

Chapter 196 Vacant Building Registry

§ 196-1 **Title.**

This chapter shall be known and referred to as the "Vacant Building Registry"

§ 196-2 **Legislative findings and purpose.**

It is the finding of the Village Board that vacant buildings are unsightly, unsafe, and have a negative effect on the community. Unfortunately, many buildings, once vacant, remain that way for years. The purpose of this chapter is to establish 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 buildings.

§ 196-3 **Definitions.**

Unless otherwise expressly stated, the following terms will, for the purpose of this chapter, have the meanings indicated in this section:

EMERGENCY SITUATION

Where the condition of a building, structure, or any part thereof is an imminent, immediate, and substantial danger to the health or safety of occupants, emergency responders, and/or the general public. Such conditions include, but are not limited to, fire hazards, falling or dilapidated buildings, structures, or any part thereof, loss of significant water, heat, ventilation, or a lack of sanitary conditions.

ENFORCEMENT OFFICER

The duly authorized Village of Orchard Park Code Enforcement Officer, or designated persons from that office.

OWNER

The person, persons, or entity shown to be the owner or owners on the records of the County of Erie, those identified as the owner or owners on a vacant building registration form, a mortgagee in possession, a mortgagor in possession, or an assignee of rents, receiver, executor, administrator, trustee, lessee, other person, firm or corporation in control of the premises. Any such person will 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 and approved plans for the building.

UNOCCUPIED

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 a Code Enforcement Officer. In determining whether a building is unoccupied, the Code Enforcement Officer may consider these factors, among others:

- A.** Whether lawful residential or business activity has ceased;
- B.** The percentage of the overall square footage of the occupied to unoccupied space or the overall number of occupied and unoccupied units;
- C.** The building is substantially devoid of contents or the minimal value of fixtures or personal property in the building;
- D.** The building lacks utility services;
- E.** The building is subject to a foreclosure action;
- F.** Duration of vacancy; and/or
- G.** The presence or reoccurrence of code violations.

UNSECURED

A building or portion of a building which is open to entry by unauthorized persons without the use of tools or ladders.

VACANT BUILDING

A building, a portion of a building, or a structure which is any one or more of the below:

- A.** Unoccupied and unsecured;
- B.** Unoccupied and secured by other than normal means;
- C.** Unoccupied and an unsafe building as determined by a Code Enforcement Officer;
- D.** Unoccupied and a Code Enforcement Officer has issued an order to correct code violations;
- E.** Illegally occupied; or
- F.** Unoccupied for a period of time over 30 days.

§ 196-4 Vacant building registration.

A. The owner of a vacant building will register with the Code Enforcement Officer no later than 30 days after any building becomes a "vacant building," as defined above, or not later than 30 days after being notified by a Code Enforcement Officer of the requirement to register. A Code Enforcement Officer may identify vacant buildings through his/her routine inspection process as well as through notification by residents, neighborhood associations and other community groups that a building may be eligible for inclusion on the registry. Notice will be served upon, or

sent by mail to, the owner, and any registered property manager, and to the property address. Notice will be deemed received by the owner, property manager, or an occupant, as the case may be, upon personal delivery or three days in Erie County or five days for other locations after service by first-class mail. The Village may also post notices on the Village's website to provide additional notice to the public. However, the Village's failure to post such violations on the Village's website will not constitute a defense to any enforcement proceeding or collection of fines.

B. The registration will be submitted on forms provided by the Code Enforcement Officer and will include the following information:

- (1)** A description of the premises, i.e., square footage, number of stories, age of the building, and most recent use of the building.
- (2)** The names, addresses, and telephone numbers of the owner or owners; if the owner is a corporation, limited-liability company or partnership, the address for each director, manager, or partner, as the case may be. The address must include a street address; a post office box is not acceptable.
- (3)** If the owner does not reside in Erie County or any adjoining New York county, the name and address of a property manager who does reside in Erie County or any adjoining county. The address must include a street address; a post office box is not acceptable.
- (4)** The names and addresses of all known lienholders and all other parties with an ownership interest in the building. Each address must include a street address; a post office box is not acceptable.
- (5)** A name, address, and telephone number of a responsible natural person (not a corporation, partnership or limited-liability company) who can be reached at all times during business and nonbusiness hours. The address must include a street address; a post office box is not acceptable.
- (6)** A vacant building plan as described in Subsection **C** below.

