

City of Falcon Heights Planning Commission

City Hall
2077 Larpenteur Avenue West

Tuesday, September 24, 2019
7:00 p.m.

A G E N D A

A. CALL TO ORDER: 7:00 p.m.

B. ROLL CALL: John Larkin _____ Tom Williams _____
 Colin Stemper _____ Matthew Kotelnicki _____
 Scott Wilson _____ Joel Gerich _____
 VACANT
 Council Liaison Harris _____ Staff Liaison Markon _____

C. APPROVAL OF MINUTES - July 23, 2019

D. AGENDA

E. INFORMATION AND ANNOUNCEMENTS

1. Vacancy on Planning Commission

F. ADJOURN

G. WORKSHOP

1. Native landscaping (pg. 6)
2. Vacant building ordinance (pg. 12)
3. Tatum Street vacant parcel (pg. 70)

Next meeting: October 22, 2019

If you have a disability and need accommodation in order to attend this meeting, please notify City Hall 48 hours in advance between the hours of 8:00 a.m. and 4:30 p.m. at 651-792-7600. We will be happy to help.

**City of Falcon Heights
City Hall
2077 Larpenteur Avenue West**

**Minutes
Planning Commission Meeting
Tuesday, July 23, 2019
7:00 PM**

A. CALL TO ORDER: The meeting was called to order by Vice Chair Colin Stemper at 7:00 PM.

B. ROLL CALL:

Present: Stemper, Williams, Gerich, Wilson

Absent: Larkin, Kotelnicki, Samatar, Council Harris

Present Staff Liaison: Markon

C. APPROVAL OF MINUTES: May 28, 2019

The minutes were approved as presented by unanimous consent.

D. AGENDA

1. Hold a Public Hearing to consider variance request for property at 1800 Albert Street

Mr. Todd Thun and Ms. Marsha Keppel have completed an application for a variance request at their property, located at 1800 Albert Street. They are planning to tear down and rebuild the existing detached garage. They are requesting a variance from the required corner side yard setback. The property is located at the corner of Albert Street and Garden Avenue, and the garage faces and is accessed off Garden Avenue, the corner side yard. The lot is approximately 69' by 296'.

Vice Chair Stemper invited Staff Markon to introduce the planned project. Markon stated that in the opinion of the Staff, a sidewalk may need to be added in the future. To add a new garage to the present location, or to build it in the Owner's proposed location, would certainly block the sidewalk if a vehicle were parked outside of the garage. This could be avoided using the current setback of 15 feet. Also, in the Staff's opinion, there is plenty of room on the site to build the garage in another location, other than the current location on the site, complying with the current code. For these reasons (and others), the Owners' plans do not meet with Staff's approval and should be denied by the Commission. (see Request For Planning Commission Action, Sec. 113.62 – Variances document, and Land Use Variances document for details).

Vice Chair Stemper opened the public meeting, and invited the home owner, Todd Thun, to the podium to describe the project. Todd Thun described the project and the reasons for the variance request. Todd Thunn said that in his option there do exist "practical difficulties" in complying with the current code, and that all criteria (in particular Reasonable Use and Unique Circumstance) for Land

Use Variances had been met by their written Thun / Keppel Variance Request document. (see Owners' letter and Attachments).

Vice Chair Stemper invited others in attendance for questions and/or comments. Vice Chair Stemper asked if there were any questions. Gerich, Wilson, Stemper and Staff Markon discussed various options and asked questions of the home owner Todd Thunn, about how to avoid the variance. These topics included:

- Rebuilding the garage as is (as a 2 car garage) on the current footprint location
- Building a 3 car garage on a different location on the site, in some cases requiring the removal of trees and the addition of sidewalks
- A neighbor that rebuilt a garage (5 cars) and complied with the current 15 foot setback, and others that have garages that still retain the 5 foot setback
- The possibility of putting in a sidewalk one day on the school side of the street if a variance were granted, to avoid blocking the sidewalk
- All agree that the whole concern is about the location of the garage (15 setback) not the size of the garage
- Cutting down mature trees, cost of concrete, removing a power pole and shoveling snow on a large area of concrete to get to the garage, are concerns
- Loss of privacy and views of trees and yards if the garage were moved to the 15 setback
- Keeping cars in the garage to avoid snow plows from having to go around cars parked in the short driveway

Neighbors / public members in attendance were invited for questions and/or comments.

A neighbor / public member to the west spoke. He said Todd Thun described his situation reasonably and in a common sense way. A sidewalk would likely be located on the school side. He has no problem with the variance. It would be the practical thing to do.

An Albert Street neighbor / public member said that Todd Thun did an excellent job explaining his situation and he thinks all the neighbors are in favor of it. Getting the cars off the street would be helpful for parents dropping off their kids at school. He does not think putting a 3-car garage in the middle of the lot is a good idea, especially as the neighborhood ages and a future owner would struggle shoveling a path to the garage or carrying groceries between the garage and house. Todd is dead-on with the right decision, a win-win. He says the Commission should allow the variance

A neighbor / public member said that he strongly supports the request on its merits, but would also add that Todd and Marsha have had a deep commitment to the neighborhood and believe that they have the interest and welfare of the neighborhood and community in mind when requesting this variance.

A neighbor / public member said that he thought Todd gave an excellent presentation and has consideration for the welfare of the community. He has

planned the variance in such a way to allow for future plans and changes. There would be more room on the street and the location of the garage would be viable for the Owner and the City. He said he has no objection what-so-ever for implementing this plan.

Vice Chair Stemper asked neighbors / public members in attendance, for the third time, for further public questions or comments. Hearing none, he closed the public portion of the meeting. Vice Chair Stemper then asked for any further discussion on the proposed zoning from the commission members.

Gerich asked if the role of the Planning Commission (City) is limited to applying the legal standard of practical difficulties to the facts and if the 2011 law is in effect? The answer was yes. In light of that, Gerich said that in his mind it is reasonable that the garage could be placed at another location on the property that would comply with the current zoning.

Vice Chair Stemper asked if approved or denied, does the resolution then move to the City Council? Staff Markon responded that the next step would be for the Planning Commission to vote on a recommendation and send it to the City Council for their review at the August 14th meeting. Staff Markon said that whatever the vote by the Planning Commission is, the Findings of Fact and Recommendation document should be changed to reflect the decision of the Commission.

Wilson commented that with the question of reasonableness of moving the garage back three feet and being rebuilt, or staying where it is as a two-car garage, he believes that Todd Thun did a really good job of laying everything out and making it crystal clear. Wilson doesn't think that it is reasonable to say no to having the garage built where it is now, which is closer to where Todd Thun wants it to be, or just moving it back three feet.

Vice Chair Stemper says he is thinking along the same lines as Wilson, because either the garage stays the way it is or marginally improves the situation by moving it. He says he thinks it is still an improvement to move the garage back three feet, even though it does not comply with the current code.

Williams asked if there would be a precedence set by allowing the variance. The answer from Staff Markon was no, each situation or variance request, is handled separately. Wilson says he has the same concern that a precedence would be set with an approval of the variance.

Vice Chair Stemper asked for any other comments by commissioners.

Commissioner Wilson motioned: **To approve the variance request.**

Vice Chair Stemper seconded.

The motion was approved by a vote of 3 to 1, with Gerich voting no.

Staff Markon recommended that the Finding of Fact document be changed so that it reflects the change when reviewed by the City Council.

After a short discussion, the Finding of Fact document was changed as follows:

Finding of Fact document, Page 42 of the packet, Point (3) - **The Planning Commission finds that the granting of this variance does meet all three criteria for practical difficulties as described in the Minnesota Statutes.**

Finding of Fact document, Page 42 of the packet, Point (5) - **The Planning Commission finds that the variance does meet the criteria for practical difficulties.**

E. INFORMATION AND ANNOUNCEMENTS

1. Discuss cancelling August 27, 2019 meeting.

After a brief discussion, it was decided unanimously to cancel the August 27, 2019 Planning Commission meeting due to the activities of the State Fair.

Staff Markon also stated that Commissioner Samatar has submitted her resignation due to conflicting responsibilities. There will be a vacancy on the Planning Commission as well as the Environment and Parks Commissions. Staff Markon asked that each remaining Commissioner be alert to someone that may be added in her place.

F. ADJOURN

Adjourned at 7:55 PM.



The City That Soars!

REQUEST FOR PLANNING COMMISSION ACTION

Meeting Date	September 24, 2019
Agenda Item	G1
Attachment(s)	Proposed code changes
Submitted By	Justin Markon, Community Development Coordinator

Item	Discuss possible native landscaping ordinance
Description	<p>The Environment Commission has explored an update to the city's landscape ordinance. Currently, landscaping in the zoning code is brief and vague. In the blight section of the code, any grass over six inches should be cut down, which the city does enforce. In reality, many properties have existing violations of the current code for simple gardens. The Environment Commission's proposal seeks to clear up the definitions and allowable landscape uses while also promoting the policies and goals set in the 2040 Comprehensive Plan. A summary of the Comp Plan language is below. Attached is the ordinance change being worked on by a subcommittee of the Environment Commission as well as existing city code related to landscaping.</p> <p>2040 Comprehensive Plan remarks on landscaping</p> <p>Housing Goals</p> <p>4. Promote the following practices:</p> <p style="padding-left: 40px;">f. Reduce irrigation and water usage for turf grass</p> <p>Housing Policies</p> <p>2. Develop an ordinance to allow alternative turf grass/ground covers.</p> <p>General Land Use Policies</p> <p>13. Encourage landscaping practices that reduce water consumption and minimize runoff.</p>
Budget Impact	No impact
Attachment(s)	<ul style="list-style-type: none"> • Proposed changes to landscaping code
Action(s) Requested	Staff request discussion on the proposed changes and direction on moving forward.

Proposed FH code:

Sec. 113-373. – Landscaping and Maintenance of Vegetation

Subd 1. Purpose and application. It is the purpose of this section to prohibit the uncontrolled growth of vegetation, while permitting the planting and maintenance of landscaping which promotes resiliency, diversity and a richness to the quality of life. There are reasonable expectations regarding the proper maintenance of vegetation on any lot or parcel of land. It is in the public's interests to provide standards regarding the maintenance of vegetation because vegetation which is not maintained may threaten public health, safety and order, and may decrease adjacent property values. It is also in the public's interests to encourage diverse landscaping, particularly that which restores native vegetation which requires less pesticides, moisture, and places a lower demand on the public's water resources. The city enacts this article to balance these competing interests.

