

**STATE OF MICHIGAN
COUNTY OF WAYNE
CITY OF ALLEN PARK**

VACANT PROPERTY REGISTRATION AND MAINTENANCE ORDINANCE

ORDINANCE #02-2011

AN ORDINANCE OF THE CITY OF ALLEN PARK CODE OF ORDINANCES; PROVIDING FOR PURPOSE; PROVIDING FOR THE DEFINITION OF TERMS; PROVIDING FOR SCOPE; PROVIDING FOR EVIDENCE OF VACANT PROPERTY; PROVIDING FOR REGISTRATION OF VACANT PROPERTY; PROVIDING FOR OWNER'S REGISTRATION FORM CONTENT; PROVIDING FOR REGISTRATION FEE; PROVIDING FOR REQUIREMENT TO KEEP INFORMATION CURRENT; PROVIDING FOR MAINTENANCE AND INSPECTION; PROVIDING FOR SECURITY REQUIREMENTS; PROVIDING FOR MONITORING PROPERTY AND FEE; PROVIDING FOR OPEN PROPERTY AND SECURING FEE; PROVIDING FOR FIRE DAMAGED PROPERTY; PROVIDING FOR UNPAID FEES AND ASSESSMENT; PROVIDING FOR CRIMINAL PENALTIES; PROVIDING FOR REPEAL OR SEVERABILITY; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE.

THE CITY OF ALLEN PARK ORDAINS:

SECTION 1. AMENDMENT TO CODE.

Article VIII sections 10-349 through 10-354 shall be deleted and replaced with the following sections 10-349 through 10-366:

Sec. 10-349. Purpose.

The purpose of this Article VIII is to help protect the health, safety and welfare of the citizens by preventing blight, protecting property values and neighborhood integrity, avoiding the creation and maintenance of nuisances and ensuring the safe and sanitary maintenance of dwellings, commercial and industrial buildings. Due to economic conditions, mortgage foreclosures, and increased bankruptcies, many homes and buildings have become vacant and unsupervised. This has caused or may in the future cause properties to become attractive nuisances for minors and/or criminal activity. Vacant properties have a negative impact on surrounding properties and neighborhoods. Potential buyers are or may be deferred by the presence of nearby vacant abandoned buildings. There is or may be an increased instance of unsecured or open doors and windows, broken water pipes, flooded basements, theft of metals and other materials, overgrowth of grass, weeds, shrubs, and bushes, illegal dumping, and rat and vermin activity at vacant structures. Such neglect devalues properties and causes deterioration in neighborhoods and industrial and commercial areas. The City also needs to be able to contact owners for utility shutoff, fire safety and police reasons.

Sec. 10-350. Definitions.

- a. "Certificate of Occupancy" is defined as provided under the Construction Code.
- b. "Construction Code" is defined as the State of Michigan Construction Code Act, Public Act No. 230 (MCL 125.1501 et seq.), adopted under Section 18-33 of this Code of Ordinances.
- c. "Harborage" is defined as a shelter, harbor.
- d. "Owner" is defined as one who has the right to possess, use, and convey something, i.e. the owner, occupant or successor to title by foreclosure, sheriff's sale or by court order.
- e. "Property Maintenance Code" is defined as the International Property Maintenance Code adopted under Section 18-261 of this Code of Ordinances.
- f. "Rodent" is defined as any of an order (Rodentia) of relatively small gnawing mammals (as a mouse, a rat, a squirrel or a beaver) that have in the upper jaw a single pair of incisors with a chisel-shaped edge; also: a small mammal (as a rabbit or a shrew).
- e. "Vacant property" is defined as a lot, building, or structure that is not legally or currently occupied. Vacant property does not mean property that is temporarily unoccupied while the residents are away on vacation, personal matters or business, or is not intended by the owner to be left vacant.

Sec. 10-351. Scope.

The provisions of this ordinance shall apply to all existing residential, commercial and industrial properties and structures in the City of Allen Park, regardless of condition, including all vacant land in the City of Allen Park.