C. The owner will submit a vacant building plan which must meet the approval of the Code Enforcement Officer. The plan, at a minimum, must contain information from one of the following three proposals for the property:

- (1)** If the building is to be demolished, a demolition plan indicating the proposed time frame for demolition;
- (2)** If the building is to remain vacant, a plan for the securing of the building in accordance with standards provided below, along with the procedure that will be used to maintain the property, and a statement of the reason(s) why the building will be left vacant; or
- (3)** If the building is to be returned to appropriate occupancy or use, rehabilitation plans for the building must be submitted to the Code

Enforcement Officer. The rehabilitation plans will not exceed 365 days from the date of submission and will include progress benchmarks at least every four months, unless the Code Enforcement Officer grants an extension for good cause shown, upon receipt of a written statement from the owner detailing the reasons for the extension. Any repairs, improvements or alterations to the property must comply with any applicable zoning, housing, historic preservation or building codes. The building must be secured in accordance with this chapter.

D. The owner will comply with all applicable laws and codes. The owner will notify the Code Enforcement Officer 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 must be in writing and must meet the approval of the Code Enforcement Officer.

E. The owner and any subsequent owner will keep the building secured and safe and the building and grounds properly maintained as provided in the NYS Property Maintenance Code and this chapter.

F. Failure of the owner or any subsequent owner to maintain the building and premises as required herein will be grounds for the Village:

(1) To remediate the building and bill the costs of same to the owner;

(2) To revoke the rehabilitation plans; and

(3) The owner will be subject to fees and penalties as provided herein.

G. The owner will notify the Code Enforcement Officer of any transfer of ownership within 15 days of transfer. The new owner will comply with the approved plan and timetable submitted by the previous owner until any proposed changes are submitted and approved by the Code Enforcement Officer.

H. Vacant building registration fees.

(1) The owner of a vacant building will pay a registration fee as determined by the fee schedule adopted by the Village Board or by separate resolution of the Village Board at any time during the course of a fiscal year. The registration fee is due and payable upon registration; to wit: no later than 30 days after any building becomes a "vacant building," as defined above, or no later than 30 days after being notified by a Code Enforcement Officer of the requirement to register.

(2) If the building is to remain vacant, then the owner will also pay an annual vacant building fee. The amount of said fee shall be determined pursuant to the fee schedule adopted by the Orchard

Park Village Board or by separate resolution of the Village Board. Said fee schedule shall provide for differing amounts dependent upon the number of years that the building is vacant.^[1]

[1]

Editor's Note: The fee schedule is included in Chapter A232.

(3) If the building is to be returned to a permitted use, the rehabilitation plan will not exceed 365 days and will include progress benchmarks at least every four months, unless the Code Enforcement Officer grants an extension for good cause shown upon receipt of a written statement from the owner detailing the reasons for the extension. If the rehabilitation has not been completed or extended, then the owner will pay an annual vacant building fee until the building is properly demolished or rehabilitated. The annual vacant building fee is payable either on each anniversary of the payment of the initial registration fee in Subsection **H(1)** above or no later than 10 days after being notified by a Code Enforcement Officer that the owner has failed to meet a required benchmark, whichever date is earlier, and on each anniversary thereafter until the building is demolished or rehabilitated.

(4) If the owner of a vacant building fails to register and pay the fees in a timely manner, then the owner will be subject to the penalty set forth in the fee schedule adopted by the Village Board.

(5) All delinquent fees will be paid by the owner prior to any transfer of an ownership interest in any vacant building. The owner will give a purchaser written notice that the building in question is a vacant building under this section.

(6) The vacant building registration fees and annual vacant building fees as set forth in the fee schedule or by separate resolution are to be delivered, by mail or in person, to the Village Clerk's Office, 4295 S Buffalo St Orchard park, New York 14127. A processing fee will be charged for each check returned by the bank due to insufficient funds or other reason. A replacement payment must be made in cash, money order, or bank or certified check and must include the processing fee and any applicable late charges. Invoices and any additional fees that remain unpaid will be added to the property owner's tax bill and will include an additional fee.

I. The Code Enforcement Officer will include in the file any property-specific written statements from community organizations, other interested parties or citizens regarding the history, problems, status or blighting influence of a vacant building.

§ 196-5 **Maintenance.**

A. The owner of a vacant building will take such steps and perform such acts as may be required of him or her from time to time to ensure that the building and its grounds remain safe and secure and do not present a hazard to any 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 or floor area that is vacant or about to become vacant, there will be at least one access which meets the approval of the Code Enforcement Officer.

B. The owner will protect and maintain the exterior of the building as follows:

- (1)** Exterior walls, including foundations, will be maintained so 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 weathertight.
- (3)** Exterior stairs, porches, entrance platforms, fire escapes and the railings thereon shall be maintained in good repair and a safe and sound condition.
- (4)** Roofs shall be maintained in a weathertight 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 coverings for windows and doors with glass 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 replacement glass, Plexiglas, boards, plywood or similar materials finished and maintained in a manner recommended and approved by the Code Enforcement Officer. The materials will be designed and of such color to blend in with the finish of the building.
- (8)** Windows that are not cracked or broken may be covered with interior blinds, curtains, shades, or decorative paper.
- (9)** The premises will be kept free of insects and vermin and will be treated if necessary.

