

STATE OF WISCONSIN
MILWAUKEE AND OZAUKEE COUNTIES
VILLAGE OF BAYSIDE

ORDINANCE NO: 24-751

**An Ordinance to Repeal and Recreate Chapter 104, Article VII (Sections 104-177-186)
of the Municipal Code with Regard to Vacant Premises**

The Village Board of the Village of Bayside, Milwaukee and Ozaukee Counties, Wisconsin does ordain as follows:

Section One: Chapter 104, Article VII (Section 104-177-186) of the Municipal code is hereby repealed and recreated to read as follows:

§ 104-177. **Public Nuisance.**

Vacant premises not registered or not otherwise in compliance with this article shall constitute a public nuisance under section **32-20**.

§ 104-178. **Definitions.**

[Code 1997, § 14-251; Ord. No. 11-617, 9-8-2011; Ord. No. 20-718, 7-16-2020]

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

AGENT

Means the willing person or entity designated in writing by the owner as authorized to act on behalf of the owner in performing the owner's duties under this article.

BOARDED

Means some or all of the building's doors or windows have been covered with wood or metal paneling or other similar materials, for the purpose of preventing routine entry into the building or damage by persons, animals or the elements of weather.

BUILDING

Means any structure used or intended for supporting or sheltering any use or occupancy as a residence, place of business or institution.

DEBRIS

Means material which is waste or is incapable of immediately performing the function for which it was designed, including, but not limited to, abandoned, discarded, or unused objects; junk comprised of equipment and such vehicles, trucks, boats, trailers and carts that are unregistered, not in regular use, missing parts, not complete in appearance, or in obvious state of disrepair; parts of vehicles, furniture, appliances, cans, scrap metal, building supplies, tires, batteries, containers, barrels, and garbage in the public view.

ENFORCEMENT OFFICER

Means the village manager or designee.

OWNER

Means any person, agent, operator, or entity having a legal or equitable interest in the premises, or recorded in the official records of the state, county, or municipality as holding title to the premises; or otherwise having control of the premises, 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 premises by a court.

PREMISES

Means a lot, plot or parcel of land including any structure thereon.

SECURE

Means a building or portion of a building which is physically not open to entry by unauthorized persons, animals, rain or snow without the use of tools or unusual physical force.

UNOCCUPIED

Means a building or portion thereof constituting a residence, place of business, or institution which is no longer used or occupied for its lawful purpose, including, but not limited to, buildings that the enforcement officer has ordered to be vacated. In determining whether a building is unoccupied, the enforcement officer should consider these factors, among others:

- (1) Substantially all full-time lawful residential (24 hours) or business (eight hours) activity has ceased at the building.
- (2) The building lacks utility services (i.e., water, sewer, electric or natural gas).
- (3) The building is the subject of a foreclosure action or sheriff's sale.
- (4) The building is not actively for sale (whether by the owner or as part of a contractual agreement to sell the building); the building lacks "for sale," "for rent" or similar signage.
- (5) Uncorrected code violations are present or recur.
- (6) The building has been "for sale" or "for rent" more than 90 days.

UNSECURED

Means a building or portion of a building which is open to entry by unauthorized persons, animals, or rain or snow without the use of tools or unusual physical force.

VACANT LOT

Means a parcel of land with no structures.

VACANT PREMISES

Vacant premises does not mean a property with regard to which a property owner has open and active building permits, and is working in good faith to fully execute and complete such building permits. Vacant premises means residential, commercial and industrial buildings and vacant lots which are:

- (1) Unoccupied and unsecured;

- (2) Unoccupied and secured by boarding or other similar means;
- (3) Unoccupied and a dangerous structure;
- (4) Unoccupied and abandoned;
- (5) Unoccupied and attract trash and debris;
- (6) Unoccupied and attract illegal activity within the previous 60 days as determined by the police chief or documented in police department records;
- (7) Illegally occupied;
- (8) Unoccupied for a period of time over 60 days;
- (9) Unoccupied and has village Code property maintenance violations; or
- (10) Unoccupied and the owner neglects the fundamental duties of property ownership (e.g., he fails to pay taxes or utility bills, defaults on mortgages, or allows liens against property).

§ 104-179. Vacant premises identification.

