

## ORDINANCE

### **AN ORDINANCE AMENDING CHAPTER 7 (“BUILDINGS”), ARTICLE 10 (“VACANT BUILDINGS”) OF THE OAK PARK VILLAGE CODE**

**BE IT ORDAINED** by the President and Board of Trustees of the Village of Oak Park, Cook County, Illinois, in the exercise of their home rule powers, as follows:

**Section 1. Village Code Amended.** Chapter 7 (“Buildings”), Article 10 (“Vacant Buildings”) of the Oak Park Village Code is hereby amended to delete the overstricken language and add the underlined language to read as follows:

#### **Article 10 VACANT BUILDINGS**

##### **7-10-1: DECLARATION OF POLICY:**

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

- A. Establishes a program for identification, registration, and regulation of buildings which are or become "vacant" as defined herein on and after the effective date of this article;
- B. Determines the responsibilities of owners of vacant buildings; and
- C. Provides for administration, enforcement, including abatement of public nuisances, and imposition of penalties. This article shall be liberally construed to ~~effect~~ affect its purposes.

##### **7-10-2: OTHER ORDINANCES:**

This article shall not be construed to prevent the enforcement of other applicable ordinances, codes, legislation, and regulations which prescribe standards other than are provided herein, and in the event of conflict, the most restrictive shall apply.

##### **7-10-3: DEFINITIONS:**

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

~~BOARDED~~ SECURED 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 which 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.

UNSECURED BUILDING: A building that is not secured as defined above at which any or all openings are locked, including windows or doors.

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

DANGEROUS BUILDING: A building structure defined as a ~~"dangerous, unsafe building"~~ "unsafe" in ~~this chapter~~ Article 13 of this Chapter, as it may be amended. Such buildings are public nuisances.

DIRECTOR: The Director of the Development Customer Services Department 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 a corporation, a partnership, or other entity as well as an individual.

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 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 or its 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 constitutes a fire hazard, or is unsafe or insecure to a degree that endangers life, limb or property; or

F. Any premises which is unsanitary, or which is littered with rubbish or garbage, or which has an uncontrolled growth of weeds; or

G. Any building that is: dangerous; in a state of dilapidation, deterioration or decay; improperly constructed; unsecured; vacant with the doors, windows, or other openings 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 that it no longer provides shelter; in danger of collapse or structural failure; and dangerous to anyone on or near the premises.

H. Any building defined as a "dangerous" or "unsafe buildingstructure" by ~~this Article 13 of this Chapter~~, as it may be amended.

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 this code.

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 the subject of a foreclosure action.

F. The building is not actively for sale as part of a contractual agreement to sell the building.

G. The presence or recurrence of uncorrected code violations.

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

A. Unoccupied and unsecured; or

B. Unoccupied and secured by boarding or other similar means for more than three (3) months; or

C. Unoccupied and a dangerous structure; or

D. Declared unsafe for occupancy by the Director pursuant to applicable provisions of the Village Code; or

E. Unoccupied and containing multiple Village Code violations; or

F. Unoccupied with the building or its premises having been used for unlawful activity at any time while unoccupied or at any time during the previous six (6) months whether occupied or not; or

G. Declared unsafe for occupancy by the Director and unlawfully occupied; or

H. Unoccupied for over ~~one hundred eighty (180) days~~ three (3) months 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~~ six (6) months.

But not including:

Unoccupied buildings which are 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.

**7-10-4: "VACANT BUILDING" DETERMINATION:**

A. Within sixty (60) days after the effective date of this article, the Director shall evaluate all buildings in the Village which he or she believes to be unoccupied on or after the effective date of this article and make a determination for each as to whether the building is a "vacant building" within the meaning of section 7-10-3 of this article. The Director may determine that a building which meets any of the criteria set forth in the definition of "vacant building" in section 7-10-3 of this article is 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 the circumstances which give rise to the building being eligible for regulation hereunder are clearly temporary in nature and are either in the process of being addressed or will soon be addressed by the owner and that therefore regulation of the building under this article would not serve the public health, welfare, and safety and makes written findings in support of his or her decision. The determination shall be in writing and shall state the factual basis for the determination. For buildings the Director determines to be "vacant buildings", he or she shall, within seven (7) days of making that determination, send notice of his/her written determination with the factual findings to the name and address of the last taxpayer of record for such parcel listed on the most recent Cook County tax roll. Said notice of determination shall be sent first class United States mail, with proper postage prepaid. Failure of delivery shall not excuse a person from complying with this article. The Director 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 Director shall maintain an affidavit of such mailing for each notice of determination sent.