Subd 2. Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Native plants are those grasses (including prairie grasses), sedges (solid, triangular-stemmed plants resembling grasses), forbs (flowering broadleaf plants), trees and shrubs that are plant species native to or naturalized to the state of Minnesota, excluding prohibited exotic species, as defined by Minnesota Statutes Chapter 84D. Native plants do not include weeds.

Ornamental plants means grasses, flowering perennial and annual plants, shrubs and groundcovers that may not be indigenous to Minnesota, but are adaptable. Ornamental grasses do not include turfgrasses.

Turf grass means commercially available cultured turf grass varieties, including bluegrass, fescue and ryegrass blends, commonly used in regularly cut lawn areas.

Planned landscape area means an area where ornamental plants, groundcovers or native plants are planted pursuant to a plan.

Rain garden means a shallow excavated depression with loosened sub-soils in which ornamental plants or native grasses and forbs that are adapted to moist conditions and have deep roots are planted for the purpose of infiltrating and filtering rain water and reducing storm water runoff.

Restoration area means an area where native grasses and forbs are being, or have been, intentionally re-established

Weeds are (i) noxious weeds as defined and designated pursuant to the "Minnesota noxious weed law", Minnesota Statutes, Sections 18.76-18.88, as amended from time to time, or (ii) any volunteer plant, except trees and other woody vegetation, which is not

Commented [NO1]: Current city code splits landscaping and maintenance into different sections. It is recommended that a comprehensive section be dedicated to allowed landscaping/vegetation and expectation of maintenance.

Commented [NO2]: Added Resiliency to coincide with goals of City/comp plan. There may be room to expand here.

Commented [NO3]: Article?

Commented [NO4]: Adapted from Edina Landscape code. Removed "garden treatments" as a term

Commented [NO5]: Eden Prairie

Commented [NO6]: Eagan

Commented [NO7]: Eden Prairie

Commented [NO8]: Modified from Edina. Operative definition for section. Revise with group. Add turfgrasses into list?

Commented [NO9]: Eagan. Placeholder for future allowance of "rain gardens". Other terms like bioretention or biofiltration may have more operative definitions, used by MPCA/watershed districts.

Commented [NO10]: Edina. Operative definition for section. Revise with group

Commented [NO11]: Hybrid of EP and Edina definition.

customarily or intentionally planted. For the purposes of this definition, weeds do not include dandelions or clover.

Subd 3. Location of restoration areas and planned landscape areas.

(a) **Setback.** A restoration area or a planned landscape area must provide the following minimum setbacks:

(1) Front street or side street (as measured from the traveled portion of the street): 15 feet, and a minimum of 2 feet from publicly maintained pavement or sidewalk

(2) Side yard or rear yard: five feet;

provided, however, for the exception in the required side yard or rear yard setback, as shown in subsection (b) of this Subd 3.

(b) Mitigations for reductions in side or rear yard setback. A required side yard or rear yard setback may be reduced to zero feet if:

(1) A fully opaque fence at least five feet in height is installed on the lot line adjoining the restoration area or planned landscape area;

(2) The restoration area or planned landscape area abuts:

- a. A restoration area on any adjoining lot;
- b. A public park or open space;
- c. A vacant lot;
- d. A wetland, pond, lake or stream;
- e. Natural area; or

(3) The restoration area or planned landscape area is located on slopes equal to, or greater than, three feet horizontal to one foot vertical (3:1).

(c) **Composition of setback area.** The setback area required by subsection (a) of this section shall be composed of a soil retention cover such as pavement, rock, gravel, mulch, regularly mowed turf grasses or groundcovers maintained at less than six inches in height, trees or shrubs, or as may be required by the zoning administrator to protect the soil and aesthetic values on the lot and adjacent property. Native or ornamental plants must be maintained at ten inches or less.

Subd 4. Maintenance Standards. Every owner of property shall maintain the vegetation growing thereon according to the minimum standards set forth in this section

Commented [NO12]: Adapted from Edina code.

Commented [NO13]: More concerned about height of vegetation and their setbacks. 6" or less in setback area, 10" once a year elsewhere

Commented [NO14]: Doesn't quite fit. These terms need a height rule

Commented [NO15]: Recommend 15 feet as opposed to 20 feet in EP/Edina codes due to shorter front yards in parts of Falcon Heights. Also include minimum set back from pavement that may encroach further into a yard

Commented [NO16]: Merged with FH current requirements. Will allow natives in setbacks as long as maintained at 6" or below

Commented [NO17R16]: 10" for natives and ornamentals

- (a) Vegetation on a property, within the setback area shall not exceed a height of six inches for turfgrass or ten inches for native or ornamental plants, measured from the base at ground level to the tip of each stalk, stem, blade or leaf; or allow to go to seed.
- (b) Vegetation outside the setback area shall be cut at least once annually between April 15 and July 15 to a height no greater than 10 inches.
- (c) Weeds shall be regularly cut or controlled such that no individual plant shall go to seed or exceed, at any time, six inches in height or length, as measured from its base at the ground to the tip of each stalk, stem, blade or leaf. Noxious weeds, as defined by the state commissioner of agriculture, shall be eradicated.
- (d) Vegetation shall not obscure, block or impede visual sight lines; regulatory, warning or street identification signs; or street light illumination required to ensure the safe and efficient circulation of vehicles and pedestrians on streets, intersections, trail, pathways and sidewalks.
- (e) The City may require the owner or occupant who has planted, or has allowed to be planted, native plants or other vegetation within a drainage or utility easement or a right-of-way of a City street to remove the native plants or other vegetation from the right-of-way or drainage and utility easement at no expense to the City. The City will not be responsible for damage to turfgrass and/or any landscaped areas resulting from public works improvements or snow removal activities within rights-of-ways or drainage and utility easements.
- (f) Fallen trees, dead trees, tree limbs or items which are a fire hazard or otherwise detrimental to the health or appearance of the neighborhood shall be removed.
- (g) Owners of property abutting the right-of-way of a public street shall properly maintain the grass on the property and on the public right-of-way to the curblin e or traveled portion of the street. Proper maintenance shall include sodding, planting, mowing or weed abatement whenever necessary.

Commented [NO18]: Modified Eagan

Commented [NO19]: From Eden Prairie

Commented [NO20]: Edina

Commented [NO21]: Modified Eden Prairie

Commented [NO22]: Eden Prairie

Commented [NO23]: Modified from FH code Sec 22-19 (4)

Commented [NO24]: Current FH Code 54-39

Commented [NO25R24]:

Existing FH code:

Sec. 22-19. - Causes of blight or blighting factors.

It is hereby determined that the uses, structures and activities and causes of blight or blighting factors described herein, if allowed to exist, will tend to result in blighted and undesirable neighborhoods so as to be harmful to the public welfare, health and safety. No person shall maintain or permit to be maintained any of these causes of blight or blighting factors upon any property in the city owned, leased, rented or occupied by such person.

- (1) *Inoperable vehicles.* In any area zoned for residential purposes, the storage upon any property of inoperable vehicles is illegal. For the purpose of this section, the term

"inoperable vehicle" shall include any motor vehicle, or part of a motor vehicle, not stored in a garage, which is either:

- a. Unusable or inoperable because of lack of, or defects in, component parts;
 - b. Unusable or inoperable because of damage from collision, deterioration, or having been cannibalized;
 - c. Beyond repair and not intended for future use as a motor vehicle;
 - d. Being parked on any street or alley, for a period exceeding 48 consecutive hours; or
 - e. Without valid and current license plates issued by the proper state agency attached.
- (2) *Special permits.* The city council in its discretion, upon receipt of an application showing hardship in special circumstances may, in the instance of an inoperable vehicle, issue a special permit with appropriate conditions attached permitting an individual to keep such vehicle for a period not to exceed 60 days.
- (3) *Junk, trash, rubbish and refuse.* In any area within the city, the storage or accumulation of junk, trash, rubbish or refuse of any kind, except refuse stored in such a manner as not to create a nuisance for a period not to exceed 14 days is illegal. The term "junk" shall include, but not be limited to, parts of machinery or motor vehicles; unused stoves or other appliances stored in the open; remnants of wood; decayed, weathered or broken construction materials no longer suitable or safe; approved building materials; common household items; metal or any other material or cast off material of any kind whether or not the same could be put to any reasonable use.
- (4) *Noxious weeds, vegetation and substances.* No owner agent or occupant of any premises shall permit upon his or her premises any noxious weeds as defined in Minn. Stats. § 18.77, weeds or grass growing to a height greater than six inches or which have gone or are about to go to seed, fallen trees, dead trees, tree limbs or items which are a fire hazard or otherwise detrimental to the health or appearance of the neighborhood.
- (5) *Structures.*
- a. *Unfit structure.* In any area the existence of any structure or part of any structure that because of fire, wind or other natural disaster, or physical deterioration is no longer habitable as a dwelling, nor useful for any other purpose for which it may have been intended is illegal.
 - b. *Vacant structure.* In any area zoned for residential purposes, the existence of any vacant dwelling, garage, or other outbuilding, unless such buildings are kept securely locked, windows kept glazed or neatly boarded up and otherwise protected to prevent entrance thereto by vandals is illegal.
- (6) *Graffiti.* No owner agent or occupant of any premises shall allow or leave on the premises any graffiti, which shall mean any writing, printing, marks, signs, symbols, figures, designs, inscriptions, or other drawings which are scratched, scrawled, painted, drawn, or otherwise placed on any surface of objects such as buildings, walls, fences, sidewalks, curbs, trees, rocks, or other permanent structures or objects on public or private property or the interior surfaces of those parts of a building accessible to the general public and which have the effect of defacing the property. An owner agent may request the city to remove the graffiti by providing a waiver to the city to

Commented [NO26]: Change to 10 inches for native, mowed once

allow for the removal of graffiti on the owner agent's property. The owner agent will be billed for the cost.