Sec. 10-352. Evidence of vacant property.

Evidence of vacancy shall include any condition that on its own, or combined with other conditions present, would lead a reasonable person to believe that the property is vacant. Such conditions include, but are not limited to: overgrown and/or dead vegetation; accumulation of newspapers, circulars, flyers and/or mail; past due utility notices and/or disconnected utilities; accumulation of trash, junk and/or debris; boarded up windows; abandoned vehicles, auto parts or materials; continually drawn window coverings such as curtains, blinds and/or shutters; the absence of furnishings and/or personal items consistent with habitation or occupancy; statements by neighbors, passersby, delivery agents or utility agents, including Department of Public Service and/or Police/Fire Department employees, that the property is vacant property.

Sec. 10-353. Registry of vacant properties.

There is hereby created in the City Building Department a registry of vacant properties.

Sec. 10-354. Vacant properties to be registered.

Owners of real property are required to register all vacant properties within fifteen (15) days of the property becoming vacant property with the City Building Department. Structures that are vacant property at the time of the adoption of this ordinance must register within fifteen (15) days of the date this ordinance takes effect.

Sec. 10-355. Owner's registration form; content.

Owners who are required to register their properties under this division shall submit a completed Vacant Property Registration Form, as provided by the City Building Department, containing the following information:

- a. The name of the owner of the property.
- b. Common address and tax parcel identification number of the property.
- c. The date on which the property became vacant.
- d. Affirmation of utility connections or disconnections.
- e. Affirmation of agreement to abide by property maintenance requirements of Section 18-358 of this division.
- f. A mailing address where mail may be sent that will be acknowledged as received by the owner. If certified mail/return receipt requested is sent to the address and the mail is returned marked "refused" or "unclaimed," or if ordinary mail sent to the address is returned for whatever reason, then such occurrence shall be prima facie proof that the owner has failed to comply with this requirement.
- g. The name of an individual responsible for the care and control of the property. Such individual may be the owner, if the owner is an individual, or may be some person or organization other than the owner with whom the owner has contracted.
- h. A current address, phone number, fax, and email address (if fax and email addresses are available) where communications may be sent that will be acknowledged as received by the owner or an individual responsible for the care and control of the property. If certified mail/return receipt requested is sent to the address and the mail is returned marked "refused" or "unclaimed," or if ordinary mail sent to the address is returned for whatever reason, then such occurrence shall be prima facie proof that the owner has failed to comply with this requirement.

Sec. 10-356. Registration fee.

The registration fee shall be set by the City Council by resolution from time to time, to offset the cost of processing the form and administering compliance with this division. In addition, in the case where the owner has failed to register, there shall be assessed any added cost incurred by the City in having to determine ownership, which may include, but is not limited to title search.

Sec. 10-357. Requirement to keep information current.

If at any time the information contained in the registration form is no longer valid, the property owner shall within ten (10) days file a new registration form containing current information. There shall be no fee to update the current owner's information.

Sec. 10-358. Public nuisance declared; Maintenance and security requirements.

(a) It is declared a public nuisance for any owner to cause, permit, or maintain any property condition contrary to the provisions of this section. The owner or individual responsible for the care and control of the property must adhere to the vacant property maintenance requirements as contained in this section. The owner or individual responsible for the care and control of the property shall perform regular weekly inspections of the property to assure compliance with the requirements of this section, and shall allow access to the property by the engineering department or the building department for the purpose of inspection and in case of emergency.

(b) Vacant property shall be kept free of the following:

- (1) weeds or grass more than six (6) inches high (or in compliance with Section 106-32 of this Code of Ordinances),
- (2) vegetation growth between sidewalk and/or driveway flags or from cracks in the pavement,
- (3) dry brush, dead vegetation, trash, junk, debris, building materials, rodent harborage, accumulated snow on sidewalks and driveways,
- (4) any accumulation of newspapers, circulars, flyers, and notices (except those required by federal, state or local law),
- (5) discarded items including, but not limited to, furniture, clothing, large and small appliances, printed material, signage, containers, equipment, construction materials, and
- (6) any illegal outside storage of vehicles.

