

SUBSTITUTE ORDINANCE

10-0- 24

AN ORDINANCE OF THE CITY OF WAUKEGAN
ESTABLISHING REGULATIONS GOVERNING THE REGISTRATION,
MAINTENANCE, SECURITY AND MONITORING OF VACANT
PROPERTIES BY THEIR OWNERS

WHEREAS, the recent economic downturn has caused many homes and businesses to be foreclosed, abandoned or otherwise become vacant; and

WHEREAS, these vacant structures and properties, if left unattended, may fall into disrepair, creating public nuisances, which can drain City resources, contribute to the decrease in value of surrounding properties, precipitate disinvestment by neighboring owners, provide locations for criminal activities, and undermine the aesthetic character of specific neighborhoods and the City at large; and

WHEREAS, properties that remain vacant over an extended period of time are a detriment to the public health, safety and welfare since they may pose an extraordinary danger to police officers, firefighters and code officials when entering the premises in response to emergencies or in the normal course of their duties; and

WHEREAS, many of these properties are owned or controlled by individuals or other entities, including court appointed receivers, who should be responsible for their preservation; and

WHEREAS, the registration of these vacant properties and the implementation of maintenance and monitoring plans will discourage property owners and those responsible for such properties from allowing their properties to remain vacant indefinitely, and may prevent these properties from becoming a burden to the residents and taxpayers of the City of Waukegan and provide the basis for returning these properties to their intended use and to the tax rolls; and

WHEREAS, The City of Waukegan, being a home rule municipality, is empowered to enact legislation to define, prohibit, and abate public nuisances; and

WHEREAS, the abatement of nuisances caused by vacant properties, the repair and rehabilitation of vacant properties, and their subsequent occupancy is in the best interest of the citizens of the City of Waukegan; and

WHEREAS, an ordinance providing for the declaration of vacant properties, whether boarded-up or not, as public nuisances and providing for their abatement is a means of maintaining sanitation and health and safety standards, preventing crime, avoiding fires, and eliminating or minimizing the detrimental effect such properties have on the personal and economic well-being of the City.

WHEREAS, the City Council on February 1, 2010, passed an initial version of the within ordinance, but the ordinance needed to be changed to reflect reasonable concerns of the public, the aldermen, and also to correct scrivener's errors.

NOW, THEREFORE, be it ordained by the City Council of the City of Waukegan as follows:

SECTION 1. Ordinance 10 – O – 4, passed by the City Council on February 1, 2010, is hereby repealed, in its entirety, and is replaced with this ordinance.

SECTION 2. Chapter 6, Buildings, of the Code of Ordinances of the City of Waukegan, is hereby amended to add the following new Article XV:

ARTICLE XV. VACANT STRUCTURE REGISTRATION.

Section 6-405. DEFINITIONS:

Owner: Every person, entity, or service company, who alone or jointly or severally with others:

- a. Has the legal or equitable title to any dwelling, dwelling unit, building, land, or structure; or
- b. Has care, charge, or control of any dwelling, dwelling unit, building, land, or structure, in any capacity including but not limited to agent, executor, administrator, trustee, or guardian of the estate of the holder of legal title; or
- c. Is a mortgagee under the terms of a mortgage, where the mortgagor no longer takes responsibility for the property, and where the mortgage in question contains a provision authorizing the mortgagee to act to secure or repair the property; or is a mortgagee in possession of any such property; or is a mortgagee that has instituted foreclosure proceedings against the mortgagor; or
- d. Is an agent, trustee, or other person appointed by the courts and vested with possession or control of any such property.

Responsible Party: Includes owners, tenants, occupiers, property managers, and lessees.

Statement of Intent: A form completed by the owner of a vacant structure, or responsible party, which contains specific information regarding the structure and the owner's plans for its rehabilitation and maintenance, demolition and/or removal.

Structure: Any physical object or edifice that is built or installed and is located on and affixed to the land. The term "structure" shall include any part of a structure.

Substantial rehabilitation: Any rehabilitation the cost of which exceeds fifty percent (50%) of the market value of the existing structure.