(Code 1993, § 8-1.01; Ord. No. 0-98-07, 12-7-1998)

Sec. 54-39. - Care and maintenance of boulevards and adjacent property.

Owners of property abutting the right-of-way of a public street shall properly maintain the grass on the property and on the public right-of-way to the curblin or traveled portion of the street. Proper maintenance shall include sodding, planting, mowing or weed abatement whenever necessary.

(Code 1993, § 8-4.06)

Sec. 113-373. - Landscaping.

- (a) Landscaping on a lot shall consist of a finish grade and a soil retention cover such as sod, seed and mulch, plantings, or as may be required by the zoning administrator to protect the soil and aesthetic values on the lot and adjacent property.
- (b) In all districts, all developed uses shall provide landscaping from the urban curb and gutter to the road right-of-way lines. This landscaped yard shall be kept clear of all structures, exterior storage, and off-street parking.
- (c) Landscaping shall be provided and maintained on all required front and side yards in all developed districts.

(Code 1993, § 9-14.01(6))

Commented [NO27]: . *Composition of setback area.* The setback area required by subsection (a) of this section shall be composed of pavement, rock, gravel, wood chips, regularly mowed turf grasses, trees or shrubs.



The City That Soars!

REQUEST FOR PLANNING COMMISSION ACTION

Meeting Date	September 24, 2019
Agenda Item	G2
Attachment(s)	See below
Submitted By	Justin Markon, Community Development Coordinator

Item	Discuss possible vacant building ordinance
Description	<p>The city has explored adopting a vacant building ordinance in the past, dating back to 2012 during the recession. It was briefly discussed in 2017 as well. Attached are various materials that discuss vacant building ordinances and what options may be available.</p> <p>The city has a number of existing ordinances that address potential concerns with vacant properties.</p> <p>Chapter 22 - Environment Article II - Blight</p> <p>Sec. 22-19. - Causes of blight or blighting factors.</p> <p>It is hereby determined that the uses, structures and activities and causes of blight or blighting factors described herein, if allowed to exist, will tend to result in blighted and undesirable neighborhoods so as to be harmful to the public welfare, health and safety. No person shall maintain or permit to be maintained any of these causes of blight or blighting factors upon any property in the city owned, leased, rented or occupied by such person.</p> <p>(4) <i>Noxious weeds, vegetation and substances.</i> No owner agent or occupant of any premises shall permit upon his or her premises any noxious weeds as defined in Minn. Stats. § 18.77, weeds or grass growing to a height greater than six inches or which have gone or are about to go to seed, fallen trees, dead trees, tree limbs or items which are a fire hazard or otherwise detrimental to the health or appearance of the neighborhood.</p> <p>(5) Structures</p> <p>b. <i>Vacant structure.</i> In any area zoned for residential purposes, the existence of any vacant dwelling, garage, or other outbuilding, unless such buildings are kept securely locked, windows kept glazed or neatly boarded up and otherwise protected to prevent entrance thereto by vandals is illegal.</p>

	<p>The city also adopted the International Property Maintenance Code (IPMC), which provides for a number of requirements related to the upkeep of properties.</p> <p>301.3 Vacant structures and land. All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.</p> <p>Section 304 - Exterior Structure of the IPMC is attached.</p> <p>The city of Minneapolis has a robust vacant dwelling code, which also includes vacant building registration. This code is also attached.</p>
Budget Impact	No impact
Attachment(s)	<ul style="list-style-type: none"> • 2012 information packet compiled by city staff • Section 304 of International Property Maintenance Code • Minneapolis Chapter 249 - Vacant Dwelling or Building, Nuisance Condition
Action(s) Requested	Staff are seeking discussion from the commission to determine if it is a priority to expand the vacant building ordinances.

Vacant Building Ordinances – Research Packet

Falcon Heights City Council

February 1, 2012

Researched by Deb Jones, Zoning and Planning Director

Thanks to City Attorney Roger Knutson for LMC materials and ordinances from Brooklyn Center and Minneapolis.

Packet Materials Provided:

- "Overview of Municipal Vacant Building Registries", Partnership for the Public Good, Buffalo, NY (Chart mentioned in Paragraph 1 is not included but can be found in the Additional Materials listed below.)
- Chapter 22 - Environment, Falcon Heights City Code ("Nuisance" chapter)
- Sections 113-373 Landscaping and 113-374 Reasonable Maintenance, Falcon Heights City Code
- "Dealing With Vacant Foreclosed Properties," League of Minnesota Cities, 2008
- League of Minnesota Cities Sample Ordinance Regarding Securing of Vacant Buildings
- Minnesota section of "Vacant & Abandoned Properties: Municipal Ordinances", American Financial Services Association, December, 2011 (comparison chart of all MN cities with ordinances as of 12/1/2011; does not include City of Newport, adopted 12/1/11)
- Vacant Building Ordinance, City of Sacramento, CA
- City of Chicago, Vacant Building Guidelines
- Sample Vacant Building Registration Forms: Crystal, Richfield, Hopkins
- "Richfield's Vacant Building Ordinance," Aaron Dickenson, Twin Cities Real Estate Blog, March 15, 2011. [*Staff note: This article is included to make Councilmembers aware of opposition arguments that may be brought forward by the real estate industry and others.*]

Additional Materials Available at Workshop:

- Falcon Heights City Code, Chapter 105, Buildings and Building Regulations (Councilmembers may refer to their own copies of the City Code)
- "Keeping Your Composure Over Foreclosures – Problems and Solutions" – League of Minnesota Cities
- Comparison chart of selected American cities originally attached to "Overview of Municipal Vacant Building Registries," Partnership for the Public Good, Buffalo, NY
- City of Richfield ordinance
- City of Brooklyn Center ordinance
- City of Brooklyn Center web pages "Vacant Building Program"
- City of Crystal ordinance
- City of Anoka ordinance
- City of St. Paul ordinance
- City of Hopkins ordinance
- City of Minneapolis ordinance
- City of Crystal ordinance

- City of Crystal FAQ
- City of Princeton ordinance
- City of Coon Rapids ordinance
- City of Newport ordinance
- City of Chicago ordinance
- City of Sacramento web page: "Vacant Building Ordinance"
- City of Sacramento staff report for vacant building ordinance

Overview of Municipal Vacant Building Registries

i. Introduction

As regions grow and populations migrate outside city centers, many municipalities are being confronted with a rise in vacant properties. To help combat this increase, some municipalities require the owners of vacant buildings to register their property. In most cases, the owner must register the property within 30 days of the property becoming vacant or face civil and criminal penalties and/or liens on the property. Nonetheless, the definition of “vacant,” the fees charged for registration, the section of the local code containing the ordinance (e.g., building code, public health code), and the enforcement mechanisms vary by ordinance. The discussion below provides a general overview of how vacant property registries operate, while the attached chart details the definition of “vacant,” the fees, the section of the code containing the registration requirements, and the enforcement mechanisms for municipalities that have vacant property registries.

ii. Definition of Vacancy

Identifying which buildings are vacant, and thus subject to registration, may be the most important consideration of a vacant property registration ordinance. Several of the vacant property registries provide a two-part test for determining if a property is “vacant.” First, many ordinances consider whether the property is “unoccupied.” For example, Albany, NY, defines “unoccupied” as “a building which is not being used for an occupancy authorized by the owner.” On the other hand, Binghamton, NY defines “unoccupied” as “a building or portion thereof which lacks the habitual presence of human beings who have a legal right to be on the premises.” In addition, Binghamton permits considerations like whether lawful activity has ceased, whether the building is empty or contains items of minimal value, and whether the building lacks utilities

or is subject to foreclosure in determining if a building is “unoccupied.”

Second, ordinances that consider if a building is “unoccupied” in determining vacancy often require satisfaction of an additional element. Such elements generally include whether the building is unsecured, whether it is secured by other than normal means, whether the fire department or housing department has determined the building to be unsafe or has issued violations, and whether the building is being illegally occupied. Some ordinances state that a building is vacant if it is unoccupied for over 30 days.

Notably, some ordinances do not provide a detailed test to determine if a building is vacant. For example, Chicago’s ordinance states that a building is vacant if it lacks the habitual presence of human beings. Nonetheless, Chicago’s ordinance provides factors for authorities to consider like the value and condition of the items in the building.

While most ordinances provide clear definitions for “vacant” and “unoccupied,” some do not. Surprisingly, it does not appear that any owners have challenged such ordinances, at least, in reported court cases. Thus, ordinances without such definitions may not be actively enforced.

iii. Fees

Most vacant property registry ordinances have registration fees that increase the longer the property is vacant. For example, the annual registration fee may be \$250 in year one, \$500 in year two, \$1,000 in year three, \$1,500 in year four, and \$2,000 in year five and beyond. Nonetheless, other ordinances maintain the same fee regardless of how long the property is vacant. For example, in Richmond, Virginia, the annual fee is a mere \$25, but in Minneapolis, the annual fee is \$6,000.

A few ordinances do not charge a registration fee. Nonetheless, such ordinances often provide that the municipality may charge the owners fees for regularly inspecting the property.

Few ordinances state how fees collected will be allocated. Thus, the registration fees collected may be placed in the municipality's general fund as opposed to being allocated for rehabilitation or enforcement efforts.

iv. Section of the Municipal Code featuring the Vacant Property Registry

For the most part, vacant property registries are included in a municipality's building code. Generally, the owners of vacant property must submit their contact information and provide a local agent for service of process. Several ordinances require the contact information for lienholders, as well.

Additionally, many ordinances require the owner to submit a "vacant building plan" when registering the property. A "vacant building plan" generally requires a plan for demolition or rehabilitation and a plan for securing the building. A few municipalities will only allow the owner to register the property for a specific period; then the owner must rehabilitate it or demolish it.

A few municipalities include vacant property registries in other areas of their codes like public health or nuisance abatement. Columbus, Nebraska, includes its vacant property registry in its Business Regulations. Unlike most cities that require registration with the building and housing inspector, Columbus, Nebraska, requires owners to register vacant properties with its police department. Accordingly, Columbus' ordinance may be more concerned with preventing drug houses than building preservation.

v. Enforcement

Vacant property registration ordinances provide a variety of enforcement mechanisms. Many of the registries provide civil penalties for failure to register. Often, a municipality will assess a penalty for each day the owner fails to register. Thus, an owner of a property in a

municipality with an ordinance that provides a \$100 per day penalty may be subject to a \$36,500 penalty if he fails to register for one year.

