

ARTICLE IV. - VACANT BUILDINGS

Sec. 11-42. - Declaration of policy.

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

- (a) Establishes a program for the identification, registration and regulation of buildings that are vacant or that become vacant on and after the effective date of this article; and
- (b) Determines the responsibilities of owners of vacant buildings; and
- (c) Provides for the administration, the enforcement, which includes abating public nuisances, and the imposition of penalties for violations of this article.
- (d) This article shall be liberally construed to carry out its intended purposes.
- (e) This article shall not be construed to prevent the enforcement of other applicable ordinances, codes, statutes, laws, orders, rules or regulations that prescribe standards for the subject matter of this article. In the event of a conflict between the provisions of this article and any other ordinance, code, statute, law, order, rule or regulation, the most restrictive shall apply.

(Ord. No. 2015-10, Art. II, 5-4-15)

Sec. 11-43. - Definitions.

The words and terms used in this article shall have the meanings ascribed to them in this section, unless the context clearly indicates a different meaning. The use of any term in the present tense shall include the future and past tense of the term, when applicable, and all terms used in the singular shall include the plural and all words used in the masculine gender shall extend to and apply to the feminine gender, when applicable.

Boarded building shall mean a building that has, in a manner intended to be temporary or permanent, some material (whether said material is opaque, solid or transparent) affixed to any or all openings, windows or doors that were present for the purpose of light, ventilation or egress, 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 shall mean any structure occupied or intended for supporting or sheltering any occupancy.

Dangerous building shall mean all buildings or structures that have any or all of the following defects:

- (a) Those buildings or structures that have improperly distributed loads upon the floors or roof or on which the same are overloaded, or which have insufficient strength to be reasonably safe for the purposes used, imposed loads or for the intended design load.

- (b) Those buildings or structures that have been damaged by fire, wind or other causes so as to have become dangerous to life, limb or property of the occupants or others.
- (c) Those buildings or structures that have parts thereof that are so attached that they may suddenly fall and injure persons or damage property.
- (d) Those buildings or structures that are in a state of dilapidation, deterioration or decay; have faulty construction; lack ventilation; are overcrowded; are open, vacant or abandoned; are in danger of collapse or failure; or are dangerous to anyone on or near the premises.
- (e) Those buildings or structures that have sewerage or plumbing facilities that are backed up or otherwise unsanitary.
- (f) Those buildings or structures that have been designated by the city as unsafe for human habitation.
- (g) Those buildings or structures that are fire hazards, lack code compliant means of ingress and egress or lack required operational smoke detectors.
- (h) Those buildings or structures that are visibly unsafe or unsecured so as to endanger life, limb or property.
- (i) Those buildings or structures from which the electrical, plumbing, heating or other facilities that are required by this Code or other applicable codes, laws, statutes, orders, rules or regulations have been removed, disconnected, destroyed or which cannot safely perform their intended purpose.
- (j) Those buildings or structures to which the utility services have been removed, disconnected, tampered with, destroyed or interrupted.
- (k) Those buildings or structures that have become unsanitary, are vermin infested or insect infested or are littered with refuse.
- (l) Those buildings or structures that endanger life or property by the presence of toxic or flammable fumes, gases, vapors or materials.

Dangerous buildings are hereby declared public nuisances.

Code department director shall mean the Director of the City of Chicago Heights Code Enforcement Department or other person so designated by the mayor.

Owner shall mean any person, agent, operator, firm, corporation or entity:

- (a) Having a legal or equitable interest in the property;
- (b) Recorded in the official records of the state, county or town as holding title to the property; or
- (c) Otherwise having control of the property; including, the holder of the most superior mortgage of record when a foreclosure of that mortgage is pending and the subject property of the foreclosure has been declared vacant hereunder;
- (d)

The term *owner* shall include the guardian of an estate of any such person and the executor or administrator of an estate of such person if ordered to take possession of real property by a court of competent jurisdiction.

Person shall include a corporation, partnership or other entity as well as an individual.

Premises shall mean a lot, plot or parcel of land, including any structure or building located thereon.