(c) Vacant property shall comply with the minimum security fencing, barrier and maintenance requirements of the Construction Code and the Property Maintenance Code.

(d) Vacant property shall be maintained free of graffiti, tagging or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior structure.

(e) Vacant property shall be landscaped and properly maintained. Landscaping includes, but is not limited to, grass, ground covers, bushes, shrubs, hedges or similar plantings, decorative rock or bark designed and maintained in an appropriate manner. Landscaping does not include weeds, gravel, broken concrete, asphalt, decomposed materials, plastic sheeting, indoor-outdoor carpet, or any similar material. Maintenance includes, but is not limited to, regular watering, irrigation, cutting, pruning and mowing of landscaping and removal of all trimmings.

(f) Pools, spas, and other water features located on vacant property shall be kept in working order or winterized to ensure that the water remains clear and free of pollutants and debris, or drained and kept dry and free of debris, and must comply with the minimum security fencing, barrier and maintenance requirements of the Construction Code and the International Property Maintenance Code.

(g) Vacant property shall be maintained in a secure manner so as not to be accessible to unauthorized persons. Secure manner includes, but is not limited to, the closure and locking of windows, doors (walk-through, sliding and garage), gates and any other opening of such size that it may allow a child to access the interior of the property and/or structure(s). Broken windows must be repaired or replaced within fourteen (14) days. Boarding up of open or broken windows is prohibited except as a temporary measure for no longer than fourteen (14) days.

(h) Utilities at vacant property must be properly disconnected or if remained connected, maintained in proper working order.

(i) Building appurtenances at vacant property must be securely attached so as not to cause a blighting condition, including, but not limited to, gutters, downspouts, shutters, railings, guards, steps, awnings, canopies, signs, light fixtures, and fire-escapes.

(j) Detached signs and lighting systems at vacant property shall be structurally sound, and maintained so as not to cause a blighting condition.

(k) Vacant property fencing and retaining walls shall be maintained structurally sound. Any fence or wall with broken or hanging components shall be repaired, straightened, or removed.

(l) Perishables shall be removed from the interior of the structures located on vacant property.

Sec. 10-359. Monitoring of property; fee; additional authority; payment before inspections.

(1) The City shall inspect and monitor the condition of any property required to be registered under this division under the supervision of the City Administrator, including building, water, fire, police/public safety, and any other inspections deemed necessary by the City Administrator. Monthly inspection and monitoring fees as set by resolution of the City Council from time to time shall be assessed against the property/owner to offset costs incurred by the City, including without limitation those associated with responding to telephone calls, complaints, inquiries, site visits, owner contacts, and/or the inspecting and monitoring of the site.

(2) The City Administrator or his or her designee shall have the authority to require the owner to implement additional maintenance, security, or other measures not specified in Section 18-358, as may be reasonably required to prevent further decline or blight of vacant property. The City hereby authorizes the City Administrator, to adopt such reasonable rules and regulations as may be necessary to carry out the purpose and intent of this division.

(3) There shall be no consideration or action taken by any City official, employee, or department on any request for any permit or inspection, including inspections for the purpose of acquiring a certificate of occupancy, with regard to property that is delinquent in registration, payment of the registration fee, and/or payment of the applicable monitoring fees due under this Article VIII, until such delinquent fees and applicable fines and costs, if any, are paid in full.

Sec. 10-360. Open property; securing fee.

Vacant property that is left open and/or accessible shall be subject to entry by the City in order to ensure that the property has not become an attractive nuisance and to ensure that the property is locked and/or secured. The owner of vacant property subject to this ordinance, which property is found open or unsecured, shall be responsible for a securing fee as set by the City Council to offset the cost incurred by the City in contacting the owner or management company to secure the property, or if the owner and/or management company cannot be contacted or does not secure the property within a reasonable time – not to exceed twenty-four (24) hours, the cost incurred by the City in securing the property.