Vacant: For purposes of this section, "vacant" means a structure that is lacking the habitual presence of human beings, who have a legal right to be on the premises, for 90 consecutive days, or at which substantially all lawful business or construction activity or residential occupancy has ceased, or which is substantially devoid of contents. A multi-family residential property containing ten or more dwelling units shall be considered vacant when ninety percent or more of the dwelling units are unoccupied. For the purposes of this ordinance, exceptions to this definition of "vacant" shall be made for properties that are actively listed for sale and are covered by a current City of Waukegan zoning inspection letter under Ordinance 07 – O – 83; and for those properties which are under active, ongoing rehabilitation or reconstruction and are under permit with the City of Waukegan Building Department.

Vacant Structure Maintenance Standards: The maintenance standards to which vacant structures are subject under this ordinance, as well as the requirements of the Waukegan Property Maintenance Code, and all other applicable Building and Zoning ordinances of the City of Waukegan.

Vacant Structure Registration Certificate: That document issued by the City as set forth in this article, for structures meeting the definition of a "vacant structure".

Section 6-406: ENFORCEMENT AUTHORITY: The Building Commissioner is authorized to administer and enforce the provisions of this article, including, but not limited to, maintaining lists setting forth the status of vacant structures. The Building Commissioner may delegate his/her powers and duties under this article to an appropriate administrator or inspector.

Section 6-407: RESPONSIBLE PARTIES; LIENS: Every responsible party with respect to any property shall be jointly and severally liable with every other responsible party for the obligations set forth in this article. Any reference to an owner in this article shall include all responsible parties. All fees, costs and charges assessed or incurred by the City shall constitute a lien on the real estate upon which such structure is situated.

Section 6-408: OBLIGATIONS OF OWNERS OF VACANT STRUCTURES:

- a. Within ten (10) days of a structure becoming vacant, as defined herein, the owner of the structure shall apply for a vacant structure registration certificate and pay the fee of \$250.00. If the structure is still vacant at the time of expiration of the original vacant structure registration certificate (6 months as below), the owner shall immediately apply to renew the certificate. Renewal may be had, at the Building Official's sole discretion, upon demonstrated need, for a maximum of two 6- month periods, for a maximum of eighteen (18) months' total vacancy registration. Renewed permits shall be subject to all conditions and obligations imposed by this article on the initial certificate, including the payment of a \$250.00 fee at each renewal. It shall be the responsibility of the registered owner to file an amended registration within ten

(10) days of any changes contained in the initial application, including occupancy or transfer. During the period of registration, the owner shall provide access to the City to conduct inspections of the structure, both interior and exterior if deemed necessary by the City, and, following reasonable notice, to determine compliance with this ordinance and any other relevant codes and ordinances of the City.

b. The owner of a vacant structure shall comply with all regulations of the City. To this end, the owner shall apply for all building, fire prevention and zoning permits necessary to bring the structure into compliance within ten (10) days of obtaining a vacant structure registration certificate.

c. The owner of a vacant structure shall, within ten (10) days of receipt of the vacant structure registration certificate, complete the removal of all: 1) combustible materials from the structure in compliance with the applicable fire prevention regulations; 2) waste, rubbish or debris from the interior of the structure; and 3) waste, rubbish, debris or excessive vegetation including grass in excess of 10" from the yards surrounding the vacant structure in accordance with the Property Maintenance Code of the City of Waukegan.

d. The owner of a vacant structure shall immediately lock, barricade or secure all doors, windows and other openings in the structure to prohibit entry by unauthorized persons, in accordance with the vacant structure maintenance standards of this article. The owner shall, as needed, provide additional security in the event of increased danger to human life or the public welfare, as determined by the City of Waukegan in light of police call logs and the records of the City of Waukegan Code Compliance Department.

e. The obligations of the owner of a vacant structure are continuing obligations which are effective throughout the time of structure vacancy, as that term is defined in this article.