Public nuisances shall include the following:

- (a) Any building that would be declared a public nuisance at common law, under the Illinois Compiled Statutes or under this Code due to its physical condition or the use thereof;
- (b) Any building or appurtenance that would be declared an attractive nuisance to children due to the physical condition, use or occupancy of the building or the appurtenance. The foregoing shall include, without limitation, abandoned wells, shafts, basements, excavations and unsafe fences and structures;
- (c) Any building that has unsanitary sewerage or plumbing facilities;
- (d) Any building designated by the code department director as unsafe for human habitation or use;
- (e) Any building that is clearly capable of being a fire hazard or noticeably unsafe or insecure so as to endanger life, limb or property;
- (f) Any building that is unsanitary, is littered with rubbish or garbage or that has an uncontrolled growth of weeds;
- (g) Any building that: (i) is dangerous, in a state of dilapidation, deterioration or decay; (ii) has faulty construction; (iii) is open or 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; or (iv) is damaged by fire to the extent as not to provide shelter, is in danger of collapse or failure and is dangerous to anyone on or near the premises; or
- (h) Any building defined as a dangerous building in this section, as the same may be amended.

Unoccupied building shall mean a building or portion thereof that lacks the habitual presence of human beings who have a legal right to be on the premises, including buildings ordered vacated by the code department director pursuant to authority granted to him or her by this Code or any other applicable ordinance, code, statute, law, order, rule or regulation.

In determining whether a building is "unoccupied" the code department director may consider, among other things, the following factors:

- (a) Whether substantially all lawful residential or business activity has ceased at the building;
- (b) The percentage of the overall square footage of occupied to unoccupied space or the overall number of occupied to unoccupied units;

- (c) Whether the building is substantially devoid of contents and the condition and value of fixtures or personal property located within the building;
- (d) Whether the building lacks utility services including, without limitation, water, sewer, electric and/or natural gas services;
- (e) Whether the building is the subject of a foreclosure action;
- (f) Whether the building is actively for sale as part of a contractual agreement and whether the building lacks or displays "for sale," "for rent" or similar signage; and
- (g) The presence or recurrence of uncorrected code violations.

Vacant building shall mean a building or portion of a building that is:

- (a) Unoccupied and unsecured;
- (b) Unoccupied and secured by boards or other similar means;
- (c) Unoccupied and meets the definition of a dangerous building;
- (d) Unoccupied and condemned by the director of code pursuant to the applicable provisions of this Code or other applicable ordinances, codes, statutes, laws, orders, rules and/or regulations;
- (e) Unoccupied and has multiple code violations;
- (f) Unoccupied and the building has or its premises have been the site of unlawful activity within the previous six (6) months;
- (g) Condemned or declared uninhabitable by the code department director and has remained so for in excess of sixty (60) days;
- (h) Unoccupied for over one hundred eighty (180) calendar days and during which time the owner has been issued an order to correct public nuisance conditions and the same have not been corrected in compliance with the provisions of this Code; or
- (i) Unoccupied and vacant for over sixty (60) days.
- (j) Vacant buildings shall not include unoccupied buildings that are undergoing construction, renovation or rehabilitation and are in compliance with all applicable ordinances, codes, statutes, laws, orders, rules and regulations, and for which the construction, renovation or rehabilitation is proceeding diligently to completion.

Vacant building appeals committee. A committee comprised of three persons appointed by the mayor shall review appeals filed challenging the initial determination that a building is a "vacant building" subject to the mandates of this article. Appeals of said determination shall be decided by majority vote of the committee based on a preponderance of the evidence standard. Committee appointees shall serve terms of one year.

(Ord. No. 2015-10, Art. II, 5-4-15)

Sec. 11-44. - Determination.

Within sixty (60) calendar days after the effective date of this article, the code department director shall evaluate all buildings in the city that he or she believes to be unoccupied as of the effective date of this article and shall make a determination for each as to whether the building is a *vacant building* as defined in section 11-43 of this Code.

The code department director may determine that a building that otherwise possesses any of the factors defining a *vacant building* according to this Code shall not to be regulated under this article for a stated period if, upon consideration of reliable, substantiated and sufficient evidence, he or she determines that regulation of the building under this article would not serve the public health, welfare and safety.

Such determination not to regulate a building as a *vacant building* under this article shall be in writing and shall contain written findings in support of the department director's decision, including the factual basis for the determination.

Within ten (10) business days of the determination that a building is a *vacant building* under this article, the code department director shall send notice of said written determination, containing the factual findings, to the last taxpayer of record listed on the most recent Cook County tax roll. Said notice of determination shall be sent via first class United States mail, with proper postage prepaid. Failure of delivery shall not excuse a person from complying with this article. The code department director or his designee may personally serve or cause personal service of the notice of determination. Any person making such service shall execute an affidavit attesting to the facts of service. The code department director shall maintain an affidavit of such mailing for each notice of determination sent.

