

ORDINANCE NO. 5215

AN ORDINANCE AMENDING CHAPTER 18 (BUILDINGS AND BUILDING REGULATIONS), ADDING ARTICLE XV (VACANT PROPERTIES) OF THE MUNICIPAL CODE OF THE VILLAGE OF GLENVIEW

WHEREAS, the Village of Glenview (“Glenview”) is a home rule municipality in accordance with the Constitution of the State of Illinois of 1970;

WHEREAS, the Village has the authority to adopt ordinances and to promulgate rules and regulations that pertain to its government and affairs that protect the public health, safety and welfare of its citizens;

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

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;

WHEREAS, the Village has determined that structures that are indefinitely vacant or indefinitely vacant and in a state of disrepair or boarded (collectively, “vacant buildings”) 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 their neighborhoods and the Village, and have other undesirable effects;

WHEREAS, vacant buildings, and especially those which remain boarded or in a state of disrepair for more than six months, are unsightly and diminish neighboring property values and neighbors’ sense of well-being, and are a public nuisance;

WHEREAS, allowing certain buildings to remain indefinitely vacant even in the absence of Code violations or disrepair 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 effects are especially associated with such buildings which have been vacant for over two years;

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

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

WHEREAS, an ordinance providing for the declaration of certain 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 Village and its neighborhoods; and

WHEREAS, the corporate authorities have reviewed a certain proposed amendment to Chapter 18 (Buildings and Building Regulations), adding Article XV (Vacant Properties), and determined that in the interest of the public health, safety and welfare, it is appropriate to adopt such an amendment,

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village as follows:

SECTION 1: The facts and statements contained in the preamble to this Ordinance are found to be true and correct and are hereby adopted as part of this Ordinance.

SECTION 2: The Municipal Code of the Village of Glenview is hereby amended by adding to Chapter 18 (Buildings and Building Regulations), Article XV (Vacant Properties):

Sec. 18-900. Declaration of Policy.

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

- (a) Establishing a program for identification, registration, and maintenance of buildings which are or become vacant on and after the effective date of this Article.
- (b) Determining the responsibilities of the owners of record of vacant buildings.
- (c) Providing for administration, enforcement, including the abatement of public nuisances, and imposition of penalties.

This Article shall be construed to effect its purpose.

Sec. 18-901. Other Ordinances.

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

Sec. 18-902. Definitions.

Unless otherwise expressly stated or clearly indicated by context, the following terms shall, for the purpose of this Article, have the meanings indicated in this Section.

- (a) *Building*: Any structure occupied or intended for supporting or sheltering any occupancy.
- (b) *Dangerous or Unsafe building*: All buildings or structures that are found to pose a danger to the life, health, property or safety of the public by not providing minimum safeguards to protect or warn the public in the event of a fire, or because such structure

contains unsafe equipment, or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty or incomplete construction or unstable, that partial or complete collapse or systems failures are possible.

- (c) *Boarded 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.
- (d) *Director*: The Director of Development, or his or her designee.
- (e) *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 by the Village Code. This definition does not include a building that is actively for sale, lease or rent, as evidenced by a contractual agreement between the homeowner of record and a licensed real estate agent or brokerage, and performance of sufficient maintenance that the building or the property on which it sits does not become a nuisance.
- (f) *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.
- (g) *Person*: Includes a corporation, a partnership, or other entity, as well as an individual.
- (h) *Premises*: A lot, plot or parcel of land including any structure thereon.
- (i) *Vacant buildings*: Any building that has not been legally occupied for a consecutive period of six months unless one of the following is true:
 - 1. The building is the subject of an active building permit for repair or rehabilitation and the owner is progressing diligently to complete the repair or rehabilitation.
 - 2. The building meets all codes, is not in a state of disrepair or deterioration, is ready for occupancy, and is actively being offered for sale, lease or rent: or is actively being maintained and monitored by the owner.

Sec. 18-903. "Vacant Building" Determination.

- (a) Within sixty days after the effective date of this Article, the Director shall evaluate all buildings in the Village believed to be unoccupied on 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 18-902. The Director may determine that a building which

meets any of the criteria set forth in Section 18-902 is not to be regulated under this Article for a stated period, if upon consideration of reliable, substantiated and sufficient evidence, the Director determines that regulation of the building under this Article would not serve the public health, welfare, and safety and makes written findings in support of this decision. The determination shall be in writing and shall state the factual basis for the determination.

- (b) For buildings the Director determines to be “vacant buildings”, the Director shall, within seven days of making that determination, send notice of this written determination with the factual findings to the last taxpayer of record 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.
- (c) The notice shall specify a date and time on which the owner may voluntarily allow for a code compliance inspection of the interior of the vacant building and surrounding yards and property to determine the extent of compliance with Village property, building, health, fire, and plumbing codes.
 - 1. For residential buildings, if a voluntary code compliance inspection is scheduled by the owner and a plan to maintain the structure, yards and property is submitted by the owner to, and approved by, the Village no costs for the code compliance inspection will be assessed by the Village.
 - 2. For all commercial buildings and residential buildings, if a voluntary code compliance inspection is not scheduled by the owner all Village costs and fees associated to all actions to gain entry to the structure, yards and property will be the responsibility of the owner. Unpaid costs and fees shall be recaptured by a lien upon the premises.
- (d) The notice shall contain a statement of the obligations of the owner of a building determined to be vacant, a copy of the registration form the owner is required to file pursuant to Section 18-905, and a notice of the owner’s right to appeal the Director’s determination.

Sec. 18-904. Appeal of Director’s Determination of “Vacant Building”.