B. The Director shall cause a comprehensive inspection of the interior of all "vacant buildings" to determine compliance with Village property maintenance, building, health, fire, water and sewer codes.

C. The notice of determination shall set a tentative date and time for the code compliance inspection of the interior of the vacant building to determine the extent of compliance with Village property maintenance, building, health, fire, water and sewer codes. After receipt of the notice of determination, if the owner does not appeal the determination, the owner shall either confirm the tentative date for the inspection or shall schedule a new date and time for same. If the owner fails to confirm the tentative date and time for the inspection or refuses to schedule or permit the inspection it shall be the responsibility of the Village to obtain an administrative search warrant to accomplish the inspection.

D. The Village shall charge the owner a fee of five hundred dollars (\$500.00) to offset the cost to the Village of said inspection. The owner shall pay the inspection fee to the Village within thirty (30) days of receipt of the bill for same.

E. Village real estate transfer stamps will not be issued by the Village for the sale of such property until such inspection has taken place and the fee therefor has been paid and, if necessary, an administrative search warrant for same has been timely obtained. Such stamps shall be issued if the Village is required to obtain an administrative search warrant and fails to obtain same in a timely manner.

F. 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 7-10-6 of this article, and a notice of the owner's right to appeal the Director's determination.

**7-10-5: APPEAL OF DIRECTOR'S DETERMINATION OF "VACANT BUILDINGS":**

A. An owner of a building determined by the Director to be a vacant building as provided for in this article may appeal that determination to the Village Manager. Such appeal shall be in writing and shall be filed with the Village Manager within fifteen (15) days of the date of 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 7-10-6 of this article. The appeal shall contain a complete statement of the reasons the owner disputes the 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 Village Manager shall decide the appeal on the basis of facts presented by the owner in his or her written appeal and the Director's written determination.

B. The burden is upon the owner to present sufficient evidence to persuade the Village Manager that it is more likely than not that the subject building is not a "vacant building" within the meaning of this article.

C. The Village Manager shall send written notice of his or her decision to the owner within ten (10) days of his or her receipt of the appeal. The Village Manager may, but is not required to, seek additional information from the owner. The Village Manager may, upon written notice thereof to the owner, take no more than ten (10) additional days, to decide the appeal if he or she determines that such additional time is required for consideration of the appeal.

D. An owner who wishes to challenge applicability of this article to his/her building without the Director's determination having been made, shall set forth specific facts to support nonapplicability in a 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 Village Manager as provided for herein.

**7-10-6: OBLIGATION TO REGISTER VACANT BUILDINGS AND UNOCCUPIED BUILDINGS ACQUIRED THROUGH MORTGAGE FORECLOSURE:**

Owners of "vacant buildings" and mortgage lenders who acquire title to unoccupied buildings shall be required to register same with the Director of ~~Building and Property Standards~~ Development Customer Services as prescribed below:

A. Owner's Obligation To Register Vacant Buildings: The owner of a building who knows, or from all the facts and circumstances should know, that his or her building is or has become a "vacant building" within the meaning of this article after the effective date of this article or the owner of a building, which the Director determines at any time to be a "vacant building", or the owner of a building whose appeal from the Director's determination has been denied by the Village Manager, shall take the actions provided for in this section within fifteen (15) days after either the date of Director's notice of determination or occurrence of the facts which would cause a reasonable person to believe that the building was a "vacant building", or denial of the appeal, whichever is applicable.

1. Registration Of Building: Register the building with the Director of ~~Building and Property Standards~~ Development Customer Services, on a form provided by the Director and pay the two hundred dollar (\$200.00) annual nonprorated vacant building registration fee.

a. 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 building, including bankruptcy cases; and the name, street address, and telephone number of all persons with any legal 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 Cook County, Illinois, to accept service on behalf of the owner with respect to any notices the Director sends pursuant to this article or service of process in any proceeding commenced to enforce any provision of this article, and file with the Director on the registration form, the name, address, telephone number, of said person. A street address is required. A post office box is not an acceptable address.

b. The form shall state that the owner, by affixing his or her signature, is advised that the Village will not issue real estate transfer tax stamps without Village inspectors having first conducted an interior inspection for code compliance and, if necessary, having first timely obtained an administrative search warrant for same.

c. (1) 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 maintain as current with the Director the information required regarding the person designated to accept notice and service of process;

(2) 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

(3) 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.