The notice of determination shall specify a date and time on which the owner shall allow for a code compliance inspection of the interior of the vacant building to determine the extent of compliance with this Code and other applicable ordinances, codes, statutes, laws, orders, rules and regulations, including the city and state building, health, fire, water and sewer codes. The owner shall pay the one hundred dollar (\$100.00) inspection fee to the city within thirty (30) calendar days of the inspection. All unpaid fees shall be liens upon the premises.

The notice of determination shall also contain a statement of the obligations of the owner of the *vacant building*, a copy of the registration form the owner is required to file pursuant to section 11-46 of this Code, and a notice of the owner's right to appeal the code department director's determination.

(Ord. No. 2015-10, Art. II, 5-4-15)

Sec. 11-45. - Appeal of determination.

An owner of a building determined by the code department director to be a *vacant building* may appeal that determination to the vacant building appeals committee. Such appeal shall be in writing and shall be filed with the city clerk and copied to the vacant building appeals committee within fifteen (15) calendar days of the date of the mailing of the notice of determination.

The filing of an appeal stays the owner's obligation to register his or her building as required by section 11-46 of this chapter. The appeal shall contain a complete statement of the reasons the owner disputes the code department director's determination; shall set forth specific facts in support thereof and shall include all evidence the owner relies upon to support the appeal. The vacant building appeals committee shall decide the appeal on the basis of facts presented by the owner in his or her written appeal and the code enforcement department director's written determination.

The burden is upon the owner to present sufficient evidence to persuade the vacant building appeals committee that if the evidence had been known to the code enforcement director at the time of the determination, the code department director would, more likely than not, have determined that the subject building was not a vacant building.

The vacant building appeals committee shall send written notice of its decision to the owner within ten (10) business days of its receipt of the appeal. The vacant building appeals committee may, but is not required to, seek additional information from the owner. The vacant building appeals committee may, upon written notice thereof to the owner, take ten (10) additional business days to decide the appeal if it determines that such additional time is required for consideration of the appeal.

An owner who wishes to challenge applicability of this article to his or her building prior to a determination having been made by the code department director, shall set forth specific facts to support the non-applicability in writing to the code department director. In the event the code department director determines that the subject building is a *vacant building*, the owner shall have the right to appeal the director's determination to the vacant building appeals committee, as provided for herein.

(Ord. No. 2015-10, Art. II, 5-4-15)

Sec. 11-46. - Obligation to register.

The owner of a building who knows or from the facts and circumstances should know that his or her Building is or has been a *vacant building* after the effective date of this article, the owner of a building that the code director determines at any time to be a vacant building or the owner of a building whose appeal from the code director's determination has been denied by the vacant building appeals committee shall take the actions provided for in this section within fifteen (15) calendar days after the date of the code director's notice of determination, the occurrence of the facts that would cause a reasonable person to believe that the building is a vacant building or a denial of an appeal, whichever is applicable. Registration does not exonerate the owner from compliance with all applicable provisions of this code and all other applicable ordinances, codes, statutes, laws, orders, rules and regulations, nor does it preclude any of the actions the city is authorized to take pursuant to this article or elsewhere in this Code.

(a) *Registration requirements.*

(1)

The owner of a vacant building must register the building with the code director, on a form provided by the code director, and pay a two hundred dollar (\$200.00) annual non-prorated vacant building registration fee. The form shall minimally include the name, street address and telephone number of the owner; the case name and number of any litigation pending concerning or affecting the building, including foreclosure or bankruptcy cases; and the name, street address, and telephone number of all persons with any legal interest in the building or the premises.

- (2) 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 Cook County, Illinois, to accept service on behalf of the owner with respect to any notices the city sends pursuant to this article or service of process in any proceeding commenced to enforce any provision of this article, and file with the code director on the registration form, the name, address and telephone number of said person. A street address is required. A post office box is not an acceptable address.

The form shall state that the owner, by affixing his or her signature, is advised that the city will not issue real estate transfer tax stamps prior to the code enforcement department having conducted an interior inspection of the building to ensure compliance with all applicable ordinances, codes, statutes, laws, orders, rules and regulations.