Sec. 10-361. Fire damaged property.

If a building regulated hereunder is damaged by fire, the owner has ninety (90) days from the date of the fire to apply for a permit to start construction or demolition. Failure to do so will result in the property being deemed vacant property and subject to the requirements of this division.

Sec. 10-362. Eviction of Personal Property.

When an eviction by court order occurs, the owner shall place on the private area of the owner's property only, and not on any public area adjacent to the owner's property, a movable container of sufficient size and type, which will allow access from its side for disposal of the personal property. Any personal property not relocated from the premises shall be placed and disposed of only in the movable container. The movable container shall be removed from the owner's property within 48 hours of its placement.

Sec. 10-363. Unpaid fees; assessment.

All fees hereunder that remain unpaid after fourteen (14) days written notice to the owner/management company shall be assessed against the property as a lien and included on the tax roll.

Sec. 10-364. Criminal penalties; civil infraction.

(a) Except as otherwise provided, a violation of this division shall be a misdemeanor and a strict liability offense regardless of intent. Any person, firm and/or corporation that violates any portion of this division shall be subject to prosecution and penalty under Sections 66-3 and 1-8, of the City Code. Registration of property under this division is in addition to, and not in lieu of, the requirements of MCL 125.539(i), which allows for demolition of vacant structures, or nuisance abatement by the City.

(b) Failure to file the required registration form, or failure to maintain the registration form containing current information shall be a civil infraction and subject to a \$100 fine. Each day that a registration form is not on file and each day that an owner and/or owner's agent fails to maintain current information in a registration form shall be considered a separate offense.

(c) Failure to comply with the requirements of Section 18-384 shall be a civil infraction and subject to a \$100 fine. Each day that a registration form is not on file and each day that an owner and/or owner's agent fails to maintain current information in a registration form shall be considered a separate offense.

(d) Failure to make required repairs, or a second offense of any other requirement herein, shall be a misdemeanor subject to prosecution and penalties under Sections 66-3 and 1-8, of the City Code.

Sec. 10-365. - Buildings under construction.

A building or structure under construction that meets all of the following conditions shall not be considered a vacant building:

- (1) There is a current valid building permit on file with the city;
- (2) There is significant and continuous progress being made toward completion of the building and/or project;
- (3) The contractor, owner or tenant secures the property and takes all other necessary safety precautions;
- (4) The contractor, owner or tenant takes all reasonable measures to maintain the exterior of the property in compliance with all property maintenance codes to the extent feasible; and
- (5) Otherwise complies with this chapter and all applicable laws, ordinances, and regulations.

Sec. 10-366. - Referral to dangerous buildings commission.

(a) If in any one six-month period that the building is vacant, the city receives and verifies three legitimate complaints concerning the owner's or tenant's failure to maintain the property pursuant to city codes, including, but not limited to, the property maintenance code, the property shall be referred to the dangerous buildings commission.

(b) Any referral action under this section shall not stay or prohibit any other enforcement action or procedures, remedies or other legal process available to the city for violations of city ordinances, codes and regulations.

SECTION 2. REPEAL.

All Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

SECTION 3. SAVING CLAUSE.

Nothing in this Ordinance shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed pursuant to this ordinance, nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

SECTION 4. SEVERABILITY.

The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

SECTION 5. PUBLICATION.

The Clerk for the City of Allen Park shall cause this ordinance to be published in the manner required by law.

SECTION 6. ADOPTION.

This Ordinance is hereby declared to have been adopted by the City Council of the City of Allen Park, County of Wayne, State of Michigan, at a regular meeting, called and held on the **14th** day of June, 2011.

Felice “Tony” Lalli, Mayor
City of Allen Park

Michael I. Mizzi, City Clerk
City of Allen Park