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

2. Inspection Conducted: The Village shall conduct a comprehensive code compliance inspection of the interior of the vacant building and the owner shall pay a five hundred dollar (\$500.00) fee to the Village to defray the Village's cost of same within thirty (30) days of the inspection. Such inspection will determine the extent of compliance with Village property maintenance, building, health, fire, water and sewer codes. The Village 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.

3. Insurance Required: Obtain liability insurance and maintain such insurance for as long as the building is vacant, and file evidence of such insurance with the Director, as follows: five hundred thousand dollars (\$500,000.00) for a vacant residential building of one to three (3) units; seven hundred fifty thousand dollars (\$750,000.00) for a vacant residential building of four (4) to eleven (11) units; one million dollars (\$1,000,000.00) for a vacant residential building of twelve (12) to forty eight (48) units; two million dollars (\$2,000,000.00) for a vacant residential building of more than forty eight (48) units; and two

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

4. Vacant Building Plan: At the time a building is registered as required herein, the owner shall submit a vacant building plan. The Director may prescribe a form for the plan. If the owner fails to submit the plan as provided for by this article, the Director may determine the 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. Boarding shall be accomplished with materials and methods described by the Director and available from the 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 Director may waive the requirement of an enclosure.

b. For buildings and/or premises which are determined by the Director as being or containing public nuisances, as defined in section 7-10-3 of this article, 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, then the owner shall submit a plan and time schedule for such demolition.

e. A plan of action to maintain the building and/or premises thereof in conformance with this article.

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 article 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.

g. All premises upon which unoccupied or vacant buildings are located and the exteriors shall at all times be maintained in compliance with the Village Code.

h. Exterior lighting shall be maintained according to standards established by the Director and available from the Director.

i. 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 and clean condition and 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 Village Business Services Manager, or in the case of display windows, such windows shall be kept in a well maintained and clean condition and the display area shall be enclosed with a professionally finished backdrop, floor, side walls and ceiling all of which shall be kept in a well maintained and clean condition and shall be well lighted from ten o'clock (10:00) A.M. to ten o'clock (10:00) P.M. each day. Photographs, paintings and other works of art or other tasteful forms of decoration may be professionally displayed in these properly enclosed clear glass display windows. If opaque window covering material is used, a one foot by one foot (1' x 1') clear glass opening through which the interior space is clearly visible shall be maintained at standing eye level along one edge of one such window.

5. Security Guard Service: On written notice of the Director, 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 to remain in place until the Director gives written notice that the service is no longer required. Such service shall be required when the Director makes a written determination that the vacant building constitutes a fire hazard, is otherwise dangerous to human life or the public welfare, involves illegal or improper use, occupancy, or maintenance, under such conditions that securing the building is insufficient to prevent the actual or threatened harm.

6. Additional Information Posted: Affix to any building which is boarded, a two foot by two foot (2' x 2') sign compliant with the Village's Sign Regulation Ordinance, and which otherwise provides the following information: the name, address, and telephone number of the owner, and in addition, for buildings which are the subject of a foreclosure action, the name, address, and telephone number of the plaintiff and the plaintiff's attorney, if any, in the foreclosure action. The sign must be placed so that its message is legible from the public way.

B. Mortgage Lender's Obligation To Register Unoccupied Buildings Acquired Through Mortgage Foreclosure: The obligation to register buildings shall extend to mortgage lenders that have obtained title to unoccupied buildings through a mortgage foreclosure action.

1. Mortgage lenders shall register unoccupied buildings with the Director within fifteen (15) days of obtaining title to same.

2. The registration obligation of mortgage lenders under subsection 7-10-6B of this section shall be limited to providing the Director with the same information required under subsection 7-10-6A1 of this section on the registration form prescribed by the Director.

3. Mortgage lenders shall not be responsible for paying the two hundred dollar (\$200.00) registration fee and shall not be required to comply with subsections 7-10-6A2 through A6 of this section.

4. An amended registration form shall be filed in accordance with subsection ~~7-10-6A1(c)~~ 7-10-6(A)(1)(c)(3) of this section within fifteen (15) days of any change in the information provided in any registration form provided hereunder.