- (3) The owner of a vacant building must renew the vacant building registration each year on the anniversary date of the first filing for the time the building remains vacant and pay the required two hundred dollar (\$200.00) annual fee; and
- (4) The owner of a vacant building must file an amended registration within fifteen (15) calendar days of any change in the information contained in the annual registration. A new registration is required for any change in ownership whatsoever.

- (b) *Notice; inspection.* 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 article, by posting on the building if the owner fails to renew the registration if required or fails to maintain up-to-date information regarding the person designated to accept notice and service of process with the code director.

The owner shall allow for a code compliance inspection of the interior of the vacant building and shall pay the one hundred dollar (\$100.00) fee therefore within thirty (30) calendar days of the inspection. Such inspection will determine the extent of compliance with applicable ordinances, codes, statutes, laws, orders, rules and regulations, including building codes, health, fire, water and sewer codes. The city shall send the inspection report to the owner within thirty (30) calendar days.

- (c) *Insurance.* The owner shall obtain liability insurance and maintain such insurance for as long as the building is vacant, and file evidence of such insurance with the code director. The insurance policy shall be in the following amounts:

Five hundred thousand dollars (\$500,000.00) for a vacant residential building containing one (1) to three (3) units;

Seven hundred fifty thousand dollars (\$750,000.00) for a vacant residential building containing four (4) to eleven (11) units;

One million dollars (\$1,000,000.00) for a vacant residential building containing twelve (12) to forty-eight (48) units;

Two million dollars (\$2,000,000.00) for a vacant residential building containing more than forty-eight (48) units; and

Two million dollars (\$2,000,000.00) for a vacant manufacturing, industrial, storage or nonresidential commercial building.

(d) *Vacant building plan.* At the time a building is registered as required herein, the owner shall submit a vacant building plan. The code enforcement department director may prescribe a form for the plan. If the owner fails to submit the plan as provided for by this article, the code enforcement department director may determine the plan. The plan shall minimally contain the following:

- (1) A plan of action to repair any doors, windows or other openings that are boarded up or otherwise secured by any means other than conventional methods used in the design of the building or permitted for new construction of 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 boards being removed. Boarding shall be accomplished with materials and methods prescribed by the code director. The owner shall maintain the building in an enclosed and secure state until the building is reoccupied or made available for immediate occupancy. If the owner demonstrates that securing of the building will provide adequate protection to the public, the code enforcement department Director may waive the requirement of an enclosure;
- (2) For buildings and premises that are determined by the code enforcement department director to be or contain public nuisances, as defined in section 11-43 of this article, then the vacant building 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 code director;
- (4) When the owner proposes to demolish the vacant building, then the owner shall submit a plan and time schedule for such demolition;
- (5) A plan of action to maintain the building and 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 that provides for compliance with this article or, which will not, as determined by the code director, achieve such compliance, within six (6) 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;

- (7) All premises upon which unoccupied buildings or vacant buildings are located, and their exteriors, shall at all times be maintained in compliance with this Code; and
 - (8) Exterior lighting according to standards established by the code enforcement department director and available from the code enforcement department director or from the building department.
 - (9) A plan for lawn maintenance that ensures that grass and weed height shall not exceed eight inches.
- (e) *Security guard service.* On written notice of the code director, an owner shall provide bonded, licensed and insured security guard service at the building between the hours of three o'clock (3:00) p.m. and eight o'clock (8:00) a.m. Such service shall remain in place until the code director gives written notice that the service is no longer required. Such service shall be required when the code director makes a written determination that the *vacant building* constitutes a fire hazard, is otherwise dangerous to human life or the public welfare or involves illegal or improper use, occupancy, or maintenance, under such conditions that boarding and securing the building are insufficient to prevent the actual or threatened harm.

(Ord. No. 2015-10, Art. II, 5-4-15)

Sec. 11-46.5. - Approval of plan.

- (a) *Review of the building plan.* The code director shall review the proposed vacant building plan in accordance with the standards set forth below, and shall send notice to the owner of his determination as to whether the building is a vacant building.
- (b) *Standards for plan approval.* In considering the appropriateness of a vacant building plan, the code director shall include the following in his or her consideration and shall make written findings as to each of the following:
 - (1) The purposes of this article and goals of the city council to minimize the time buildings located within the city are boarded up or otherwise left vacant;
 - (2) The impact that the building and the proposed plan have on adjoining property;
 - (3) The length of time the building has been vacant;
 - (4) The presence of public nuisances on the property; and
 - (5)

The likelihood that the plan or portion(s) thereof will prevent or ameliorate the condition(s) it is designed to address.

