

Ordinance No. 2023-08-18-01

AN ORDINANCE ESTABLISHING VACANT PROPERTY REGULATIONS AND PRIORITY LIEN PROCEDURES

WHEREAS, this ordinance is intended as, and is in the exercise of certain powers and functions pertaining to the government and affairs of the Village of Oakwood, Illinois; and

WHEREAS, buildings that are indefinitely vacant or in a state of disrepair or boarded are public nuisances in that they contribute to the decrease in value of surrounding properties, precipitate disinvestment by neighboring owners, provide a location for criminal activity, undermine the aesthetic character of the neighborhood and Village, and have other undesirable effects; and

WHEREAS, vacant buildings without utilities and regular maintenance for more than three (3) months, especially those which remain boarded, are unsightly and diminish neighboring-property values and neighbors' sense of well-being and are a public nuisance; and

WHEREAS, allowing certain buildings to remain indefinitely vacant even in the absence of code violations or boarding is detrimental to the public health, safety, and welfare; unreasonably interferes with the reasonable and lawful use and enjoyment of other premises within the neighborhood; may pose an extraordinary danger to police officers or firefighters entering the premises in time of emergency; and detracts from the appearance and good order of the neighborhood; all of which are especially associated with such buildings which have been vacant for over two years; and

WHEREAS, registration of vacant properties and implementation of a maintenance plan will discourage property owners from allowing their properties to remain indefinitely vacant or in a state of disrepair and will thereby provide a basis for the return of vacant properties to the housing stock; and

WHEREAS, the Village of Oakwood has the authority to regulate the maintenance of properties and buildings within the Village to protect the public health, safety, and welfare of its citizens; and

WHEREAS, the definition, prohibition, and abatement of public nuisances pertain to the government and affairs of the Village of Oakwood; and

WHEREAS, the Village has statutory power to define, prohibit, and abate public nuisances pursuant to 65 ILCS 5/11-60-2 of the Illinois Municipal Code; and

WHEREAS, the Village Board adopts the "broken window" concept among the rationale for this ordinance. The "broken window" concept is that one broken window, left unrepaired, leads to more broken windows as it gives the appearance that no one cares or protects the property; that that building becomes increasingly more deteriorated, and that the deterioration may have a ripple effect; and

WHEREAS, the abatement of nuisances caused by vacant buildings, repair and rehabilitation of vacant properties and their subsequent occupancy is in the best interests of the citizens of the Village of Oakwood; and

WHEREAS, an ordinance providing for the declaration of certain boarded and/or vacant buildings as a public nuisance and providing for their abatement is a means for the Village to use in maintaining sanitation and health standards, preventing crime, and avoiding fire, health, and safety hazards and minimizing or eliminating the effect such buildings have on the personal and economic well-being of the neighborhood; and

WHEREAS, various state statutes authorize the Village to provide for the removal of certain nuisances from private properties within the Village, including cutting and removal of neglected weeds, grass, trees, and bushes, 65 ILCS 5/11-20-7, pest control activities, 65 ILCS 5/11-20-8, removal of infected trees, 65 ILCS 5/11-20-12, removal of garbage, debris, and graffiti, 65 ILCS 5/11-13, and removal, securing, and enclosing abandoned residential properties, 65 ILCS 5/11-20-15.1; and

WHEREAS, the Village incurs costs in abating these nuisances by performing property maintenance activities on these properties; and

WHEREAS, Section 11-20-15 of the Illinois Municipal Code, 65 ILCS 5/11-20-15, authorizes municipalities to record traditional liens against a property for these nuisance abatement and property maintenance costs; and

WHEREAS, the Illinois General Assembly recently adopted 65 ILCS 5/11-20-15.1, effective March 1, 2010, authorizing municipalities to record "priority liens" against abandoned residential properties for costs incurred in certain property maintenance activities that would be senior to all other liens except for tax liens; and

WHEREAS, the corporate authorities of the Village of Oakwood consider it to be in the interest of the public health, safety, and welfare of the residents of the Village to set forth specific registration requirements for vacant buildings, as well as a procedure for liens regarding property maintenance activities.

