entry into a vacant building and that boarded buildings are a public nuisance. A vacant building may not remain boarded longer than three (3) months unless an extension of that time is part of a plan approved by the director. (Ord. 2687, 1-16-2012)

8-12-10: APPEALS:

The manner of appeal of the director's determination or decision under this chapter shall be found in section 6-3-1 of this code. (Ord. 2687, 1-16-2012)

8-12-11: ENFORCEMENT AND PENALTIES:

The enforcement and penalties for violation(s) of any provision of this chapter shall be found in

section 1-4-1 of this code. The city may enforce this chapter within its administrative adjudication system or through the court system. (Ord. 2687, 1-16-2012)

8-12-12: OTHER ENFORCEMENT:

The registration of a vacant building shall not preclude action by the city to demolish or to take other action against the building pursuant to other provisions of this chapter, this code, or other applicable legislation. (Ord. 2687, 1-16-2012)