In addition to civil penalties, some ordinances permit municipalities to place a lien on the property for unpaid registration fees. Often, these liens are subject to interest. Further, some ordinances state that new owners are responsible for the unpaid fees of the previous owner.

A few ordinances provide misdemeanor criminal penalties for those who do not register their properties. Ordinances featuring criminal penalties feature fines that run as high as \$1,000 per day of non-compliance. Some ordinances provide imprisonment for less than one year. Notably, the criminal penalty ordinances often define “owner” broadly. Thus, the owner, mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, agent or corporation in control could be criminally liable for failing to register the property.

The actual enforcement of registration requirements is subject to debate. Research in legal databases did not reveal any cases where courts held individuals criminally liable for failing to register properties. Nonetheless, several Illinois courts have upheld the daily civil penalty for failure to comply with Chicago’s registration requirements. Regardless, judicial consideration of vacant property registries is quite rare, at least in reported decisions.

Further, very few municipalities have publicly discussed enforcement of their registration requirements. Nonetheless, in both Albany and Chicago, the vacant property registry is just one part of comprehensive plan for combating vacant properties. In Chicago, the Police, the Department of Buildings, the City Law Department, and the Department of Housing work together to ensure that vacant properties are registered and then try to force the owner to rehabilitate or transfer title of the property. In Albany, the Fire Department has assumed an active role in searching for vacant buildings and determining if rehabilitation or demolition is

more appropriate.

vi. State Vacant Property Registry Laws

Research did not reveal any state vacant property registries. Virginia appears to be the only state that specifically discusses vacant property registries. Virginia law provides that a city may charge a maximum of \$25 annually to defray the cost of vacant building registration. Richmond, Virginia, uses the state law as the basis for its registry program. Municipalities in other states appear to use the authority to enact local building, housing, and public safety ordinances granted to them by the state.

vii. Further Thoughts

Vacant property registry laws generally provide civil monetary penalties and/or liens for failure to register. A few registry laws provide criminal penalties, as well. In many cases, these penalties are redundant. Most building codes already include penalties for failing to maintain a property according to the local building code. A municipality may find it easier just to increase existing penalties for such violations rather than institute an additional program that it must administer.

Nonetheless, a vacant property registry could be useful in conjunction with a program that permits individuals and non-profit organizations to acquire abandoned property for rehabilitation. For example, a municipality could enact a law that requires owners of vacant properties to register the property and provide a plan for the property's rehabilitation or demolition. If the owner does not follow the rehabilitation or demolition plan within a grace period (e.g., three years), an individual or organization with a rehabilitation or demolition plan could file a petition to obtain title to the property. Further, if an owner fails to register a property within a specific time, he or she would not be subject to civil or criminal penalties, but the grace

period would not apply. Thus, anyone with a rehabilitation or demolition plan could file a petition to obtain the property at any time.

A registry of this sort could be very cost effective. Owners could register properties on a website, and the public could search the registry to see if a property has been registered. An owner who rehabilitates or demolishes a property can then enter building permit and inspection information to have the property removed from the registry. If an owner does enter this information within the grace period, the property would then be moved to a list of properties available to the public.

Finally, it must be noted that the definition of "vacant" in many existing registry laws could be applied to properties owned by the elderly or the infirmed who are receiving long-term treatment at inpatient facilities. The possibility of penalizing people who fail to register their properties in such situations hardly seems fair. Vacant property registry laws should be tailored to permit judicial discretion where the owner is experiencing unforeseen hardship.

Chapter 22 ENVIRONMENT

Article I. In General

Secs. 22-1--22-18. Reserved.

Article II. Blight

Sec. 22-19. Causes of blight or blighting factors.

Sec. 22-20. Notification; deadline for removal.

Sec. 22-21. Abatement.

Secs. 22-22--22-45. Reserved.

Article III. Public Nuisances

Sec. 22-46. Purpose.

Sec. 22-47. Public place defined; nuisances.

Sec. 22-48. Abatement.

ARTICLE I. IN GENERAL

Secs. 22-1--22-18. Reserved.

ARTICLE II. BLIGHT*

***State law references:** Authority to define and abate nuisances, Minn. Stats. § 412.221, subd. 23.

Sec. 22-19. Causes of blight or blighting factors.

It is hereby determined that the uses, structures and activities and causes of blight or blighting factors described herein, if allowed to exist, will tend to result in blighted and undesirable neighborhoods so as to be harmful to the public welfare, health and safety. No person shall maintain or permit to be maintained any of these causes of blight or blighting factors upon any property in the city owned, leased, rented or occupied by such person.

- (1) *Inoperable vehicles.* In any area zoned for residential purposes, the storage upon any property of inoperable vehicles is illegal. For the purpose of this section, the term "inoperable vehicle" shall include any motor vehicle, or part of a motor vehicle, not stored in a garage, which is either:
 - a. Unusable or inoperable because of lack of, or defects in, component parts;
 - b. Unusable or inoperable because of damage from collision, deterioration, or having been cannibalized;
 - c. Beyond repair and not intended for future use as a motor vehicle;
 - d. Being parked on any street or alley, for a period exceeding 48 consecutive hours; or
 - e. Without valid and current license plates issued by the proper state agency attached.

- (2) *Special permits.* The city council in its discretion, upon receipt of an application showing hardship in special circumstances may, in the instance of an inoperable vehicle, issue a special permit with appropriate conditions attached permitting an individual to keep such vehicle for a period not to exceed 60 days.
- (3) *Junk, trash, rubbish and refuse.* In any area within the city, the storage or accumulation of junk, trash, rubbish or refuse of any kind, except refuse stored in such a manner as not to create a nuisance for a period not to exceed 14 days is illegal. The term "junk" shall include, but not be limited to, parts of machinery or motor vehicles; unused stoves or other appliances stored in the open; remnants of wood; decayed, weathered or broken construction materials no longer suitable or safe; approved building materials; common household items; metal or any other material or cast off material of any kind whether or not the same could be put to any reasonable use.
- (4) *Noxious weeds, vegetation and substances.* No owner agent or occupant of any premises shall permit upon his or her premises any noxious weeds as defined in Minn. Stats. § 18.77, weeds or grass growing to a height greater than six inches or which have gone or are about to go to seed, fallen trees, dead trees, tree limbs or items which are a fire hazard or otherwise detrimental to the health or appearance of the neighborhood.
- (5) *Structures.*
 - a. *Unfit structure.* In any area the existence of any structure or part of any structure that because of fire, wind or other natural disaster, or physical deterioration is no longer habitable as a dwelling, nor useful for any other purpose for which it may have been intended is illegal.
 - b. *Vacant structure.* In any area zoned for residential purposes, the existence of any vacant dwelling, garage, or other outbuilding, unless such buildings are kept securely locked, windows kept glazed or neatly boarded up and otherwise protected to prevent entrance thereto by vandals is illegal.
- (6) *Graffiti.* No owner agent or occupant of any premises shall allow or leave on the premises any graffiti, which shall mean any writing, printing, marks, signs, symbols, figures, designs, inscriptions, or other drawings which are scratched, scrawled, painted, drawn, or otherwise placed on any surface of objects such as buildings, walls, fences, sidewalks, curbs, trees, rocks, or other permanent structures or objects on public or private property or the interior surfaces of those parts of a building accessible to the general public and which have the effect of defacing the property. An owner agent may request the city to remove the graffiti by providing a waiver to the city to allow for the removal of graffiti on the owner agent's property. The owner agent will be billed for the cost.

(Code 1993, § 8-1.01; Ord. No. 0-98-07, 12-7-1998)

Sec. 22-20. Notification; deadline for removal.

The owner and the occupant of any property upon which any of the causes of blight or blighting factors set forth in section 22-19 is found to exist, shall be notified in writing by the

clerk to remove or eliminate such causes of blight or blighting factors from such property within ten days after service of the notice. The notice may be served personally, or by mailing by certified mail, return receipt requested to the last known address of the owner and if the premises are occupied, to the premises. Additional time may be granted by the enforcement officer where bona fide efforts to remove or eliminate such causes of blight or blighting factors are in progress.

(Code 1993, § 8-1.02(A))

Sec. 22-21. Abatement.

- (a) In case of failure to remove any blight as defined in section 22-19 after notification and within the time prescribed, the administrator or clerk may order city employees or a contracted party to abate the blighted condition. The responsible person shall be billed for the costs. If the bill is unpaid, the cost shall be certified to the county auditor as a special assessment against the property for collection in the same manner as other special assessments.
- (b) In case of failure to remove any blight as defined in section 22-19(5)a and 22-19(5)b, after notification and within the time prescribed, the council may direct the administrator or clerk to proceed as defined in Minn. Stats. §§ 463.15--463.261 regarding the repair and/or removal of hazardous and substandard buildings on property.

(Code 1993, § 8-1.02(B); Ord. No. 0-98-07, 12-7-1998)

Secs. 22-22--22-45. Reserved.

ARTICLE III. PUBLIC NUISANCES*

***State law references:** Authority to define and abate nuisances, Minn. Stats. § 412.221, subd. 23; public nuisances prohibited, Minn. Stats. § 609.74 et seq.

Sec. 22-46. Purpose.

It is the purpose of this section to protect and promote the public health, safety and general welfare of the people of the city. This is in addition to all other statutes and regulations that might be applicable to the city.

(Code 1993, § 8-2.01)

Sec. 22-47. Public place defined; nuisances.

- (a) *Public place defined.* Whenever used in this article, "public place" shall include streets, alleys and sidewalks dedicated to public use, and shall also include such parts of buildings and other premises whether publicly or privately owned which are used by the general public or to which the general public is invited commercially for a fee, or otherwise, or in or on which the general public is permitted without specific invitation.

