

## CHAPTER 169: VACANT BUILDINGS

---

### Section

- 169.01 Purpose
- 169.02 Definitions
- 169.03 Vacant building registration
- 169.04 Maintenance
- 169.05 Exemption
- 169.06 Inspections
- 169.07 Other laws, ordinances and regulations; other enforcement
  
- 169.99 Penalties

### § 169.01 PURPOSE.

The City Council finds that vacant buildings are unsightly, unsafe, a nuisance and create a hazard for the neighborhood and citizens, and have a negative effect on the community. Further, many buildings, once vacant, remain that way for years. The purpose of this Chapter is to protect the public health, safety, and welfare by establishing a program for identifying and registering vacant buildings, to set forth the responsibilities of owners of vacant buildings, and to speed the rehabilitation of vacant structures.

(Ord. 8613, passed 12-2-08; Am. Ord. 8765, passed 12-6-11)

### § 169.02 DEFINITIONS.

For the purpose of this Chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**"EMERGENCY SITUATION."** Where the condition of the building, structure, or any part thereof is an imminent, immediate, and substantial danger to the health or safety of anyone on the premises or the general public. Such conditions include, but are not limited to: fire hazards; falling or dilapidated buildings, structures, or any part thereof; or such condition resulting from a sudden event/occurrence which causes loss of significant water, heat, ventilation, or lack of sanitary conditions.

**"ENFORCEMENT OFFICER."** Individuals charged with enforcing the Code of Ordinances of the City, including staff of the Public Development and Public Safety Departments of the City.

**"OWNER."** The person, persons, or entity shown to be the owner or owners on the records of the Vermilion County Recorder, those identified as the owner or owners on a vacant building registration form, a mortgagee in possession, a mortgagor in possession, assignee of rents, receiver, executor, trustee, lessee, or other person, firm or corporation in control of the premises. Any such person shall have joint and several obligations for compliance with the provisions of this Chapter.

**"SECURED BY OTHER THAN NORMAL MEANS."** A building secured by means other than those used in the design or approved plans for the building.

**"UNOCCUPIED."** A building which lacks the habitual presence of human beings who have a legal right to be on the premises, including buildings ordered vacated by an enforcement officer of the City, a court of competent jurisdiction, or Administrative Adjudication Hearing Officer. The term shall also mean a building which is empty or not lawfully occupied on a regular basis for the usual and customary purposes for which the building is designed. In determining whether a building is unoccupied, the enforcement

officer may consider these factors, among others: whether lawful residential or business activity has ceased; the building is substantially devoid of contents or has minimal fixtures or personal property in the building; the building lacks utility services; the building is subject to a foreclosure action; and, the presence or reoccurrence of violations of city codes.

"UNSECURED." A building or portion of a building which is open to entry by unauthorized persons, without the use of tools or a ladder.

"VACANT BUILDING." A building or structure which is any one or more of the following:

- (1) Unoccupied and unsecured;
- (2) Unoccupied and secured by other than normal means;
- (3) Unoccupied and an unsafe building as determined by the enforcement officer;
- (4) Unoccupied and an enforcement officer has issued an order to correct code violations;
- (5) Illegally occupied.

(Ord. 8613, passed 12-2-08; Am. Ord. 8765, passed 12-6-11)

### **§ 169.03 VACANT BUILDING REGISTRATION.**

(A) The owner of a vacant building shall register with the Public Development Department no later than 30 days after any building becomes a "vacant building". The obligation to register a building as a vacant building shall be on the owner of the building. The City may give notice to an owner requiring registration as indicated, but the obligation to register rests with the owner whether or not the owner receives any notice. An enforcement officer may identify vacant buildings through a routine inspection process. Upon notification by residents, neighborhood associations or other community groups that a building may be eligible for inclusion on the registry, an enforcement officer shall conduct an inspection to determine whether such building is a "vacant building" and required to be registered.

(B) A notice to register issued by an enforcement officer shall be served either in person or by first class mail to the owner of record and any registered property manager, if known. If the notice is served by first class mail, the notice shall be sent to the owner's and manager's last known address and the date of mailing shall be the date of service. The notice to register may also include information outlining programs available which may be useful to implement a rehabilitation plan.

(C) The registration shall be submitted on forms provided by the Public Development Department and shall include the following information:

- (1) A description of the premises, including square footage, number of stories, age of the building, and most recent use of the building;
- (2) The name, street address, and telephone numbers of the owner or owners;
- (3) The name, street address, and telephone number of any registered property manager, or if none, another responsible person who can be reached and respond if an emergency situation arises;
- (4) The name and street address of all known lien holders of record, and all other parties with an ownership interest in the building;
- (5) A vacant building plan as described in subsection (D) below.