NOW THEREFORE, BE IT ORDAINED, by the Mayor and Village Board of the Village of Oakwood, as follows:

VACANT BUILDINGS, GENERAL

Owners of "vacant buildings" and foreclosing mortgagees who get title to unoccupied buildings, shall be required to register the same with the Village as prescribed below:

A. Owner's Obligation To Register Vacant Buildings: The owner of a building that the Village has determined to be a "vacant building", or the owner of a building whose appeal from the Village's determination has been denied by the Village administrator, or the owner of a building who knows, or from all the facts and circumstances should know, that his, her, their or its building is or has become a "vacant building" within the meaning of this chapter, shall take the actions provided for in this section after either the date of Village's determination of vacancy, the denial of the owner's appeal, or the owner's awareness of facts that would cause a reasonable person to believe that the building is vacant. Notwithstanding whether the Village has initiated and made a vacant building determination and provided notice thereof to the owner, the owner or owners of a vacant building shall, in any event, register his, her, their or its property upon which there exists a vacant building within fifteen (15) days of the building becoming vacant and no advertisement for sale or rent or building construction permit, or within fifteen (15) days after assuming ownership of a vacant building and having failed to occupy the building or obtain a building construction permit, whichever is earlier.

B. Registration Of Building: The owner of a "vacant building" that has not been occupied and left in a state of disrepair, or boarded, for more than thirty (30) days shall be required to pay a two hundred dollar (\$200.00) annual non-prorated vacant building registration fee.

1. 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 any foreclosure proceedings and/or any bankruptcy cases; and the name, street address, and telephone number of all persons with any legal, equitable interest in the building or the premises. In addition to other information required by the Village, the registration statement shall include the name, street address and telephone number of a natural person twenty-one (21) years of age or older, or a business entity registered with the Illinois secretary of state, designated by the owner or owners as his, her, their or its authorized agent for receiving notices of code violations and for receiving process, in any court proceeding or administrative enforcement proceeding, on behalf of such owner or owners in connection with the enforcement of this code. This person or business entity must reside within Vermilion County, Illinois. By designating an authorized agent under the provisions of this subsection the owner is consenting to receive all notices of code violations concerning the registered building and all process in any court proceeding or administrative

enforcement proceeding brought to enforce code provisions concerning the registered building by service of the notice or process on the authorized agent.

2. Any owner or owners who have designated an authorized agent under the provisions of this subsection shall be deemed to consent to the continuation of the agent's designation for the purposes of this subsection until the owner or owners notify the Village of a change of authorized agent or until the owner or owners file a new annual registration statement. Any owner who does not register a vacant building under the provisions of this subsection shall further be deemed to consent to receive, by posting at the building, all notices of code violations and all process in an administrative proceeding brought to enforce code provisions concerning the building.
3. The form shall require:
 - a. The owner to renew the vacant building registration each year on the anniversary date of the first filing if the building has not been occupied and left in a state of disrepair, or boarded, and pay the required Two Hundred dollar (\$200.00) annual fee; and
 - b. The owner to file an amended registration within fifteen (15) days of any change in the information contained in the annual registration.
 - c. A new owner to file a new registration and pay the required Two Hundred dollar (\$200.00) annual fee in compliance with Section A.

C. Registration does not exonerate the owner from compliance with all applicable Village codes and ordinances, including this chapter, and from compliance with all federal, state and county laws, statutes, codes, ordinances, regulations and rules, nor does it preclude any of the actions that the Village is authorized to take pursuant to this chapter or elsewhere in this code or pursuant to state statutes.

D. If the Village requests a code compliance inspection of the interior of the vacant building after the owner registers the building pursuant to the foregoing section and one has not already been performed for another reason, the owner shall consent to said interior inspection and provide access to the Village to perform said inspection at a mutually agreed date and time, or, the Village may obtain an administrative search warrant to accomplish the inspection, and will not conduct an interior inspection of the premises without obtaining such warrant, except when there is evidence of vacancy and access to the building is unsecured or there is an actual emergency or if the Village administrator or the chief of police determines that there is an actual threat to health or safety based on reliable, substantiated and sufficient evidence. The code compliance inspection of the interior of all "vacant buildings" determines the extent of any compliance with Village property maintenance, building, zoning, health, fire, water and sewer codes, and/or to determine whether there is any unsecured access to the building (doors, windows and other points of entry); whether flammable liquids or other hazardous materials are stored on the premises or in the vacant building; whether the utilities, including water, sanitary sewer, gas and/or electricity are running or have been shut off; whether the