(b) *Creation of a nuisance.* No person shall knowingly cause or create a nuisance in a public or private place, or permit any nuisance to be created or placed upon or to remain upon any premises owned or occupied by such person. A nuisance is any thing, act, occupation or use of property which:

- (1) Annoys, injures or endangers the safety, health, comfort or response of the public;
- (2) Offends public decency or the decency of any member of the public;
- (3) Interferes with, obstructs, or tends to obstruct or render dangerous for passage any public place; or
- (4) Renders the public insecure in life or in use of property.

(c) *A nuisance upon premises.* No person shall knowingly cause, or create, or permit nuisances upon any premises as follows:

- (1) Snow and ice not removed from public sidewalks 24 hours after a storm has ended;
- (2) Trees, hedges or other obstructions that prevent persons from having a clear view of approaching traffic;
- (3) Limbs of trees which are less than eight feet above the surface of any public sidewalk, or 14 feet above the surface of any street;
- (4) Wires across public streets, alleys, lanes or sidewalks less than 15 feet above the surface of the ground;
- (5) Buildings, walls, and other structures which have been damaged by fire, decay or otherwise to an extent exceeding one-half their original value, and which endanger the safety of the public;
- (6) Explosives, bottled gas, inflammable liquids and other dangerous substances stored in any manner deemed dangerous by the fire marshal or fire chief;
- (7) Obstructions and excavations affecting the ordinary use of public streets, alleys, sidewalks or public grounds except as authorized by the council;
- (8) Any use of property abutting a public street or sidewalk or any use of a public street or sidewalk which causes large crowds of people to gather, obstructing traffic and the free use of the streets or sidewalks;
- (9) Hanging signs, awnings and other similar structures over the streets or sidewalks, which endangers public safety;
- (10) Allowing rainwater, ice or snow to fall from any building or structure upon any street or sidewalk, or wastewater to flow upon or across streets or other public property;
- (11) Unguarded machinery, in any public place, or so situated or operated on private property as to attract the public;
- (12) Obstructing free flow of water in a natural waterway or a public street drain, gutter or ditch;

- (13) Motor vehicle not in operating condition parked in public view for more than 48 hours;
 - (14) Sweeping of grass clippings or leaves into the street or alley;
 - (15) Shoveling or plowing of snow into streets and alleys;
 - (16) Service and repair of vehicles in the street except for the changing of tires;
 - (17) Service and repair of vehicles in driveways except for the changing of tires;
 - (18) Noxious weeds and other rank growths of vegetation; or
 - (19) Any other conditions or things that are liable to cause injury to persons or property.
- (d) *Emissions and odors.* No person shall cause or allow the emission of any foreign materials such as dust, gases, fumes, vapors, smoke and odors in quantities that, by reason of their objectionable properties, shall be considered a nuisance because they do one or more of the following:
- (1) Injure, or are sufficient to injure, the health or safety of the public.
 - (2) Create an obnoxious odor in the atmosphere.
 - (3) Cause damage to property or inconvenience to the general public.
 - (4) Create a nuisance or hazard by obscuring vision.
 - (5) Have a deleterious effect upon trees, plants or other forms of vegetation.
- (e) *Unnecessary noise.* No person, in any public or private place, shall make, or assist in making, by any manner or means, any loud, unpleasant or raucous noise disturbing to others, unless the same is reasonably necessary to the preservation of life, health, safety or property.
- (f) *Disruptive parties.*
- (1) *Participation.* No person shall congregate because of participation in any party or gathering of people from which noise emanates of a sufficient volume so as to disturb the peace, quiet or repose of any other person.
 - (2) *Remaining to abate disturbance.* No person shall visit or remain within any place wherein such a party or gathering is taking place except persons who are there for the sole purpose of abating the disturbance.

(Code 1993, § 8-2.02)

Sec. 22-48. Abatement.

In case of failure to remove snow and ice from sidewalks as provided in subsection 22-47(c)(1) after notification and within the time prescribed, the administrator or clerk may order city employees or a contracted party to abate the nuisance. The responsible person shall be billed for the costs. If the bill is unpaid, the cost shall be certified to the county auditor as a special assessment against the property for collection in accordance with Minn. Stats. § 429.101.

(Ord. No. 10-05, § 1, 9-8-2010)

Sec. 113-373. Landscaping.

- (a) Landscaping on a lot shall consist of a finish grade and a soil retention cover such as sod, seed and mulch, plantings, or as may be required by the zoning administrator to protect the soil and aesthetic values on the lot and adjacent property.
- (b) In all districts, all developed uses shall provide landscaping from the urban curb and gutter to the road right-of-way lines. This landscaped yard shall be kept clear of all structures, exterior storage, and off-street parking.
- (c) Landscaping shall be provided and maintained on all required front and side yards in all developed districts.

(Code 1993, § 9-14.01(6))

Sec. 113-374. Reasonable maintenance and repairs required.

In all districts, all structures, landscaping and fences shall be reasonably maintained and kept in a good state of repair so as to avoid health or safety hazards and prevent a degradation in the value of adjacent property.

(Code 1993, § 9-14.01(7))

Dealing with Vacant Foreclosed Properties

By Alexis Stangl

With the tens of thousands of mortgage foreclosures in Minnesota over the past couple of years, many cities are struggling to deal with vacant foreclosed properties. These vacant buildings present a multitude of issues for cities, ranging from tall grass to unsafe buildings.

Three tools are available to cities to alleviate problems associated with these properties. The city should start dealing with problems related to vacant foreclosed properties as they arise because these tools take time to implement.

Adopt and enforce a nuisance ordinance. Minnesota law defines nuisances as “anything which is injurious to health, or indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.” Cities may adopt an ordinance that defines particular nuisances, provides for nuisance abatement, and establishes penalties for violations. Nuisance ordinances may be effective in dealing with issues like tall grass, accumulated garbage, and icy sidewalks.

A nuisance ordinance should spell out the process the city should follow to fix a nuisance problem. Typically, the process starts by the city notifying the property owner of a violation of the nuisance ordinance, and giving him or her a specified amount of time to fix the problem. If the owner does not do so, the city council may notify the owner again and allow him or her to speak to the council. Then if the council determines there is still a nuisance, it can notify the owner that if it is not fixed within a specified time period, the city may take action to fix the nuisance. If the ordinance allows, the city may assess the cost of fixing the nuisance against the property.

Prevent water pipes from freezing and bursting. Last winter many cities discovered water pipes freezing and bursting in vacant homes with no heat source. Often, cities were not aware that these houses had no power. Bursting water pipes may cause a great deal of water loss as well as significant property damage. A new state law designed to address this situation, *Minnesota Statutes*, section 216B.0976, requires a company that disconnects a residential customer’s gas or electric service to notify the city. The notices include the address of the property and the date of disconnection. Notices are available between Oct. 15 and April 15 each year. The city must make a written request to receive shut-off notifications.

This notification alone is not enough for the city to disconnect the water to the residential property. The city must have a disconnection ordinance in place and follow the provisions of that ordinance. If the city does not have a disconnection ordinance, it may choose to adopt one. The League of Minnesota Cities’ (LMC) information memo, *Securing Payments of Utility Charges*, discusses this issue in more detail. To access this memo, visit www.lmc.org/page/1/resource-library.jsp, type the name of the memo in the Keyword field, and check the box next to “Information Memos—Governing and Managing.”

Use the statutory hazardous building process. *Minnesota Statutes*, chapter 463 provides a process for cities to use in dealing with hazardous buildings. A hazardous building is “any building or property, which because of inadequate maintenance, dilapidation, physical damage, unsanitary condition, or abandonment, constitutes a fire hazard or a hazard to public safety or health.” To briefly summarize this process, the

city may order a property owner to fix or remove the hazardous condition. If the owner does not do so, the city may do the work and assess the costs against the property. The statutes include many requirements that must be followed in using this process, including how to notify the owner. Further, the process utilizes the court system, so the city should work with its city attorney.

If the city is dealing with a vacant building that is hazardous because it is open to trespass and is not secured, the city may order the owner to secure the building. Securing a building means taking such measures as installing locks, exterior lights, fences, or security systems, or repairing or boarding up windows and doors. If the owner does not secure the building or provide a reasonable plan and schedule to do so, the city may do the work and assess the cost against the property.

Work with the city attorney. It is important and sometime necessary to work with the city attorney when implementing and using the tools discussed here. The attorney will be able to provide specific legal advice on whether a particular ordinance is appropriate. Also, if the city does not have permission from the property owner to go onto the property, the city attorney can assist the city in securing a warrant that allows the city to enter the property and do work.

More information. Additional information and sample ordinances are available by contacting the LMC Research Department at (651) 281-1200 or (800) 925-1122. ■

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LEAGUE OF MINNESOTA CITIES SAMPLE ORDINANCE REGARDING SECURING OF VACANT BUILDINGS

Before adopting these ordinances, a city should be familiar with the contents of the LMC information memo, *Dangerous Buildings*, LMC 75B.2 (December 2010).

This sample ordinance contains a number of provisions a city may adopt. A city wishing to adopt this ordinance should review them with the city attorney to determine which provisions are suited to the city's circumstances. A city can modify this ordinance by eliminating provisions that concern activities it does not seek to regulate. These sample ordinances are drafted in the form prescribed by Minn. Stat. § 412.191, subd. 4 for statutory cities. Home rule charters often contain provisions concerning how the city may enact ordinances. Home rule charter cities should consult their charter and city attorney to ensure that the city complies with all charter requirements.

Before adopting any ordinance regarding the securing of vacant buildings, the city attorney should review the ordinance to ensure it includes all necessary provisions and complies with current laws. This sample ordinance is intended as a guideline and may be modified to meet the needs of your city.

SAMPLE ORDINANCE REGARDING SECURING OF VACANT BUILDINGS

Before adopting any ordinance regarding the securing of vacant buildings, the city attorney should review the ordinance to ensure it includes all necessary provisions and complies with current laws. This model ordinance is intended as a guideline and may be modified to meet the needs of your city.

CITY OF _____
ORDINANCE NO. _____

AN ORDINANCE PROVIDING FOR SECURING VACANT BUILDINGS

THE CITY COUNCIL OF _____ ORDAINS:

SECTION 1. DEFINITIONS

For the purposes of this ordinance, the following terms shall have the following meanings:

City. The City of _____, County of _____, State of Minnesota.