(D) The owner shall submit a vacant building plan, which must be approved by the Public Development Department Director or his designee. The plan shall contain a statement as to which of the following three options for the property the owner has chosen for the property, as well as the accompanying information.

(1) Building to be demolished. If the building is to be demolished, the owner shall provide a demolition plan indicating the proposed time frame for completion of the demolition.

(2) Building to remain vacant. If the building is to continue to be vacant, the owner shall provide a plan for securing the building, along with the procedure for maintaining the building and property. The owner shall also provide a statement as to the reason(s) why the building will continue to be vacant.

(3) Building to be rehabilitated. If the building is to be returned to appropriate occupancy or use, the owner shall provide a plan for rehabilitating the building. The rehabilitation plan shall provide for completion of the rehabilitation within a reasonable period commensurate with the condition of the building from the date of submission of the plan and will include a plan progress review every 4 months. Any repairs, improvements, or alterations to the property must comply with all applicable city codes, including but not limited to, zoning, historic preservation, property maintenance code and building codes. A plan progress review may be extended by the Public Development Department Director, or his designee, but only for good cause shown and upon receipt of a written statement from the owner detailing the reasons for the requested extension.

(E) The owner shall comply with all applicable laws and codes in meeting the obligations under the plan chosen. The owner shall notify the Public Development Department of any changes in information supplied as part of the vacant building registration within 30 days of the change. If the plan or timetable for the vacant building is revised in any way, the revisions shall be in writing and must meet the approval of the Public Development Department Director or his designee.

(F) The owner and any subsequent owner shall keep the building secured and safe and the building and property properly maintained, according to all applicable codes.

(G) Failure of the owner or any subsequent owner to meet the obligations of the plan or maintain the building and property as required herein or by other City Codes shall be grounds for the City:

(1) To remediate or demolish the building at the owner's expense; or

(2) To pursue any and all violations and to impose the fees provided in this Chapter and any applicable penalties provided in the City Code against the Owner.

(H) Any new owner shall register or re-register the vacant building with the Public Development Department within 30 days of any transfer of an ownership interest in a vacant building. The new owner shall comply with the approved plan and timetable submitted by the previous owner until any proposed changes are submitted and meet the approval of the Public Development Director.

(I) Registration fees; Insurance.

(1) The owner of a vacant residential building shall pay a registration fee of \$50. The owner of a vacant non-residential building shall pay a registration fee of \$100. Any vacant building containing both residential and non-residential areas shall be considered non-residential for purposes of the registration fee. The registration fee is due and payable upon registration.

(2) The owner of a vacant building shall be required to maintain insurance in an amount sufficient to secure the repairs or demolition of the building. The owner shall maintain such insurance until the building is no longer vacant or is demolished. A copy of the certificate of insurance shall be attached to the registration form.

(3) If the building is to remain vacant, the owner shall also pay an annual vacant building fee of \$500 until the building is properly demolished or rehabilitated. The \$500 annual vacant building fee is due and payable together with the registration fee and on each anniversary thereafter until the building is demolished or rehabilitated. In the event the owner has obtained and maintained permits for repairs to the building and is making progress on such repairs, the \$500 annual fee shall be held in abeyance. In the event that the permits expire or the owner is not making progress as outlined in the rehabilitation plan, the owner shall pay such \$500 annual vacant building fee.

(4) If the building is to be returned to appropriate occupancy or use, the rehabilitation plan shall include a plan progress review every four months. A plan progress review may be extended by the Public Development Department Director, or his designee, but only for good cause shown and upon receipt of a written statement from the owner detailing the reasons for the requested extension. If the rehabilitation has not been completed within a reasonable time period commensurate with the condition of the building, the owner shall pay an annual vacant building fee of \$500 until the building is properly demolished or rehabilitated. In the event the owner has obtained and maintained permits for repairs to the building and is making progress on such repairs, the \$500 annual fee shall be held in abeyance. In the event that the permits expire or the owner is not making progress as outlined in the rehabilitation plan, the owner shall pay such \$500 annual vacant building fee. The \$500 annual vacant building fee is payable on the anniversary of the payment of the registration fee in (1) above, and on each anniversary thereafter until the building is demolished or rehabilitated.