sump pump is working; whether there is any standing water in the basement or crawl space; whether the furnace and/or hot water heater are operable if the gas has not been turned off to the vacant building; whether the roof or other exterior surface or enclosures are leaking or have been water damaged, whether there are any visible signs of mold; whether there are animals, rodents, vermin or insects present on the premises or in the building; and whether all outdoor pools and/or hot tubs are securely covered and/or drained. Said inspection shall also determine the existence of any unlawful improvements to the property and any portions of the building, including attic and basement areas, which appear to have been unlawfully occupied.

E. Inspection Conducted: The Village shall send the inspection report to the owner within fifteen (15) days of inspection. The owner shall allow for a code compliance inspection of the interior of the vacant building and pay the two hundred fifty-dollar (\$250.00) fee to defray the cost of said inspection. If an administrative search warrant is procured because the owner or owners failed to consent to said inspection, or to cooperate to schedule said inspection and grant access to the Village to perform said inspection within thirty (30) days of registering said vacant building, the inspection fee shall be five hundred dollars (\$500.00). The inspection report shall include a reasonable date by which code compliance shall be required, and periodic re-inspections shall take place, as necessary, until code compliance is achieved.

F. Insurance Required: The owner or owners shall obtain liability insurance and maintain such insurance for as long as the building is vacant, and file evidence of such insurance with the Village, in an amount not less than two hundred fifty dollars (\$250.00) per occurrence for bodily injury, personal injury and property damage for buildings designed primarily for use as residential units, and commercial general liability in an amount not less than one million dollars (\$1,000,000.00) per occurrence for bodily injury, personal injury and property damage for any other building, including buildings designed for manufacturing, industrial, storage or commercial use, covering any damage to any property caused by the physical condition of or in the building. Any insurance policy acquired after the building becomes vacant shall provide for written notice to the Village within thirty (30) days of any lapse, cancellation or change in coverage. The owner or owners shall maintain the insurance required under this section in full force and effect throughout the period the building is vacant. Such insurance shall be issued by an insurer authorized to insure property in Illinois. The owner or the owner's authorized agent for service of process shall provide evidence of such insurance at the time the vacant building is registered, and proof of such current insurance with each renewal and upon the request of Village.

G. Village real estate transfer stamps will not be issued by the Village for the sale of such property until such interior inspection has taken place, the fee therefor has been paid (unless said inspection has been waived in writing by the Village), and all code violations have been corrected.

H. Vacant Building Plan of Action: Unless waived in writing by the Village, the owner or owners, or the foreclosing mortgagee, shall submit a vacant building plan of action within forty-five (45) days of registering or thirty (30) days of notice by the Village as required in this chapter. The Village may prescribe a form for the plan. If the owner or owners, and if applicable the foreclosing mortgagee, fail to submit a vacant building plan of action, unless waived in writing by the Village and as provided in this subsection, the Village may determine the plan, which it may allow to be modified after conducting a code compliance inspection and follow up inspections for code compliance. The failure of the Village to propose a vacant building plan shall not relieve any owner or owners or a foreclosing mortgagee, if any, from submitting a vacant building plan or extend the period for the owner or owners or foreclosing mortgagee to comply with this section. No plan which fails to provide for compliance with this chapter or, which will not, as determined by the Village, achieve such compliance, within thirty (30) days, in the case of a vacant boarded building, and within one year, in the case of a vacant, un-boarded, and code compliant building will be approved, except that the Village may approve an extension of the time during which the building will be unoccupied beyond one (1) year to a date certain but then only based upon clear and documented evidence of good cause shown by the owner as determined by the Village. Failure to submit a vacant building plan of action or failure to comply with the approved plan shall constitute a violation of this ordinance and subjecting the owner of the building to penalties as provided in this chapter and to any remedies the Village may avail itself of as provided for herein and elsewhere in this code, as amended. The proposed plan shall contain the following as a minimum.