Section 6-409: VACANT STRUCTURE REGISTRATION CERTIFICATE:

a. Application by the owner of a vacant structure for a vacant structure registration certificate shall be made on a form provided by the Building Department. The application shall include a "statement of intent" that shall set forth information as to: 1) the expected period of vacancy (including the date of initial vacancy); 2) the plan for regular maintenance during the vacancy to comply with the vacant structure maintenance standards of this subsection and all of the applicable property maintenance, building and zoning codes of the City of Waukegan; 3) a plan and time line for the lawful occupancy, rehabilitation, removal, or demolition of the structure; 4) measures to be taken to ensure that the structure will be kept weather tight and secure from trespassers and that it will be safe for entry by police officers, firefighters, and code or building inspectors in times of exigent circumstances or emergency as well as at times of reasonable inspection as provided in Section 6-408(a) above; 5) measures to be taken to assure that the premises remain free from nuisance conditions and in good order in conformance with the vacant structure maintenance standards; and 6) list all persons authorized to be present in the

structure and provide notices of trespass to the police authorizing the arrest for trespass of individuals not on the list. (The owner shall update the authorized person list as needed.)

b. No vacant structure registration certificate shall be effective for more than six months from the date of issuance. Only two six-month renewals at the Building Official's sole discretion, upon demonstrated need, may be allowed as above.

Section 6-410: VACANT STRUCTURE MAINTENANCE STANDARDS:

Standards: A vacant structure shall be subject to the following vacant structure maintenance standards in addition to the applicable provisions of the Waukegan Property Maintenance Code and the applicable Building and Zoning Codes of the City of Waukegan:

1. Structure Openings: Doors, windows, areaways and other openings shall be weather tight and secured against entry by birds, vermin and trespassers. Missing or broken doors, windows and other such openings shall be covered by glass or other rigid transparent materials, which are weather protected, and tightly fitted and secured to the opening.
2. Roofs: The roof and flashings shall be sound and tight, not admit moisture or have defects which might admit moisture, rain or roof drainage, and allow for drainage to prevent dampness or deterioration in the interior walls or interior of the structure.
3. Drainage: The structure storm drainage system shall be functional and installed in a manner consistent with City ordinances and allow discharge in a manner consistent with City ordinances.
4. Structure: The structure shall be in good repair, not in violation of City ordinances, structurally sound and free from debris, rubbish and garbage. The structure shall be sanitary. The structure shall not pose a threat to the public health and safety.
5. Structural Members: The structural members shall be free of deterioration and capable of safely bearing imposed dead and live loads.
6. Foundation Walls: The foundation walls shall be structurally sound and in a sanitary condition so as not to pose a threat to public health and safety. The walls shall be capable of supporting the load of normal use and shall be free from open cracks and breaks, free from leaks and be rodent proof.
7. Exterior Walls: The exterior walls shall be free of holes, breaks and loose or rotting materials. Exposed metal, wood, or other surfaces shall be protected from the elements and against decay or rust by periodic application of weather coating materials, such as paint or similar surface treatment.
8. Decorative Features: The cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be safe, anchored and in good repair. Exposed metal, wood or other

surfaces shall be protected from the elements and against decay or rust by periodic application of weather coating materials, such as paint or similar surface treatment.

9. Overhanging Extensions: All balconies, canopies, marquees, signs, metal awnings, stairways, fire escapes, standpipes, exhaust ducts and similar features shall be in good repair, anchored, safe and sound. Exposed metal and wood surfaces shall be protected from the elements and against decay or rust by periodic application of weather coating materials, such as paint or similar surface treatment.

10. Chimneys And Towers: Chimneys, cooling towers, smokestacks and similar appurtenances shall be structurally safe and in good repair. Exposed metal and wood surfaces shall be protected from the elements and against decay or rust by periodic application of weather coating materials, such as paint or similar surface treatment.

11. Walkways: Walkways shall be safe for pedestrian travel.

12. Accessory And Appurtenant Structures: Accessory and appurtenant structures such as garages, sheds and fences shall be free from safety, health and fire hazards and shall comply with all City ordinances.

13. Premises: The premises upon which the structure is located shall be clean, safe and sanitary. It shall be free from waste, rubbish, debris or excessive vegetation in compliance with City ordinances and shall not pose a threat to the public health or safety.

Section 6-411: VACANT STRUCTURE REGISTRATION CERTIFICATE FEE:

The vacant structure registration certificate application fee of \$250.00 shall also be charged upon application for certificate renewal. The fee shall be paid at the time of application or renewal.