(5) If the owner of a vacant building fails to register, pay the fees, and maintain the required insurance, the owner shall be subject to the penalties set forth in this Chapter.

(6) All fees shall be paid by the owner prior to any transfer of an ownership interest in any vacant building. The fees will be disclosed by the seller to the buyer prior to the sale. If the fees are not paid prior to any transfer, the new owner will pay the annual fee plus \$300 no later than 30 days after the transfer of ownership, and the subsequent annual fees will be due on the new anniversary date. If the building is no longer subject to the provisions of this Chapter within such 30-day period, the new owner will not

be required to pay the annual fee or the \$300 as indicated above.

(7) Any owner who fails to pay an annual vacant building fee when due shall be charged a late fee of \$25 per month or any part thereof for which payment received within 30 days from the date of the demand for payment or an invoice.

(Ord. 8613, passed 12-2-08; Am. Ord. 8765, passed 12-6-11)

#### **§ 169.04 MAINTENANCE.**

(A) The owner of a vacant building will take such steps and perform such acts as may be required of him from time to time to ensure that the building and its adjoining yard remain safe and secure and do not present a hazard to the adjoining property or the public. Owners will be responsible for maintaining their buildings and structures so that they do not become an unoccupied hazard. In any building that is vacant or about to become vacant, there will be at least one access which meets the approval of the Public Development Department Director and the Public Safety Department Director. When a building becomes vacant, the owner shall post a "No Trespassing" sign on the building or property in at least two conspicuous places.

(B) The owner shall protect and maintain the exterior of the building according to all applicable codes, as well as the following:

(1) Exterior walls, including foundations, will be maintained such that water does not penetrate into basements, cellars, or other interior areas. All exterior walls and foundations must be free of holes and crevices.

(2) Exterior doors, windows, skylights and similar openings will be maintained weather tight.

(3) Exterior stairs, porches, entrance platforms, fire escapes and the railings thereon shall be maintained in a safe and sound condition.

(4) Roofs shall be maintained in a watertight condition.

(5) Exterior surfaces shall be maintained in good condition. Surfaces not inherently resistant to deterioration shall be treated with a protective coating of paint or other suitable preservative.

(6) The covering for glass doors and windows may not consist of any substance sprayed onto the glass doors or windows. All enclosures shall be properly fitted and be of such material and surface that they are neither unsightly nor will materially detract from the general appearance of the building or the neighborhood and, when possible, secured by normal means.

(7) The covering for broken doors and cracked or broken windows may consist of glass, Plexiglas, plywood or similar materials finished and maintained in a manner recommended and approved by the Public Development Department Director or his designee. If plywood or similar material is used, the material shall be cut to fit the opening and painted the same color scheme as the building.

(8) Windows that are not cracked or broken may be covered with interior blinds, curtains, or shades.

(9) The premises shall be kept free of insects and vermin, and will be treated if necessary.

(10) Any excavation, swimming pool, or other attractive nuisance must be filled in or properly closed.

(C) In addition to the standards prescribed above, vacant commercial and retail buildings shall comply with the following standards:

(1) Any and all broken or cracked windows shall be replaced with plywood, glass, Plexiglas, or other similar material approved by the Public Development Department Director or his designee. If plywood or similar material is used, the material shall be cut to fit the opening and painted in the same color scheme as the building or with an approved mural or announcement sign. Such coverings shall be maintained in good repair and shall not be allowed to deteriorate.

(2) All exterior sign posts or hardware, awnings, and lighting systems, if not removed, shall be maintained in a non-deteriorated and safe condition.

(D) The owner shall protect and maintain the interior of the building according to all applicable health and life safety codes, as well as the following:

(1) Structural members shall be maintained to resist and prevent deterioration.

(2) Unheated attics, spaces below flat roofs, and crawl spaces shall be ventilated to minimize deterioration.

(3) Ceilings, walls, floors, and stairways shall be maintained in a safe and sound condition.

