

Section 10-179 (new) VACANT BUILDING AND PROPERTY REGULATIONS

10-179.1 DECLARATION OF POLICY:

This chapter protects the public health, safety, and welfare by enacting regulations that:

- (a) Establish a program for identification, registration, and regulation of Vacant Buildings;
- (b) Determine the responsibilities of Owners of Vacant Buildings; and
- (c) Provide for administration, enforcement, including the prevention and abatement of Public Nuisances, and imposition of penalties.

This chapter shall be construed liberally to affect its purposes.

10-179.2: 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.

10-179.3: DEFINITIONS:

Unless otherwise expressly stated or clearly indicated by the context, the following terms as used in § 10-179 shall have the meanings indicated in this section:

Boarded Building means a building that has, in a manner intended to be temporary or permanent, any or all openings, including windows or doors present for the purpose of light, ventilation or ingress/egress, secured by means other than conventional methods used in the design of a building or permitted for new construction of a similar type by 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 means any structure occupied or intended for supporting or sheltering any occupancy.

Dangerous Building or Structure means any building or structure that is found to pose a danger to the life, health, property or safety of the public by not providing minimum safeguards to protect or warn the public in the event of a fire, or because such structure is in a state of dilapidation, deterioration or decay, is structurally unsafe, is in a state of partial or complete collapse, caused by fire or other means, or is in such a state where systems failures are possible.

Director means the Director of Building and Zoning or the Director's designee.

Owner means any person, agent, operator, firm, corporation or entity having a legal or equitable interest in a Vacant Building; or recorded in the official records of the state, county, or municipality as holding title to the same; or otherwise having control of the same, 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 the same by a court.

Person includes an individual, corporation, partnership or any other group acting as a unit.

Premises means 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 unsafe 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 Dangerous Building; or
- (h) Any Vacant Building.

Unoccupied Building means 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. 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 means a Building or portion of a Building which is:

- (a) Unoccupied (*i.e.*, an "Unoccupied Building") and the subject of a mortgage foreclosure action; or
- (b) Unoccupied and unsecured; or
- (c) Unoccupied and meeting the Boarded Building definition of this chapter; or
- (d) Unoccupied and a Dangerous Building or Structure; or
- (e) Unoccupied and condemned 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 the Premises have been the site of unlawful activity within the previous ninety (90) days; or
- (h) Unoccupied for over ninety (90) 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
- (i) Unoccupied for over two (2) years.

A Vacant Building does not include 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.

10-179.4: VACANT BUILDING DETERMINATION:

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. At any point after the effective date of this chapter, the Director may evaluate buildings he believes have become unoccupied and make a determination as to whether each building is a vacant building.

For Buildings the Director determines to be Vacant Buildings, 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 Lake County tax roll. Said Notice of Determination shall be sent via first class mail or may be personally served on the taxpayer of record. 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 10-179.5, and a notice of the Owner's right to appeal the Director's determination.

The Notice of Determination shall identify a date and time on which the Owner may voluntarily allow for a code compliance inspection of the interior and exterior of the Vacant Building to identify what steps the Owner must take to bring the Vacant Building into compliance with the City's codes, regulations and policies. The City shall provide the report from the code compliance inspection to the Owner within thirty (30) days of the inspection.

10-179.5: APPEAL OF DETERMINATION

(a) An Owner of a Building determined by the Director to be a Vacant Building may appeal that determination to the planning and zoning commission. Such appeal shall be in writing and shall be filed with the Director within fourteen (14) days of the date of mailing of the notice of determination. The filing of an appeal stays the Owner's obligation to register a Building as required by this chapter. The appeal shall contain a complete statement of the reasons the Owner disputes the Director's determination, set forth specific facts in support thereof, and include all evidence the Owner relies upon to support the appeal. The planning and zoning commission shall decide the appeal on the basis of facts presented by the Owner in the written appeal and the Director's written determination.

(b) The burden is upon the Owner to present sufficient evidence to show that had the evidence been known to the Director at the time the Director made the determination, the Director would more likely than not have determined that the subject Building was not a Vacant Building.

(c) The planning and zoning commission shall send written notice of its decision to the Owner within thirty (30) days of its receipt of the appeal. The planning and zoning commission may, but is not required to, seek additional information from the Owner before making a decision.

(d) An Owner who wishes to challenge the applicability of this chapter to a Vacant Building without the Director's determination having been made shall set forth specific facts to support non-applicability in writing

to the Director. In the event the Director determines that the subject Building is a Vacant Building, the Owner shall have the right to appeal the Director's determination to the planning and zoning commission provided for herein.

10-179.6: REGISTRATION OF VACANT BUILDINGS

General: The Owner of a Vacant Building shall register the Vacant Building with the Director, on a form provided by the Director and pay the Vacant Building registration fee. The form shall include, as a minimum, the name, street address, and telephone number of the Owner; the case name and number of any litigation pending concerning or affecting the Vacant Building, including bankruptcy cases; and the name, street address, email address, and telephone number of all persons with any legal interest in the Vacant 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 Lake 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, email 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.

All Boarded Buildings must be registered with the City of Zion Building Department. Failure to register within 14 days of the vacancy and/or board-up will result in the city automatically registering the property and invoicing the responsible party. Structures that the City of Zion has boarded-up will automatically be registered and a lien placed on the property to recover the registration fee and cost of board-up service.