- (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 building as required by Section 18-905. 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 had the evidence been known to the Director at the time the Director made the determination, the Director would more likely than not have determined that the subject building was not a "vacant building" within the meaning of this Article.
- (c) The Village Manager shall send written notice of a 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 non-applicability 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.

Sec. 18-905. 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 18-905 within fifteen (15) days after either the date of Director's notice of determination or occurrence of the facts that would cause a reasonable person to believe that the building was a "vacant building", or denial of the appeal, whichever is applicable. Registration does not exonerate the owner from compliance with all applicable Codes and ordinances, including this Chapter, nor does it preclude any of the actions the Village is authorized to take pursuant to this Chapter or elsewhere in the Village Code.

- (a) (1) Register the building with the Director of Inspectional Services, on a form provided by the Director and pays the \$200.00 annual non-prorated vacant building registration fee. 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.

(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 \$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.

- (b) 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;

The owner shall allow for a Code Compliance inspection of the interior of the vacant building and shall be subject to Village costs and fees outlined in section 18-903(c) within thirty (30) days of the inspection. Such inspection will determine the extent of compliance with all applicable Village property, building, electrical, plumbing, fire and similar codes.

- (c) 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: \$500,000 for a vacant residential building of one to three units; \$750,000 for a vacant residential building of four to eleven units; \$1,000,000 for a vacant residential building of twelve to forty-eight units; \$2,000,000 for a vacant residential building of more than forty-eight units; and \$2,000,000 for a vacant manufacturing, industrial, storage, or nonresidential commercial building.
- (d) 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 Section, the Director may determine the plan. The plan shall contain the following as a minimum:
- (1) A plan of action to repair any doors, windows, or other openings which are boarded up or otherwise secured 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. 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.
- (2) For buildings and premises thereof that the Director determines as being or containing public nuisances, as defined in Section 18-902, then the vacant building 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 Director.
 - (4) When the owner proposes to demolish the vacant building, then the owner shall submit a plan and time schedule for such demolition.
 - (5) A plan of action to maintain the building and premises thereof in conformance with this Article.
 - (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) of commencement and completion of all action required to achieve habitability. No plan which provides for compliance with this Article or, which will not, as determined by the Director, achieve such compliance, within six (6) 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.
 - (7) 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.
 - (8) Exterior lighting according to standards established by the Director.
- (e) On written notice of the Director, provide bonded, licensed, and insured security guard service at the building between the hours of 3:00 p.m. and 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 boarding and securing the building are insufficient to prevent the actual or threatened harm.
 - (f) Affixed to any building which is boarded, no smaller than 2' x 2' and compliant with the Village's Sign Ordinance, Chapter 98, Article VII of the Village Code, and providing the following information: the name, address, and telephone number of the owner, and in addition, for buildings that 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.

Sec. 18-906. Approval of Plan.

- (a) 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 the Director's 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.

Sec. 18-907. Authority to Modify Plan, Right of 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 that the Director deems necessary to protect the public health, safety, or welfare.

Sec. 18-908. 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 limited to, an action to compel correction of property maintenance violations.

Sec. 18-909. 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.

Sec. 18-910. Certification.

A Certificate of Code Compliance for Vacant Buildings issued by the Department of Inspectional Services, and payment in full of all fines and fees imposed pursuant to this Article are required prior to any occupancy of a vacant building.

Sec. 18-911. Time Restrictions – Vacant Buildings.

It is the policy of the Village of Glenview 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 six (6) months unless an extension of that time is part of a plan approved by the Director.

A vacant building which is unboarded and Code-compliant and for which boarding is determined by the Director on the basis of police reports, citizen complaints, and other information of other type considered reliable by reasonable persons, to not require boarding to prevent unauthorized

entry may not remain vacant for more than two (2) years without an approved plan for occupancy, sale, demolition, or other disposition of the building.

Sec. 18-912. Enforcement and Penalties.

- (a) Any person found to have violated any provision of this Article shall be subject to a fine as set out in Section 1-16 of the Village Code, 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. Any expenses incurred by the Village as enumerated above shall be assessed against the building, and shall serve as a lien on the property.
- (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 a system of Administrative Adjudication or through the Circuit Court of Cook County.
- (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.
- (e) Unless a bona fide emergency, as determined in the sole discretion of the Director, neither the Village nor a contractor engaged on its behalf, shall not enter upon private property to perform maintenance or otherwise alter the property without first obtaining the written permission of the property's owner or an order from a court of competent jurisdiction.

Sec. 18-913. Severability.

In the event any Section of this Article or any part of any Section of this Article is declared to be unconstitutional, such decision shall in no way affect the operation of any other Section or part thereof, and the remained of this Section shall remain in full force and effect.

SECTION 3: Every provision of this Ordinance shall be separable, and the invalidity of any portion of this Ordinance shall not affect the validity of any other portion of this Ordinance. All ordinances or parts of ordinances in conflict or inconsistent with any of the provisions of this Ordinance are hereby repealed.

SECTION 4: This ordinance shall be in full force and effect from and after its passage and approval according to law.

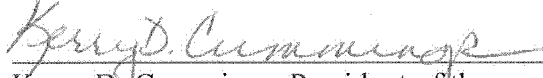
PASSED this 19th day of May, 2009.

AYES: Britton Cuisinier Detlefs Karton Patterson White

NAYS: None

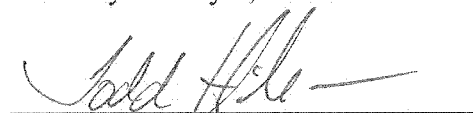
ABSENT: None

APPROVED by me this 19th day of May, 2009.



Kerry D. Cummings, President of the
Village, Cook County, Illinois

ATTESTED and FILED in my office the
19th day of May 5, 2009.



Todd Hileman, Village Clerk of the
Village, Cook County, Illinois