(E) The owner shall further maintain the premises as follows:

- (1) Shall not permit garbage and refuse to accumulate;
- (2) Shall not permit insects, vermin or rodents to infest the premises;
- (3) Shall not discard, abandon, or store refrigerators or similar equipment with locking mechanisms without first removing the locking devices or the hinges of the doors;
- (4) Shall not store or otherwise allow inoperable, abandoned or junked vehicles on the premises;
- (5) Shall maintain chimneys, smokestacks, flues, gas vents, smoke pipes and connectors structurally safe and smoke tight;
- (6) If the building is to be demolished or remain vacant, then, within 10 days of registering the building, disconnect all fuel gas, water, and other utilities at the mains and drain the water pipes; or, if the building is going to be rehabilitated, heat the building to avoid freezing pipes, maintain fuel gas pipe systems gastight, safe and in operative condition, and maintain water pipes to avoid leaks and breakages;
- (7) Maintain fuel tanks so that they will not become a hazard, or discontinue use of the fuel tanks consistent with any applicable codes, laws or regulations;
- (8) Maintain the domestic water supply system such that it is connected to an approved source, will not be subject to contamination and will not be connected to unsafe water supplies; or disconnect the water supply system at the main and completely drain the system;
- (9) Maintain storm water drainage systems so as to function properly and be kept free from obstructions, leaks and defects; maintain sewage systems so as to function properly and be kept free from obstructions, leaks and defects, or shall be sealed so as to prevent accumulation of sewage gases into the building;
- (10) Maintain electrical fixtures, devices, wiring and systems in safe working condition so as to avoid a potential source of ignition or shock; or disconnect the service at the supply;
- (11) Maintain elevators, dumbwaiters and escalators; or take them out of service;
- (12) Maintain the yard by trimming trees, bushes and shrubs, mowing the grass, and keeping the premises free of physical hazards and rodent harborage and infestation.

(F) Whenever the owner of a vacant building fails to comply with a notice from an enforcement officer to take steps and perform acts required to ensure that a building and its adjoining yards remain safe and secure and do not present a hazard to adjoining property, the City may, pursuant to Chapters 151 and 166 of this code, enter onto the building and the property and take steps and perform acts to render the building and its adjoining yards safe, secure, and free from hazards to adjoining property and the public. These acts may include, but not be limited to, removal of dangerous conditions, properly replacing or boarding up windows and doors, shutting off utilities, capping plumbing to prevent leakage of water or sewer gas, and removing flammable or otherwise hazardous material and debris. A bill for expenses incurred in performing any of said acts will be sent to the owner.

(Ord. 8613, passed 12-2-08; Am. Ord. 8765, passed 12-6-11)

### **§ 169.05 EXEMPTION.**

A building which has suffered such damage caused by fire or extreme weather conditions, so as to be subject to the provisions of this Chapter, will be exempt from the registration requirement for a period of 90 days after the date of the fire or extreme weather event. The property owner may submit a written request for an extension of the exemption period to the Public Development Department. The Public Development Director, or his designee, may grant such extended exemption period only for good cause shown. The request shall include the following: a description of the premises; the reason for the request for exemption; the names and street addresses of the owner(s); and, a statement of intent to repair and reoccupy the building in an expedient manner, or the intent to demolish the building.

(Ord. 8613, passed 12-2-08; Am. Ord. 8765, passed 12-6-11)

### **§ 169.06 INSPECTIONS.**

By registering a vacant building, the owner consents to an enforcement officer inspecting the premises for the purpose of enforcing and assuring compliance with the provisions of this chapter. Upon request of the enforcement officer, the owner shall provide access to all interior portions of a vacant building in order to permit a complete inspection. Nothing contained herein will diminish the owner's right to insist upon the enforcement officer obtaining an administrative search warrant before conducting any inspection. In the case of an emergency this section shall not apply.

(Ord. 8613, passed 12-2-08; Am. Ord. 8765, passed 12-6-11)

#### **§ 169.07 OTHER LAWS, ORDINANCES AND REGULATIONS; OTHER ENFORCEMENT.**

This Chapter shall not be construed to prevent the enforcement of other laws, codes, ordinances, and regulations which prescribe standards other than those provided herein, and in the event of conflict, the most restrictive shall apply. The registration of a vacant building pursuant to this Chapter shall not preclude action by the City to demolish or force rehabilitation of the building as provided in this Code or other laws.

(Ord. 8613, passed 12-2-08; Am. Ord. 8765, passed 12-6-11)

#### **§ 169.99 PENALTIES.**

Any person found guilty of violating any provision of this Chapter shall be fined not less than \$250 nor more than \$2,500 for each offense. Each day a violation continues shall be deemed a separate offense. In addition to any fine imposed under this chapter, the offender shall be ordered to pay all of the costs and fees incurred by the City in prosecuting the violation, which shall include but not be limited to the costs associated with an administrative adjudication proceeding or circuit court proceeding, and reasonable attorney's fees.

(Ord. 8613, passed 12-2-08; Am. Ord. 8765, passed 12-6-11)