Neighborhood association. An organization recognized by the city as representing a neighborhood within the city.

Secure. Includes, but is not limited to, installing locks, repairing windows and doors, boarding windows and doors, posting "no-trespassing" signs, installing exterior lighting or motion-detecting lights, fencing the property, and installing a monitored alarm or other security system consistent with Minn. Stat. § 463.251.

Unoccupied building. A building which is not being used for a legal occupancy.

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

Vacant building. A building or a portion of a building that meets one or more of the following conditions:

- (1) Unoccupied and foreclosed upon as identified by the county.
- (2) Unoccupied and windows or entrances to the premises are boarded up or closed off, or multiple window panes are broken and unrepaired.
- (3) Unoccupied and doors to the premises are smashed through, broken off, unhinged, or continuously unlocked.
- (4) Unoccupied and gas, electric, or water service to the premises has been terminated.
- (5) Unoccupied and rubbish, trash, or debris has accumulated on the mortgaged premises.
- (6) Unoccupied and the police or sheriff's office has received at least two reports of trespassers on the premises, or of vandalism or other illegal acts being committed on the premises.

- (7) Unoccupied and the premises are deteriorating and are either below or are in imminent danger of falling below minimum community standards for public safety and sanitation.

SECTION 2. SECURING VACANT BUILDINGS

In general, if any building becomes vacant or unoccupied and is deemed hazardous due to the fact that the building is open to trespass and has not been secured, and the building could be made safe by securing the building, the city council may order the building secured and shall cause notice of the order to be served consistent with Minn. Stat. § 463.251, subd. 2. The notice must be served upon the owner of record of the premises or the owner's agent, the taxpayer identified in the property tax records for the parcel, the holder of the mortgage or sheriff's certificate, and any neighborhood association for the neighborhood in which the building is located that has requested notice. The notice is served by delivery or mail. The notice must be in writing and must include, at a minimum, a statement that:

- (1) Informs the owner and the holder of any mortgage or sheriff's certificate of the requirements found in subdivision Minn. Stat. § 463.251, subd. 3 that the owner or holder of the certificate has six (6) days to comply with the order or provide the council with a reasonable plan and schedule to comply with the order and that costs may be assessed against the property if the person does not secure the building.
- (2) Informs the owner and the holder of any mortgage or sheriff's certificate that, within six (6) days of the ordering being served, the person may request a hearing before the governing body challenging the governing body's determination that the property is vacant or unoccupied and hazardous.
- (3) Notifies the holder of any sheriff's certificate of the holder's duty under Minn. Stat. § 582.031, subd. 1, paragraph (b), to enter the premises to protect the premises from waste and trespass if the order is not challenged or set aside and there is prima facie evidence of abandonment of the property as described in Minn. Stat. § 582.032, subd. 7.

Service by mail is completed upon mailing a copy of the order to the owner by first class mail at the last known address.

SECTION 3. RESPONDING TO THE NOTICE

The owner of the building or the holder of the sheriff's certificate of sale has six (6) days after the order is served to do one of the following: 1) comply with the order; 2) provide the council with a reasonable plan and schedule to comply with the order; or 3) request a hearing before the city council to challenge the council's determination that the property is vacant or unoccupied and hazardous. If the owner or holder of the sheriff's certificate fails to take one of these actions within the allotted time, the city council must have the building properly secured.

SECTION 4. EMERGENCY SECURING OF VACANT BUILDINGS

Pursuant to Minn. Stat. § 463.251, subd. 4, when the city building official, police chief, or fire chief determines that an emergency exists with respect to the health or safety of persons in the community and immediate boarding and securing of a building is required, and where immediate danger will exist to children, transients, or others members of the community without the immediate boarding or securing of the building, the building official, police chief, or fire chief

may waive all notice requirements herein and immediately board or otherwise secure the building, provided that:

(1) The conditions showing the existence of an emergency are documented in writing by the building official, police chief, fire chief, or their designees.

(2) Notice is mailed immediately by the department invoking this Section to the owner of record of the premises, the taxpayer identified in the property tax records for the parcel, the holder of the mortgage or sheriff's certificate, and any neighborhood association for the neighborhood in which the building is located that has requested notice.

SECTION 5. COLLECTION OF COSTS

All costs incurred by the city for securing a vacant building under this ordinance may be charged against the real property as a special assessment pursuant to Minn. Stat. §§ 463.251, 463.21, and 463.151.

SECTION 6. NEIGHBORHOOD ASSOCIATIONS

The city council may work with neighborhood associations to develop and implement plans to secure vacant buildings in a timely and cost-effective fashion.¹

SECTION 7. REPEAL

Ordinance Number (number of ordinance), (title of ordinance), adopted on _____, _____ is repealed.²

SECTION 8. SEVERABILITY

If any provision of this ordinance is found to be invalid for any reason by a court of competent jurisdiction, the validity of the remaining provisions shall not be affected.

SECTION 9. EFFECTIVE DATE

This ordinance becomes effective upon passage and publication.

Passed by the City Council of _____ on _____, 20____.

Approved:

Mayor

Attested:

City Clerk

¹ This section only applies to cities in the metropolitan area, as defined in Minn. Stat. § 473.121, subd. 2. If the city is not in the metropolitan area, delete this section and the definition of "neighborhood association" from Section 1.

² This section is only necessary if a prior ordinance on this topic needs to be repealed. If there is no prior ordinance, please delete this section.

Vacant & Abandoned Properties: Municipal Ordinances

CITY	STATUS	REGISTRATION FEES/ PERIOD VALID	SPECIFIC DEFINITIONS	OWNER RESPONSIBILITY/ INSPECTIONS	PROPERTY MAINTENANCE/ UPKEEP NOTICE REQUIREMENTS	NON-COMPLIANCE/ PENALTIES/ FINES
MINNESOTA						
Albertville, MN	Adopted	<p>Registration Fee: Annual fee of \$100, first of which is paid no later than 10 days after building becomes vacant.</p> <p>Period Valid: Subsequent fees paid on anniversary of initial registration.</p>	<p>Vacant building: building (or portion of) that is unoccupied and unsecured for 5 days or more; unoccupied and secured by other than normal means for 15 days or more; unoccupied and in any phase of an active foreclosure proceeding; unoccupied and a dangerous structure; unoccupied and posted for no occupancy or unfit for human habitation; unoccupied and has a City code violation existing for 5 days or more; or condemned and illegally occupied.</p>	<ul style="list-style-type: none"> • Owner shall register building no later than 7 days after it becomes vacant. • City may register as vacant when it takes ordinance enforcement action or action to abate an ordinance violation against the unoccupied building. • Notify city of changes in registration information within 7 days. • Must allow city access for Inspections. City will provide owner 5 days notice for any request, except where hazardous conditions exist. 	<ul style="list-style-type: none"> • Building kept secured and safe and grounds maintained. • Utilities disconnected when required by City Building Official. 	<ul style="list-style-type: none"> • If City registered unoccupied property, they may assess such special costs against the property. • City may take actions to maintain vacant building, and inspect the building. All costs incurred will be reimbursed to City from building owner. • If owner fails to reimburse city within 30 days of mailing bill, or fails to pay registration fee, City may certify unpaid charges to County Auditor for collection with next years property taxes after 10 days mailed notice to property owner. • Administrative fine of \$100 each month the building is unregistered.

Vacant & Abandoned Properties: Municipal Ordinances

CITY	STATUS	REGISTRATION FEES/ PERIOD VALID	SPECIFIC DEFINITIONS	OWNER RESPONSIBILITY/ INSPECTIONS	PROPERTY MAINTENANCE/ UPKEEP NOTICE REQUIREMENTS	NON-COMPLIANCE/ PENALTIES/ FINES
Anoka, MN	Adopted	Registration Fees: <ul style="list-style-type: none"> • \$100.00 for single family dwellings with no outstanding code violations. • \$150.00 for single family dwellings with outstanding code violations. • \$200.00 for all multi-family dwellings with no outstanding code violations. • \$250.00 for all multi-family dwellings with outstanding code violations. 	Owner: individuals and/or entities initiating the legal process to recover foreclosed property; those show to be the mortgage holder or their legal representatives; person, partnership, association, corporation, or fiduciary having a legal or equitable title or any interest in the property or building. Responsible party: owner, service provider, mortgagor, leasing agent, mgmt. company or similar person or entity who has direct or indirect control or authority over the building or real property upon which the building is located. Vacant building: building which no person or persons actually and currently conduct a lawful business or lawfully resides or lives in any part of the building on a permanent, non-transient basis.	<ul style="list-style-type: none"> • Must be submitted within 30 days of foreclosure sale, or the property becomes vacant, whichever is first. • Owner must inform city if the property is sold or transferred to another part • If not sold, but transferred to a different party, party must re-register property within 15 business days. 	<ul style="list-style-type: none"> • Secured from outside entry by unauthorized persons or pests b normal building amenities; Exterior walls and roofs intact without holes. • Temporary securing, such as untreated plywood may only be used to secure openings for a max. of 14 days. • Fire protection systems, appliances, and assemblies in operating condition maintained. • Hazardous material that could constitute a fire hazard removed. • Plumbing systems in sound condition and good repair or removed and the service terminated; Utility services terminated or disconnected. • Grass and weeds no higher than 6". • Abandoned and junk vehicles removed; Graffiti removed. • Swimming pools secured and maintained in good operating condition, or properly drained and emptied. 	<ul style="list-style-type: none"> • Failure to re-register property within 15 business days by new responsible party will result in a \$50 administrative fee on top of the annual fee.