[Code 1997, § 14-252; Ord. No. 11-617, 9-8-2011; Ord. No. 20-718, 7-16-2020]

- (a) The enforcement officer shall evaluate buildings in the village he or she believes to be unoccupied make a determination as to whether the building is a "vacant premises" as defined in this article. The determination shall be in writing and shall state the factual basis for the determination. For buildings the enforcement officer determines to be vacant premises, he or she shall, within ten days of making that determination, send notice of written determination with the factual findings to the last owner of record listed on the most recent county tax roll. Said notice of determination shall be sent to the owner or agent by certified mail, return receipt requested. If the address of the owner or agent is unknown and cannot be ascertained by the enforcement officer in the exercise of reasonable diligence, a copy of the notice shall be posted in a conspicuous place on the premises affected.
- (b) The written notice sent to the owner or the owner's agent shall describe the conditions that render the premises vacant, and shall demand registration within 30 days of the receipt of such notice. The village may also post notices on the village's website to provide additional notice to the public.

§ 104-180. Vacant premises registration and fee schedule.

[Code 1997, § 14-253; Ord. No. 11-617, 9-8-2011; Ord. No. 20-718, 7-16-2020]

- (a) The owner of vacant premises shall register with the village no later than the earliest of:
 - (1) 90 days after the premises becomes vacant;
 - (2) 30 days after being notified by an enforcement officer of the requirement to register;
or
 - (3) 30 days after any transfer of ownership.

- (b) The registration will be submitted on a form provided by the village and will include the following information:
 - (1) A description of the premises, e.g., square footage, number of stories, age of buildings, and most recent or current use of buildings.
 - (2) The name, address and telephone number of the owner.
 - (3) The name and address of all known lienholders and all other parties with a legal or equitable ownership interest in buildings.
 - (4) The name of the agent designated to act on the behalf of the owner to accept legal processes and notices and to authorize repairs as required.
 - (5) A vacant premises plan as described in this article.
- (c) Registration shall be required for all vacant premises, whether vacant and secure, vacant and unsecured, or vacant and boarded. The owner of the vacant premises shall be responsible for the annual payment of a nonrefundable vacant premises fee, in an amount to be set by the village board from time to time. Said vacant premises fee shall be due each year on the anniversary date of the registration and initial vacant premises fee.
- (d) If a vacant premises is owned by the village or its instrumentalities, it shall be subject to the registration requirements of this article and the maintenance requirements in this Code, but shall not be subject to the fee requirements under this article.
- (e) Any new owner shall register or re-register the vacant premises with the village within 30 days of any transfer of an ownership interest in vacant premises. The new owner will comply with any approved vacant premises, rehabilitation or demolition plan and timetable submitted by the previous owner until any proposed changes are submitted and meet the approval of the village.
- (f) 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 otherwise under this Code.

§ 104-181. Vacant premises plan.

[Code 1997, § 14-254; Ord. No. 11-617, 9-8-2011; Ord. No. 20-718, 7-16-2020]

- (a) The enforcement officer may require the owner or agent of the owner of vacant premises to complete and submit to the village a vacant premises rehabilitation (or demolition) plan ("plan"), which shall not exceed 180 days for completion and which shall include specific progress benchmarks and executed contracts for completion of the plan. The progress benchmarks in the plan shall be at intervals no greater than 60 days in duration. Exterior code compliance shall be planned for and accomplished by the first benchmark. Nothing in this subparagraph, or the plan, shall serve to reduce or relieve any of owner's property maintenance obligations under the Municipal Code.
- (b) The enforcement officer may grant an extension of the plan schedule for good cause shown upon receipt of a written statement from the owner detailing progress of the owner in completing the plan and setting forth the reasons for the extension. The owner or agent

shall complete the information required on the vacant building plan and submit it at least 30 days in advance of the date when the plan or extension thereof is to expire.

- (c) If the rehabilitation or demolition has not been completed or extended by the village, then the enforcement officer may direct the issue of a citation 15 days after notifying the owner that the owner has failed to meet a required benchmark. The plan shall include the following:
 - (1) A plan of action with due dates to repair any doors, windows, or other openings which are boarded 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 buildings or by methods permitted for new construction of similar type with board removed. Boarding shall be accomplished with materials and methods described by the enforcement officer and available from the enforcement officer. The owner shall maintain buildings in an enclosed and secure state until reoccupied or made available for immediate occupancy.
 - (2) A time schedule with due dates identifying a date of commencement of repair and date of completion of repair for each improperly secured opening and nuisance identified by the enforcement officer.
 - (3) When the owner proposes to demolish vacant buildings, then the owner shall submit a plan and time schedule with due dates for such demolition.
 - (4) The plan shall contain due dates, identifying the date buildings will be habitable and occupied or offered for occupancy or sale. The time schedule shall include dates of commencement and completion of all actions required to achieve habitability.
 - (5) The plan shall contain due dates for removal of all trash and debris; removal of all dead vegetation and restoration or cutting of all lawn and plantings; and removal of vehicles, trailers, materials, and objects stored outside.
 - (6) Any additional information required by the village.
- (d) Upon the submission of the vacant premises plan to the village, the enforcement officer will determine whether the plan is complete. In case of incompleteness, the enforcement officer may require an owner or agent to provide more complete information necessary to protect the public health, safety or welfare. When a submitted plan does not meet with the village approval, the owner or agent shall, within ten business days, correct and resubmit the plan. Nothing within this plan shall supersede timelines for property maintenance violations.
- (e) Failure to obtain and comply with a plan approved by the village as required herein or failure to comply with an approved plan shall constitute a violation of this article, and shall subject the owner to penalties as provided in this article and to any remedies the village may avail itself of as provided for herein and elsewhere in this Code, including, but not limited to, an action to compel correction of premises maintenance violations, civil forfeitures in municipal court, vacant premises fee, and actions to render service and place the cost thereof on the tax bill for the property under Wis. Stats. § 66.0627.