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

Renewal and Amended Registration Requirements: The Owner of a Vacant Building shall renew the Vacant Building registration annually no later than the anniversary of his first Vacant Building registration filing. The Owner of a Vacant Building shall also file an amended registration within fifteen (15) days of any change in the information contained in the annual registration. An amended registration is required for any change in ownership whatsoever.

Fees: The initial Vacant Building registration fee shall be \$175.00. The annual renewal registration fee shall be \$175.00. There is no charge to amend the Owner's registration information.

10-179.7: VACANT BUILDING PLAN

General: 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:

- (a) 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.

- (b) For Buildings and/or Premises which are determined by the Director as being or containing Public Nuisances, as defined in Section 179.3, then the Vacant Building/Premises plan shall contain a plan of action to remedy such Public Nuisance(s).
- (c) 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.
- (d) When the Owner proposes to demolish the Vacant Building, the Owner shall submit a permit, plan, time schedule for demolition and all other information requested by the Director.
- (e) A plan of action to maintain the Building and/or Premises thereof in conformance with this chapter.
- (f) 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 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, 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.

All Premises upon which Vacant Buildings are located, and the Building exteriors, shall at all times be maintained in compliance with the City Code.

All ground floor windows facing street frontage, including but not limited to all display windows in commercial buildings that are Unoccupied Buildings or Vacant Buildings shall be kept in a well maintained and clean condition. All ground floor windows facing street frontage, except display windows in commercial buildings that are Unoccupied Buildings or Vacant 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.

Commercial Buildings must maintain in working order all fire alarm and fire sprinkler systems, maintain the heat on and set at a minimum of 42 degrees, keep current all Building access keys in the Knox Box.

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 and shall make written findings as to each:

- (a) The purposes of this chapter and intent of the City is to minimize the time a Building is boarded or otherwise vacant.
- (b) The effect of the Building and the proposed plan on adjoining property.
- (c) The length of time the Building has been vacant.
- (d) The presence of any Public Nuisance(s) on the property.

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

Failure to Obtain or Comply with Approved Vacant Building Plan: Failure to register within fourteen (14) days of a Building becoming vacant, failure to obtain the Director's approval of a Vacant Building 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 the City Code, at law, or in equity, including but not limited to an action to compel correction of health or fire code violations and or an action to seek demolition.

10-179.8: CERTIFICATION OF OCCUPANCY

A Certificate of Occupancy will be required before occupancy will be granted 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.

10-179.9: TIME RESTRICTIONS – VACANT AND/OR BOARDED BUILDINGS

It is the policy of the City that boarding is a temporary solution to prevent unauthorized entry into a Building and that Vacant Buildings are a Public Nuisance. A Vacant Building may not remain boarded or vacant longer than six (6) months unless an extension of that time is part of a plan approved by the Director. At the end of the six (6) month period, the Owner must have taken one or more of the following steps:

- (1) The boards shall be removed and windows, doors, and penetrations shall be in good repair; or
- (2) A demolition permit has been obtained and work scheduled to begin within ten days; or
- (3) A Building permit has been obtained to repair the structure with the work having been started; or
- (4) The Building has been listed for sale or rent with a multiple listing services (MLS) real estate broker at a reasonable asking price and the Building shall be available for viewing by potential buyers. A reasonable price will be the assessed value or less. Note: Item #1 above must have taken place. The maximum amount of time a compliant structure will be allowed to remain vacant is two (2) years and only with Director Approval. A compliant structure that has been vacant longer than two (2) years and it is shown that a good faith effort to occupy the structure has been proven will be considered for extension beyond the two years.

This regulation does not excuse the Owner from following all other provisions of the City Code regarding the care and upkeep of the property, including without limitation, maintaining the yard and keeping it junk and litter free.

10-179.10: ENFORCEMENT AND PENALTIES

Failure to comply. In addition to any other statutory remedy, any person, firm, corporation or entity found guilty of violating the terms of this article shall be fined not more than \$750.00 nor less than \$100.00 per each day the violation(s) continues. Each day the violation(s) continues shall be a separate offense. In addition to the fine, the Owner, or his or her agent shall be ordered to bring the structure or Building into compliance with the requirements of this article within 15 days.

10-179.11: 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, the City Code, or other applicable legislation.

Section II. Severability. In the event that any section, clause, provision, or part of this ordinance shall be found and determined to be invalid by a court of competent jurisdiction, all valid parts that are severable from the invalid parts shall remain to be valid in any one or more of its several applications, all valid applications that are severable from the invalid applications shall remain in full force and effect.

Section III. Repeal and Savings Clause. All ordinances or parts of ordinances in conflict herewith are hereby repealed; provided, however, that nothing herein contained shall affect any rights, actions, or causes of action which shall have accrued to the City of Zion prior to the effective date of this ordinance.

Section IV. Effective Date. This ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form in the manner provided by law.

Adopted by roll call vote as follows:

AYES: Comms. Flammini, Hill, DeTienne

NAYS: None

ABSENT AND NOT VOTING: Mayor Harrison, Commissioner Taylor

Mayor

PASSED: August 6, 2013

APPROVED: August 6, 2013

PUBLISHED: August 7, 2013

ATTEST:

City Clerk