(10) Any excavations, swimming pools, or other attractive nuisances 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 damaged first-floor windows will be replaced by glass, Plexiglas, or an approved material.

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

D. The owner will protect and maintain the interior of the building as follows:

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

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

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

E. The owner will maintain the premises as follows:

(1) The owner will not permit garbage and refuse to accumulate.

(2) Buildings and structures will be maintained free of insects, vermin and rodent harborage and infestation.

(3) Refrigerators and similar equipment with locking mechanisms will not be discarded, abandoned or stored without first removing the locking devices or the hinges of the doors.

(4) Junked vehicles will not be stored at the premises.

(5) Chimneys, smokestacks, flues, gas vents, smoke pipes and connectors will be maintained structurally safe and smoke tight.

(6) If the building is to be demolished or remain vacant, then, within 10 days of registering the building as a vacant building, all fuel gas, water, and utilities must be disconnected at the mains and water pipes drained. If the building is going to be rehabilitated, then the building must be heated to avoid freezing pipes, fuel gas pipe systems must be maintained gastight, in a safe and operative condition, and water pipes must be maintained to avoid leaks and/or breakage.

(7) Fuel tanks will be maintained so as not to be a hazard or will be discontinued in a manner consistent with Chapter C of the State Uniform Fire Prevention and Building Code (9 NYCRR).

(8) The domestic water supply system of the building will be connected to an approved source, will not be subject to contamination and will not be connected to unsafe water supplies, or the system will be disconnected at the main and completely drained.

(9) Stormwater drainage systems will be maintained so as to function properly and be kept free from obstructions, leaks and defects. Sewage systems will be similarly maintained or will be sealed so as to prevent accumulation of sewage gases in buildings.

(10) Electrical fixtures, devices, wiring and systems will be maintained in safe working condition in a manner which will avoid a potential source of ignition or shock, or service will be discontinued at the supply.

(11) Elevators, dumbwaiters and escalators will be maintained or taken out of service.

(12) The owner will provide for snow removal.

(13) The owner will maintain yards and vacant lots trimmed and mowed, with the height of grass and weeds being no more than 10 inches, and clean and free of physical hazards, rodent harborage and infestation.

F. Whenever the owner of a vacant building fails to comply with a notice from a Code Enforcement Officer to take steps and perform acts as are required of him or her to ensure that a building and its adjoining yards remain safe and secure and do not present a hazard to adjoining property in violation of Subsection **B** above, the Village may 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 will 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, or removing flammable or otherwise hazardous material and debris. A bill for the expenses incurred above will be presented to the owners of the building.

§ 196-6 **Exemptions.**

A building which has suffered fire damage or damage caused by extreme weather conditions will be exempt from the registration requirement for a period of 60 days after the date of the fire or extreme weather event if the property owner submits a request for exemption in writing to the Code Enforcement Officer. This request will include the following information supplied by the owner:

A. A description of the premises.

B. The reason for an exemption.

C. The names and addresses of the owner or owners. A post office box is not acceptable.

D. A statement of intent to repair and reoccupy the building in an expedient manner or the intent to demolish the building.

§ 196-7 **Inspections.**

By registering a vacant building, an owner consents to a Code Enforcement Officer inspecting the premises for the purpose of enforcing and assuring compliance with the provisions of this chapter. Upon the request of the Code Enforcement Officer, an owner will provide access to all interior portions of a vacant building in order to permit a complete inspection. Nothing contained herein, however, will diminish the owner's right to insist upon the procurement of a search warrant from a court of competent jurisdiction by the Code Enforcement Officer or his or her designee in order to enable such inspection, and the Code Enforcement Officer will be required to obtain a search warrant whenever an owner refuses to permit a warrantless inspection of the premises after having been advised of his or her constitutional right to refuse entry without same. In the case of an emergency, this section will not apply.

§ 196-8 **Penalties for offenses.**

Any person violating any provision of this vacant building registry or providing false information to the Code Enforcement Officer will be subject to the following fines:

- A.** Such person will be subject to a fine of \$1,000 or imprisonment not exceeding six months, or both such fine and imprisonment.
- B.** The term "person," as used in this section, will include the owner, occupant, mortgagee or vendee in possession, assignee of rents, receiver, executor, administrator, trustee, lessee, agent or any other person, firm or corporation directly or indirectly in control of the building or part thereof.
- C.** Each day of violation will be deemed to constitute a separate offense.
- D.** Fines levied will constitute civil forfeitures to the Village of Orchard Park.