Vacant & Abandoned Properties: Municipal Ordinances

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Brooklyn Center, MN	Adopted	<p>Registration Fees:</p> <ul style="list-style-type: none"> • \$100- Property Vacant for less than 1 year with no code violation. • \$400- Vacant for less than 1 year with 1 or more code violations. • \$1,000- Vacant for 1-3 years. • \$3,000- Vacant for 3 years or more. <p>Property Maintenance Verification Inspection Fee: Single Family Home- \$195; Apartment/Condo- \$115; Townhome- \$195; Duplex- \$275</p>	<p>Owner: Person, partnership, association, corporation, or fiduciary having a legal or equitable title or any interest in the property or building.</p> <p>Vacant building: No person or persons actually and currently conducts a lawful business or lawfully resides or lives in any part of the building on a permanent, nontransient basis in accordance with the City's zoning regulations.</p>	<ul style="list-style-type: none"> • Must register a vacant building with the City no later than 30 days after the building becomes vacant. • Compliance official may inspect any vacant building in the City for the purpose of enforcing and assuring compliance. • Upon the request of the compliance official, an owner or responsible party must provide access to all interior portions of the building and the exterior of the property in order to complete an inspection. 	<ul style="list-style-type: none"> • Vacant buildings must be so maintained and kept that they appear to be occupied; • Secured from outside entry by unauthorized persons or pests; • Doors and windows locked with at least one operable door into every building and into each housing unit; • Removal of all graffiti, junk or abandoned vehicles and dead or diseased trees and plants; • Swimming pools maintained in good operating condition or properly drained and emptied; • Removal of all garbage, refuse, rubbish, swill, filth, or other materials. • Alarm systems in operating condition and properly maintained. 	<ul style="list-style-type: none"> • Failure to comply may result in a fine not to exceed \$1,000, or imprisonment not to exceed 90 days or both, together with the costs of prosecution. • Each day of such failure to comply shall constitute a separate punishable offense.

Vacant & Abandoned Properties: Municipal Ordinances

CITY	STATUS	REGISTRATION FEES/ PERIOD VALID	SPECIFIC DEFINITIONS	OWNER RESPONSIBILITY/ INSPECTIONS	PROPERTY MAINTENANCE/ UPKEEP NOTICE REQUIREMENTS	NON-COMPLIANCE/ PENALTIES/ FINES
Burnsville, MN	Adopted	<p>Registration Fee: \$200; Non-prorated but shall run by quarter for each subsequent year registered.</p> <p>Period Valid: 12 months. Annual renewals due by the end of the quarter of the original registration date.</p> <p>Renewal Fee: \$100</p>	<p>Owner: Persons shown to be the owner(s) on County Records or on a vacant building registration form, holder of an unrecorded contract for deed, mortgagee or vendee in possession, mortgagor or vendor in possession, assignee of rents, receiver, executor, trustee, lessee, other person, firm or corporation in control of the freehold of the premises or lesser state therein.</p> <p>Vacant Building: Building (or portion of) that is; unoccupied and unsecured; unoccupied and secured by other than normal means; unoccupied and a dangerous structure; unoccupied and condemned; unoccupied and has property maintenance/building code violations; condemned and illegally occupied; unoccupied and in the process of foreclosure; or unoccupied and foreclosed upon as identified by the county.</p>	<ul style="list-style-type: none"> • Owner shall register building and with enforcement officer and pay required fee no later than 30 days after building becomes vacant. • Changes in registration information shall be reported within 30 days of change. • Clearly post inside the building a disclosure informing potential buyers of code violations, assessments, or delinquent utility charges against the property. • Code enforcement officer shall inspect premises, upon request owner shall provide access to interior portions of building. • Building may not be occupied without inspection and approval by the city. 	<ul style="list-style-type: none"> • Building kept secured and safe and grounds properly maintained. • Automatic fire sprinkler systems maintained and operational at all times. • Commercial, industrial, or multi-family buildings shall maintain required apparatus access roads. 	<ul style="list-style-type: none"> • Failure to maintain building and premises shall be subject to penalties including abatement. • Delinquent fees shall be paid by owner prior to transfer of ownership interest, if fees are not paid prior, new owner shall pay annual fee within 30 days

Vacant & Abandoned Properties: Municipal Ordinances

CITY	STATUS	REGISTRATION FEES/ PERIOD VALID	SPECIFIC DEFINITIONS	OWNER RESPONSIBILITY/ INSPECTIONS	PROPERTY MAINTENANCE/ UPKEEP NOTICE REQUIREMENTS	NON-COMPLIANCE/ PENALTIES/ FINES
Columbia Heights, MN	Adopted	Inspection Fee: \$250 per unit.	Abandoned property: discontinued use or activity of a property for any reason, but excluding temporary interruptions during periods of building or remodeling where a valid building permit has been issued or during periods of routine seasonal closure.	<ul style="list-style-type: none"> • Building Code Inspection must take place prior to new Certificate of Occupancy being issued. 	<ul style="list-style-type: none"> • City shall declare property abandoned if property is vacant and there is evidence of: reoccurring City abatement processes; building has been declared uninhabitable; vandalized structures; lack of exterior maintenance; repeated calls for service; structural damage; utility service shut off pursuant to delinquent payments; property abandoned. 	<ul style="list-style-type: none"> • If property is declared abandoned, Certificate of Occupancy will be revoked.
Crystal, MN	Adopted	Registration Fee: Annual Fee of \$500; \$35 Administrative Fee (if applicable) Period Valid: one year	Owner: Owner of record on County tax records, identified as owner (s) on vacant building registration form, holder of unrecorded contract for deed, mortgagee/vendee in possession, mortgagor or vendor in possession, an assignee of rents, a receiver, an executor, a trustee, a lessee, other person, firm or corporation in control of the freehold of the premises or lesser estate therein; Any person, partnership, association, corporation or fiduciary having legal or equitable title or any interest in the property. Includes any partner, officer or director of any partnership, corporation, association or other business entity.	<ul style="list-style-type: none"> • Owner must register property vacant more than 30 days. • Extended vacationers, snowbirds, fire damaged property that is repaired or demolished within 90 days, and multi-tenant buildings with one or more occupants are exempt. • If building changes ownership during term of registration, new owner must re-register building within 30 days of change. • Must submit a property plan within 30 days of registration. • Prior to occupancy or re-occupancy owner must schedule mandatory city inspections and be granted a rental license or code compliance certificate. 	<ul style="list-style-type: none"> • Maintained in good condition and kept so it appears to be occupied • Secured from outside entry by unauthorized persons or pests; Ensured by normal building amenities. • Compliance official may authorized immediate abatement of public nuisance or correction of any maintenance items if conditions present imminent threat. 	<ul style="list-style-type: none"> • If owner fails to register, building will be administratively registered and applicable fees (\$500 reg. fee and \$35 administrative charge) will be applied. • If fees and charges remain unpaid, costs will be assessment against the property.

Vacant & Abandoned Properties: Municipal Ordinances

CITY	STATUS	REGISTRATION FEES/ PERIOD VALID	SPECIFIC DEFINITIONS	OWNER RESPONSIBILITY/ INSPECTIONS	PROPERTY MAINTENANCE/ UPKEEP NOTICE REQUIREMENTS	NON-COMPLIANCE/ PENALTIES/ FINES
Duluth, MN	Adopted	<p>Registration Fees: Annual fee of \$400, paid no later than 30 days after building becomes vacant. -Administrative Fee of \$75</p> <p>Period valid: subsequent annual fees due anniversary date of initial vacancy.</p> <p>•Upon transfer of ownership, new owner responsible for unpaid and subsequent annual fees.</p>	<p>Vacant building: building that is condemned; unoccupied and unsecured for 30 days or more; unoccupied and secured by means other than those normally used for 30 days or more; unoccupied and has multiple housing maintenance, fire or building code violations for 30 days or more.</p>	<ul style="list-style-type: none"> • Owner of a residential building shall register the building with the building official within 30 days after it becomes vacant. • Registration must include vacant building plan and timetable for occupancy or demolition. • Must notify building official of any changes of information within 30 days. • New owner shall register building within 30 days of transfer of ownership and comply with approved plan of previous owner until proposed changes approved. • Owner shall provide access to interior portions of building to permit complete inspection to enforce compliance. 	<ul style="list-style-type: none"> • Building kept secured and safe and grounds properly maintained. 	<ul style="list-style-type: none"> • Failure to maintain building that result in abatement shall be grounds for revocation of approved plan and subject to applicable penalties. • Unpaid fees shall be levied and collected as special assessment against property with interest rate of 8% per annum on the unpaid balance.

Vacant & Abandoned Properties: Municipal Ordinances

CITY	STATUS	REGISTRATION FEES/ PERIOD VALID	SPECIFIC DEFINITIONS	OWNER RESPONSIBILITY/ INSPECTIONS	PROPERTY MAINTENANCE/ UPKEEP NOTICE REQUIREMENTS	NON-COMPLIANCE/ PENALTIES/ FINES
Hopkins, MN	Adopted	<p>Registration Fees:</p> <ul style="list-style-type: none"> • Single Property/Distant Properties: \$500 the first calendar year vacant; \$1000 subsequent calendar year vacant • Adjacent/Nearby Properties: \$1000 the first calendar year; \$2500 each subsequent year <p>Period Valid:</p> <ul style="list-style-type: none"> • First fee paid at time of registration, and prorated for initial year of registration based on days in calendar year after required to be registered • Subsequent Annual fee's paid on or before Jan.1 of each subsequent year 	<p>Vacant Property: (1) a lot containing a building with 1 to 4 dwelling units, which is unoccupied for 90 or more consecutive days as a dwelling or which is illegally occupied; (2) an unimproved lot located within 500 feet of a lot with vacant dwelling units, where both lots are owned by the same Owner. Owner: individual, entity, or affiliated entities</p>	<ul style="list-style-type: none"> • Owner shall execute an authorization appointing the Police department an agent of the owner. • Subsequent owners shall register or re-register property with Enforcement Office within 30 days of transfer of ownership • New Owner must pay annual fee no later than 30 days after transfer of ownership <p>Inspections: enforcement officer may inspect to ensure compliance; upon request Owner shall provide access to all interior portions of property.</p>	<ul style="list-style-type: none"> • Property secured and safe and the buildings and grounds properly maintained • Install excess flow automatic gas shut-off valve on gas piping immediately downstream of gas meter outlet within 60 days of acquisition 	<ul style="list-style-type: none"> • Failure to register within 30 days of notice, Owner liable for registration fee of 3 times the amount otherwise due. • Violation is a misdemeanor • Fees shall be a debt owed to the city, and if unpaid, shall be collected by special assessment