1. Openings being securely closed from access by conventional methods used in the design of the building or by methods permitted for new similar type construction. A plan of action to repair any doors, windows, or other openings. Boarding shall be completed with materials and methods described by the Village on a case-by-case basis. The owner or owners, or the foreclosing mortgagee when the owner or owners fail to do so, shall maintain the building in an enclosed and secure state until the building is reoccupied or made available for immediate occupancy.

2. For buildings and/or premises which are determined by the Village as being or containing public nuisances, as defined in this ordinance, then the vacant building/premises plan shall contain a plan of action to remedy such public nuisance(s).

3. 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 Village.

4. When the owner, owners or foreclosing mortgagee proposes to demolish the vacant building, then the owner, owners or foreclosing mortgagee shall submit a plan and time schedule for such demolition. The owner shall ensure all necessary permits and approvals are obtained prior to commencing demolition.

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

6. 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) by which all necessary permits shall be procured, date(s) of commencement and completion of all actions required to achieve habitability.

I. All premises upon which unoccupied or vacant buildings are located shall always be maintained in compliance with this code, as amended, including, but not limited to, the following:

1. Interior: All interior structures shall be maintained in a clean, safe, secure and sanitary condition. Special attention shall be made to utilities and, if applicable, sump pumps and other related devices shall be kept operational. Winterization of structures shall be completed, as necessary.

2. Exterior: All exterior structures and property shall be maintained and kept free of items that give the appearance that the property is abandoned, including, but not limited to, overgrown and/or dead vegetation, accumulation of newspapers, circulars, fliers and/or mail, past due utility notices and/or disconnected utilities, peeling paint, missing shingles, broken windows, unlicensed automobiles, dilapidated fence, or the accumulation of junk or debris.

3. For vacant commercial property exterior lighting shall be maintained according to standards established by the Village and available from the Village.

4. For vacant commercial property, 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, 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 unless waived by the Village in the event electricity has been shut off to the commercial building. If opaque window covering material is used, a one foot by one foot (1' x 1') opening through which the interior space is clearly visible shall be maintained at standing eye level along one edge of one such window.

J. Security Guard Service: In the event the Village 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, the Village shall provide notice thereof to the owner and may require the owner to provide bonded,

licensed and insured security guard service at the building between the hours of four o'clock (4:00) P.M. and eight o'clock (8:00) A.M. as part of its vacant building plan.

K. Additional Information Posted: All vacant buildings must have a weatherproof eight and one-half inch by eleven inch (8.5" x 11") sign that identifies the name, address, and telephone number of the owner, the name, address and telephone number of the owner's agent authorized to accept notice and service of process and in addition, for buildings which are the subject of a foreclosure proceeding, the name, address, and telephone number of the foreclosing mortgagee, and the name, address, telephone number of the foreclosing mortgagee's agent authorized to accept notice and service of process on behalf of the foreclosing mortgagee. The sign must be visible and legible for public viewing and facing the nearest public right-of-way.

APPROVAL OF PLAN OF ACTION:

A. The Village shall review the proposed vacant building plan in accordance with the standards below. The Village shall send notice to the owner of the vacant building of his or her determination. The Village shall include the following in its consideration and shall make written findings as to each.

1. The length of time the building has been vacant.
2. Timeline to minimize the time a building is boarded or otherwise vacant and in disrepair.
3. The effect of the building and the proposed plan on adjoining property.
4. The presence and removal of any public nuisances on the property.
5. Milestones in the timeline that will abate the condition(s) determined by the inspection.

AUTHORITY TO MODIFY PLAN OF ACTION:

The Village shall, upon notice to the vacant building owner or owners, or mortgagee in possession, have the right to request an interior inspection and/or to request a vacant building plan at any time after making his or her initial written determination of a vacant building or the vacant property is registered, and to require the owner or foreclosing mortgagee to modify the vacant building plan by modifying the dates of performance, the proposed methods of action, or by imposing additional requirements to protect the public health, safety, or welfare. The owner, or foreclosing mortgagee, may appeal the Village's determination under this section by filing an appeal in writing with the Village administrator within fifteen (15) days from the date of mailing such a determination.