5. If such unoccupied, registered building is later determined to have become a "vacant building" as defined in section 7-10-3 of this article then such building and building owner shall be required to comply with all of the provisions of subsection 7-10-6A of this section.

#### **7-10-7: APPROVAL OF PLAN:**

A. Review Of Building Plan: The Director shall review the proposed vacant building plan in accordance with the standards below. The Director shall send notice to the owner of the vacant building of his or her determination.

B. Standards For Plan Approval: 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:

1. The purposes of this article and intent of the Village Board 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.

#### **7-10-8: AUTHORITY TO MODIFY PLAN, RIGHT TO APPEAL:**

The Director shall, upon notice to the vacant building owner, 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 he or she deems necessary to protect the public health, safety, or welfare.

**7-10-9: FAILURE TO COMPLY WITH PLAN:**

Failure to have an approved plan within thirty (30) days of filing the registration form or failure to comply with the approved plan shall constitute a violation of this article subjecting the owner of the building to penalties as provided in this article and to any remedies the Village may avail itself of as provided for herein and elsewhere in the Village Code, including, but not limited to, an action to compel correction of property maintenance violations.

**7-10-10: OTHER ENFORCEMENT:**

The registration of a vacant building shall not preclude action by the Village to demolish or to take other action against the building pursuant to other provisions of this article, the Village Code, or other applicable legislation.

**7-10-11: REAL ESTATE TRANSFER STAMPS:**

A premises upon which is situated a vacant building for which inspection fees or registration fees imposed pursuant to this article have not been paid in full or which is not otherwise eligible under this article for the Village real estate transfer tax stamps shall not be permitted to acquire same until the fees are paid and/or the eligibility issues are addressed. Unpaid fees shall be a lien upon the property.

**7-10-12: CERTIFICATION:**

A Certificate of Code Compliance for Vacant Buildings issued by the ~~Building and Property Standards~~ Development Customer Services Department and payment in full of all fees imposed pursuant to this article are required prior to any occupancy of a vacant building.

**7-10-13: TIME RESTRICTIONS; VACANT BUILDINGS:**

It is the policy of the Village 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.

A vacant building which is otherwise code compliant and secure as determined by the Director on the basis of police reports, citizen complaints, and other information considered reliable by reasonable persons, may not remain vacant for more than two (2) years and must have an approved plan for occupancy, sale, demolition, or other disposition of the building in place within the time frames established in this article, except as otherwise provided for in subsection ~~7-10-6A4~~ 7-10-6(A)(4) of this article.

**7-10-14: ENFORCEMENT AND PENALTIES:**

A. Any person found to have violated any provision of this article shall be subject to a minimum fine of one hundred dollars (\$100.00) per day per violation to a maximum of seven hundred fifty dollars (\$750.00) per day per violation, in addition to any other legal or equitable remedies available to the Village. Such other remedies include, but are not limited to, injunctive relief, application to a court of competent jurisdiction for a receiver, demolition, or condemnation, contracting for the repair or purchase of the premises, or foreclosure of any lien the Village may have thereon.

B. A separate and distinct offense shall be committed each day on which such person or persons shall violate the provisions of this article.

C. The Village may enforce this article in its Administrative Adjudication System or through the Court System.

D. Nothing herein contained shall prohibit the Village from immediately condemning as provided for in the Village Code 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.

**Section 2. Severability and Repeal of Inconsistent Ordinances.** If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity thereof shall not affect any of the other provisions of this Ordinance. All ordinances in conflict herewith are hereby repealed to the extent of such conflict.

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**Section 3. Effective Date.** This ordinance shall be in full force and effect after its passage, approval and publication as required by law.

**ADOPTED** this 2<sup>nd</sup> day of November, 2015, pursuant to a roll call vote as follows:

Voting	Aye	Nay	Abstain	Absent
President Abu-Taleb				
Trustee Barber				
Trustee Brewer				
Trustee Lueck				
Trustee Ott				
Trustee Salzman				
Trustee Tucker				

**APPROVED** this 2<sup>nd</sup> day of November, 2015.

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Anan Abu-Taleb, Village President

**ATTEST**

\_\_\_\_\_  
Teresa Powell, Village Clerk

Published in pamphlet form this 2<sup>nd</sup> day of November, 2015.

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Teresa Powell, Village Clerk