§ 104-182. Time restrictions for vacant premises.

[Code 1997, § 14-255; Ord. No. 11-617, 9-8-2011; Ord. No. 20-718, 7-16-2020]

It is the policy of the village that boarding is a temporary solution to prevent unauthorized entry into a boarded vacant premises. A vacant premises may not remain boarded longer than 60 days unless an extension of that time is part of a plan approved by the village.

§ 104-183. Exemptions.

[Code 1997, § 14-256; Ord. No. 11-617, 9-8-2011; Ord. No. 20-718, 7-16-2020]

- (a) A building which has suffered fire damage or damage caused by extreme weather conditions will be exempt from the registration requirements of this article for a period of 90 days after the date of the fire or the extreme weather event. If the owner submits a request for exemption in writing to the village:
- (b) The enforcement officer may make a finding that a premises is not a vacant premises by virtue of its maintenance and the bona fide intent of the owner to re-occupy the premises within the next 12 months.

§ 104-184. Certificate of occupancy required upon resumption of occupancy.

[Code 1997, § 14-257; Ord. No. 11-617, 9-8-2011; Ord. No. 20-718, 7-16-2020]

All unoccupied properties (including single- and two-family residential) shall be subject to the requirements of section **125-31** regarding certificates of occupancy for resumption of occupancy.

§ 104-185. Penalties for noncompliance.

[Code 1997, § 14-258; Ord. No. 11-617, 9-8-2011; Ord. No. 20-718, 7-16-2020]

Violations of this article shall be subject to an administrative assessment of five times all vacant premises fees due, as well as village costs of enforcement of this article, and interest at the rate set under state statutes. Violations of this article may also be subject to the penalties set forth in section **1-13**. Each day and act or omission of violation will be deemed to constitute a separate offense. No village permit, approval, assessment letter, or code compliance certificate may be issued with regard to the premises until all unpaid fees, costs and service charges have been paid in full.

§ 104-186. Delinquent vacant premises fees lien.

[Code 1997, § 14-259; Ord. No. 11-617, 9-8-2011; Ord. No. 20-718, 7-16-2020]

After the owner is given notice of the vacant premises fee due, said amount shall constitute a debt due and owing to the village. An unpaid fee, together with costs and penalties, shall be a lien upon the premises and may be placed on the property tax bill for the premises as a special charge for current services under Wis. Stats. § 66.0627. All delinquent fees will be paid by the owner prior to any transfer of an ownership interest in any vacant premises. No village permit, approval, assessment letter, or code compliance certificate may be issued with regard to the premises until all unpaid fees, costs and service charges have been paid in full.

§ 104-187. (Reserved) [1]

[1] *Editor's Note: Former § 104-187, which pertained to annual reports and derived from Code 1997, § 14-260, as amended by Ord. No. 11-617, was repealed by Ord. No. 20-718.*

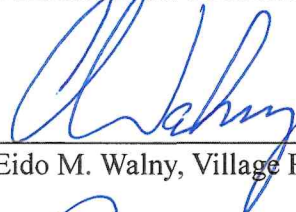
Section Two: Severability. In the event that any provision of this Ordinance is for any reason held to be invalid, unconstitutional, or unenforceable by any court of competent jurisdiction, such portions of this Ordinance shall be deemed separate, distinct and independent provisions of the Ordinance and all remaining portions of this Ordinance shall remain in full force and effect.

Section Three. All ordinances or parts of ordinances conflicting with the provisions of this ordinance are hereby to such extent repealed.

Section Four. This ordinance shall take effect and be in force after its passage and posting pursuant to law.

PASSED AND ADOPTED by the Village Board of Trustees of the Village of Bayside this eighteenth day of January, 2024.

VILLAGE OF BAYSIDE



Eido M. Walny, Village President



Rachel A. Safstrom, Administrative Services
Director