ENFORCEMENT AND PENALTIES:

A. Except as otherwise set forth, any person found to be in violation of any provision of this chapter shall be subject to a fine of One Hundred Dollars (\$100.00) per day per violation on Residential Property and Five Hundred Dollars (\$500.00) per day per violation on Commercial or

Industrial Property. Each day that a violation continues after due notice has been served shall be considered a separate offense. Prosecution under this section is a remedy cumulative to all other remedies at law and equity including, but not limited to, the remedies provided in the Village of Oakwood municipal code, and/or under any applicable state statutes. Such remedies include, but 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 property, or foreclosure of any lien the Village may have thereon.

B. All fees, costs, or charges assessed or incurred by the Village pursuant to this chapter shall be a lien upon the real property. The lien shall be superior to all subsequent liens and encumbrances. The Village shall file a notice of lien within two (2) years after such cost and expense is incurred in the office of the applicable county recorder of deeds. The lien may be enforced by proceedings to foreclose, such as in the case of mortgage and mechanic's liens.

ADMINISTRATIVE PROCEEDINGS RELATING TO VACANT PROPERTY REGISTRATION:

A. Administrative hearing procedures as set forth in Village of Oakwood municipal code shall be followed for all violations of this chapter, that the Village elects to pursue through its administrative hearing process (rather than pursuing such violations in the circuit court) and, as such, is incorporated by reference herein.

B. The statutory provisions of the Illinois administrative review law ("Review Law"), 735 ILCS 5/3-101, et seq., are hereby adopted and incorporated into this section. The administrative review law shall apply to the review of all final decisions issued by the administrative hearing officer in administrative proceedings held pursuant to this chapter.

C. Unless stayed by a court of competent jurisdiction, any final decision of the hearing officer, and any fine, penalty, or administrative fee imposed pursuant to this chapter, which remain unpaid in whole or in part after the expiration of the deadline for seeking judicial review under the Administrative Review Law may be enforced in the same manner as any judgment entered by a court of competent jurisdiction.

REAL ESTATE TRANSFER STAMPS:

A property upon which is situated a vacant building for which an interior inspection has been requested by the Village, or its designee, but which has not been authorized by the owner or owners or mortgagee in possession (if any), or other party with authority to consent to access to the interior of the property to the Village Board and to the Village's inspectors, code enforcement officers, and the Village's designees, and/or in the event no such interior inspection has been conducted, or for which inspection fees or registration fees for the property have not been paid in full by the owners, the foreclosing mortgagee, or other responsible parties, or any of them, or which is not otherwise eligible under this chapter for Village real estate transfer stamps, shall not be permitted to acquire said stamps until such

inspection or inspections, as requested by the Village, or its designee(s), has or have been conducted, all fees have been paid in full, and all code violations have been corrected and all eligibility issues have been addressed to the satisfaction of the building director. Unpaid fees shall be a lien upon the property. Nothing contained in this chapter shall require the Village to pursue or obtain an administrative warrant to perform an interior inspection, nor shall the failure to pursue to procure any such warranty waive or excuse the requirements set forth in this section, or to waive this requirement.

OCCUPANCY PERMIT:

No vacant building shall be occupied unless an occupancy permit therefor has been issued by the building official. It shall be a condition precedent to the issuance of such occupancy permit that all improvements to a vacant building as required under this chapter have been completed in accordance with approved plans and building permits therefor, and the improvements have been inspected and approved by the building official, and payment of all fees, imposed pursuant to this chapter have been paid in full. Nothing contained in this chapter shall waive or modify the requirements to procure a building permit prior to performing any work or improvements to any vacant building or structure as provided in this code.

Adopted on August 21st, 2023, by the Board of Trustees of the Village of OAKWOOD, situated in Vermilion County, Illinois, pursuant to a roll call vote as follows:

Ayes: Elliott, Fegett, Fritz, Trimmell
Nays: Pass
Absent: Light
Abstain: _____

Village of Oakwood

W E U S

Village Mayor

ATTEST:

Connie Young
Village Clerk