Section 6-412: REQUIRED LIABILITY INSURANCE:

It shall be the responsibility of the property owner or owner's agent to maintain liability insurance on all vacant and registered properties under their control. Proof or evidence of such insurance will be filed with the City of Waukegan. Minimum insurance amounts are as follows:

- Residential properties of one to two units: \$250,000.00
- Residential properties of three to eleven units: \$500,000.00
- Residential properties of twelve to forty-nine units: \$750,000.00
- Residential properties of fifty units and above: \$1,000,000.00
- Manufacturing, industrial, storage, or any nonresidential commercial property: \$2,000,000.00

Section 6-413. AFFIXING CONTACT/EMERGENCY INFORMATION TO VACANT PROPERTY:

The owner or owner's agent shall affix to the vacant structure a copy of the Vacant Structure Registration Certificate in a front window so that it is able to be read by law enforcement or Code Compliance personnel as needed.

Section 6-414: ENFORCEMENT AND PENALTIES:

- a. Any person found to be in violation of any provision of this article shall be subject to a fine not to exceed \$750.00. Prosecution under this section is a remedy cumulative to any and all other remedies at law and equity, including but not limited to the City's remedies under 65 ILCS 5/11-13-15.
- b. All fees, costs, or charges assessed or incurred by the City pursuant to this article shall be a lien upon the real property. The lien shall be superior to all subsequent liens and encumbrances. The Building Commissioner or his designate shall file a notice of lien, within two (2) years after such cost and expense is incurred, in the office of the Lake County Recorder of Deeds. The lien may be enforced by proceedings to foreclose, as in case of mortgages or mechanic's liens.
- c. At the expiration of eighteen (18) months from the original issuance of the Vacant Structure Registration Certificate, the structure must be reoccupied, removed, or demolished. Any structure which is vacant beyond the eighteen (18) month maximum registration period shall be considered abandoned and a public nuisance, and the City may pursue whatever legal action is afforded to it by law for the removal and/or abatement of public nuisances.

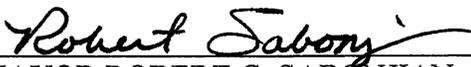
Section 6-415: REQUEST FOR WAIVER:

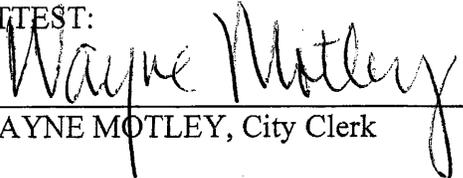
Any owner of a vacant residential property of one or two units, who is a natural person with insufficient income or resources to fulfill all of the obligations imposed herein, may petition the Building Commissioner for a waiver of the annual fee, a reduction of the minimum amount of liability insurance, and/or a waiver of some or all of the property rehabilitation requirements (hereinafter "financial requirements") under this ordinance for a period of time not to exceed 12 months. Application for a waiver of financial requirements shall be in writing on forms provided by the City of Waukegan Building Department. The decision of the Building Commissioner, to be made within 14 days of receiving the petition, shall be made in writing and shall forthwith be mailed or delivered to the petitioner. An appeal of the decision may be made to the Mayor, in writing, within 14 days of the mailing or delivery of the decision. Individuals who are granted a 12-month waiver under the Section are still obligated to keep the registered property secure and safe, and the exterior property areas free from debris, with grass regularly mowed.

SECTION 3: All ordinances or parts of ordinances in conflict herewith are hereby repealed, to

the extent of such conflict.

SECTION 4: This ordinance shall be in full force and effect from and after its passage, approval, and publication as provided by law.


MAYOR ROBERT G. SABONJIAN

ATTEST:

WAYNE MOTLEY, City Clerk

Presented and Read at a regular meeting of the Waukegan City Council on the 19th
day of April, 2010.

Passed and Approved at a regular meeting of the Waukegan City Council on the 19th day of
April, 2010.

ROLL CALL: Aldermen Figueroa, Newsome, TenPas, Needham, Larsen, Rivera,
Cunningham, and Moisisio

AYES: Aldermen Figueroa, Newsome, TenPas, Needham, Larsen, Rivera,
Cunningham, and Moisisio

NAYS: None

ABSENT: Alderman Koncan

ABSTAIN: None