(Ord. No. 2015-10, Art. II, 5-4-15)

Editor's note— Ord. No. 2015-10, Art. II, adopted May 4, 2015, set out provisions intended for use as § 11-46. At the editor's discretion, to prevent duplication of section numbers, these provisions have been included as § 11-46.5.

Sec. 11-47. - Authority to modify building plans, right to appeal.

The code director, upon notice to the owner of a vacant building, shall have the right to modify the vacant building plan by modifying the dates of performance, the proposed methods of action or by imposing additional requirements consistent with this article as he or she deems necessary to protect the public health, safety or general welfare.

(Ord. No. 2015-10, Art. II, 5-4-15)

Sec. 11-48. - Failure to comply with a building plan.

Failure to have an approved building plan within thirty (30) calendar days of filing the registration form or failure to comply with an approved building plan shall constitute a violation of this article and subject the owner of the building to the penalties set forth in this article and to any and all remedies that the town may avail itself of including, without limitation, an action to compel correction of property maintenance violations.

(Ord. No. 2015-10, Art. II, 5-4-15)

Sec. 11-49. - 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 article, this Code or any other applicable ordinance, code, statute, law, order, rule or regulation.

(Ord. No. 2015-10, Art. II, 5-4-15)

Sec. 11-50. - Real estate transfer stamps.

Any premises where a vacant building is located and for which inspection fees or registration fees imposed pursuant to this article have not been paid in full is not eligible for city real estate transfer tax stamps. Unpaid fees shall be a lien upon the property.

(Ord. No. 2015-10, Art. II, 5-4-15)

Sec. 11-51. - Certification.

Prior to occupying any vacant building, a person must obtain a certificate of code/occupancy certificate compliance for vacant buildings from the code enforcement department and pay, in full, all fees imposed pursuant to this article.

(Ord. No. 2015-10, Art. II, 5-4-15)

Sec. 11-52. - Boarding of 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 six (6) months, unless an extension of that time is part of a plan approved by the code department director.

A *vacant building* that is not boarded and is otherwise in compliance with this Code and all other applicable ordinances, codes, statutes, laws, orders, rules and regulations and for which boarding is determined not necessary by the code enforcement department director, based on police reports, resident and other information of a type considered reliable by reasonable persons, may not remain vacant for more than two (2) years without an approved plan for the occupancy, sale, demolition or other disposition of the building.

(Ord. No. 2015-10, Art. II, 5-4-15)

Sec. 11-53. - Enforcement and penalties.

- (a) Any person found to have violated any provision of this article shall be subject to a fine of not less than one hundred dollars (\$100.00) per day, per violation and not more than seven hundred fifty dollars (\$750.00) per day, per violation, in addition to any other legal or equitable remedies available to the city. Such other remedies include, but are not limited to, injunctive relief, application to a court of competent jurisdiction for a receiver, instituting demolition proceedings, instituting a condemnation action, contracting for the repair or the purchase of the premises and/or foreclosure of any lien the city may have on the building or premises.
- (b) Each day that any violation of this article continues shall constitute a separate and distinct offense.
- (c) The city may enforce this article through its administrative adjudication system or through the court system.
- (d) Nothing contained herein shall prohibit the city from immediately condemning a building or taking other immediate action upon a determination that the building is a public nuisance or poses an imminent danger to the occupants of the building or the public health, safety and welfare in accordance with the provisions of this Code or any other applicable ordinance, code, statute, law, order, rule or regulation.

(Ord. No. 2015-10, Art. II, 5-4-15)

Sec. 11-54. - Severability.

If any section, subsection, sentence, clause, phrase or portion of this article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

(Ord. No. 2015-10, Art. II, 5-4-15)

Sec. 11-55. - Other actions authorized.

The officers, employees and/or agents of the city shall take all action necessary or reasonably required to carry out, give effect to and consummate the amendments contemplated by this article and shall take all action necessary in conformity therewith. The officers, employees and/or agents of the city are specifically authorized and directed to draft and disseminate any and all necessary forms to be utilized in connection with this amendment.

(Ord. No. 2015-10, Art. II, 5-4-15)