Vacant & Abandoned Properties: Municipal Ordinances

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Minneapolis, MN	Adopted	<p>Registration Fee: Annual fee of \$6550 to recover costs incurred by city to monitor and regulate vacant buildings; fee adjusted annually (see director fee schedule).</p> <p>Period Valid: 1st fee paid no later than 5 days after becoming vacant; subsequent annual fees due anniversary date of initial vacancy;</p>	<p>Vacant: Building that is condemned, unoccupied and unsecured for 5 days or more, Unoccupied and secured by means other than those normally used in the design of the building for 30 days or more, unoccupied and has multiple housing maintenance, fire or building code violations existing for 30 days or more, unoccupied over a year during which an order has been issued to correct a nuisance condition; vacant commercial or residential building or structure, which is unable to receive a certificate of occupancy due to expired permits, or demonstrated work stoppage of 180 days or more as determined by the building official.</p>	<ul style="list-style-type: none"> • Building registered within 5 days after becoming vacant building. • Written plan and timetable to prevent nuisance conditions and maintain compliance submitted at time of registration, or reasonable time thereafter. • Notify registration information changes within 30 days. • Upon transfer of ownership, new owner responsible for all unpaid and subsequent annual fees. • Provide access to interior portions of unoccupied building to permit complete inspection to enforce and ensure compliance. 	<ul style="list-style-type: none"> • Building kept secured and safe. • Building and grounds properly maintained until rehabilitation or demolition completed. • Owner of residential, or commercial building or structure designated as vacant may appeal designation within 21 days after receipt of designation, or billing statement. 	<ul style="list-style-type: none"> • Failure to maintain building and premises that result in abatement by city shall be grounds for revocation of approved plan and subject to any applicable penalties. • Unpaid fees levied and collected as special assessment against property with interest rate of 8% per annum on unpaid balance thereof;

Vacant & Abandoned Properties: Municipal Ordinances

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Moorhead, MN	Adopted	<p>Registration Fee: Annual fee of \$400, paid no later than 5 days after building becomes vacant.</p> <p>Period valid: subsequent fees due anniversary date of initial vacancy.</p>	<p>Owner: Person listed as the contact person on the current rental licensing application on file with the city, as the owner by the city assessor on the homestead record; or as the taxpayer as shown by the records of the city assessor.</p> <p>Vacant building: building that is condemned; Unoccupied and unsecured for 5 days or more; Unoccupied and secured by means other than those normally used in the design of the building for 30 days or more; Unoccupied and has multiple building standards, fire or building code violations existing for 30 days or more; Unoccupied for a period of time over 365 days, during which time an order has been issued to correct a nuisance condition.</p>	<ul style="list-style-type: none"> • Owner of a vacant building shall register building with code official within 5 days after it becomes vacant. • Must submit vacant building plan and timetable. • Owner shall notify code official of any changes in information within 30 days. • New owner shall register or re-register building with code official within 30 days of transfer of ownership. New owner shall comply with previous owners approved plan and timetable until proposed changes approved. • Owner must provide access to interior portions of unoccupied building for inspections. 	<ul style="list-style-type: none"> • Owner shall keep building secured and safe and grounds properly maintained until rehabilitation or demolition has been completed. • If building is open to trespass and has not been secured code official may order building to be secured and shall cause notice of order to be served upon owner. If owner fails to comply within 6 days, code official will cause building to be boarded up or otherwise properly secured. 	<ul style="list-style-type: none"> • Failure to maintain the premises will result in abatement and shall be grounds for revocation of the approved plan and subject to penalties. • Administrative fee of \$75 and other costs incurred by the city for boarding or otherwise securing the building shall be charged as a special assessment against the real estate. • Unpaid fees shall be lien against the real estate. • In addition to being possible criminal violation, violation is administrative offense subject to administrative citation and civil penalties. Each day violation exists constitutes a separate offense.

Vacant & Abandoned Properties: Municipal Ordinances

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Princeton, MN	Adopted	<p>Registration Fee: Annual fee of \$25 , paid no later than 30 days after building becomes vacant.</p> <p>Period valid: Subsequent fees due on anniversary date of initial vacancy.</p>	<p>Owner of Record: fee owner, contract for deed vendee, mortgagee in foreclosure, holder of a sheriff's certificate, and taxpayer as shown on City or county records, or the authorized agent of any of the preceding persons.</p> <p>Vacant building: building (or portion of) that is unoccupied and meets one or more of the following: Records of the City or County Recorder show the property is in lien foreclosure; Windows or entrances to the property are boarded up or closed off, or multiple doors or window are broken and unrepaired; Doors to the property are damaged, or continuously unlocked; Property is without gas, electric, or water service; Rubbish or debris has accumulated on the property; Law enforcement agencies have received at least two reports of trespass, vandalism or other illegal acts being committed on the property within 12 months; Vegetation on yards are not being maintained to neighborhood standard.</p>	<ul style="list-style-type: none"> • Owner shall register vacant structure with City Development Director no later than 30 days after the building becomes vacant. • Must notify Development Director of any changes in information within 30 days. • New owner shall re-register building within 30 days. Must comply with approved plan and timetable unless proposed changes are submitted and approved. • Shall provide access to all portions of building for inspection by City employees. 	<ul style="list-style-type: none"> • Building kept secured and grounds maintained. 	<ul style="list-style-type: none"> • Failure to maintain building and grounds such that abatement is required, shall be grounds for revocation of vacant building registration plan and owner shall be subject to penalties.

Vacant & Abandoned Properties: Municipal Ordinances

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St. Paul, MN	Adopted	<p>Registration Fee: Annual registration fee of \$1,000 each year the building remains a vacant building.</p> <ul style="list-style-type: none"> • 1st annual fee paid no later than 30 days after the building becomes vacant. 	<p>Vacant Buildings:</p> <ul style="list-style-type: none"> • Category I: Unoccupied and secured. • Category II: Unoccupied and condemned or has multiple housing or building code violations or illegally occupied. • Category III: Unoccupied and a dangerous structure. <p>Responsible Party: any agent; assignee or collector of rents; holder of a contract for deed; a mortgagee or vendee in possession; receiver or executor or trustee; lessee; those known to the enforcement officer as having an ownership interest; or other person, firm or corporation exercising apparent control over a property.</p>	<ul style="list-style-type: none"> • If the information contained in the affidavit is no longer valid, the owner shall have 10 days to file a new affidavit. 	<ul style="list-style-type: none"> • Broken windows must be repaired or replaced within fourteen days. • If a building is damaged by fire, the owner has 90 days from the date of the fire to apply for a permit to start construction or demolition. 	<p>If the fee is not paid within 30 days of being due, the owner subject to prosecution.</p>
MISSOURI						
Belton, MO	Adopted	<p>No fee</p> <ul style="list-style-type: none"> • Registration is valid as long as the subject property remains vacant and shall be amended as needed. 	N/A	<ul style="list-style-type: none"> • If property is found to be vacant, the owner must register the property with the city within 10 days of the inspection. 	<ul style="list-style-type: none"> • Maintained so as to be in compliance with City code. • Maintained in a secure manner so as not to be accessible to unauthorized persons. 	<ul style="list-style-type: none"> • Violation may involve a fine of \$500 dollars per offense.

ORDINANCE NO. 2007-060

Adopted by the Sacramento City Council

July 24, 2007

AN ORDINANCE REPEALING ARTICLES XV AND XVI OF CHAPTER 8.100 OF THE SACRAMENTO CITY CODE AND REENACTING ARTICLE XV RELATING TO VACANT BUILDINGS

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1. Articles XV and XVI of Chapter 8.100 (Sections 8.100.1170 through 8.100.1380) of the Sacramento City Code are repealed.

SECTION 2. Article XV of Chapter 8.100 of the Sacramento City Code is reenacted to read as follows:

Article XV Maintenance of Vacant Buildings.

8.100.1200 Findings—Vacant buildings.

The city council finds as follows:

A. When the owner of a vacant building fails to actively maintain and manage the building, the building can become a major cause of blight in both residential and nonresidential neighborhoods. Vacant buildings that are boarded, substandard or unkempt properties, and long-term vacancies discourage economic development and retard appreciation of property values.

B. It is a responsibility of property ownership to prevent owned property from becoming a burden to the neighborhood and community and a threat to the public health, safety, or welfare.

C. One vacant property that is not actively and well maintained and managed can be the core and cause of spreading blight.

D. Owners of multiple buildings, either concurrently or serially, that are vacant and a blight to the community are a significant problem in the city. Owners of multiple buildings who fail to correct deficiencies and blighted conditions contribute to the decline of neighborhoods to a greater extent than owners who own only one building. Some owners have acquired multiple vacant and blighted buildings at depressed prices and have not improved or cared for the properties. It is in the interest of the welfare of neighborhoods that owners of multiple properties who fail to maintain properties and correct vacant and blighted buildings be subject to imposition of higher administrative penalties in order to encourage these owners to correct violations of this article in a prompt manner.

8.100.1210 Vacant building defined.

For the purposes of this article, the term "vacant building" means a building that is unoccupied, or occupied by unauthorized persons for any amount of time.

8.100.1220 Required boarding of vacant buildings

A. For the purposes of this article, "boarded" shall mean the covering of all entry points, including all doors and windows, with plywood or other materials for the purpose of preventing entry into the building by persons or animals.

B. Vacant buildings shall be boarded when the building can no longer be secured against intrusion by the closing and locking of doors and windows.

C. Vacant buildings that are immediately dangerous as defined in section 8.96.120 of this code and are open and accessible to the general public may be summarily boarded by the city, pursuant to section 8.96.390 of this code.

D. Any building that is boarded, whether by voluntary action of the owner, or as a result of enforcement activity by the city, shall be boarded in compliance with city standards promulgated by the City Manager, and approved by resolution of City Council.

8.100.1230 Vacant building penalty.

No owner shall allow a building designed for human use or occupancy to be a vacant building for more than thirty (30) days, unless one of the following applies:

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, does not contribute to blight, is ready for occupancy, and is:

a. actively being offered for sale, lease, or rent, or

b. is actively being maintained and monitored by the owner, as defined in section 8.100.1240

8.100.1240 Maintenance and Monitoring of Vacant Buildings

Active maintenance and monitoring shall include all of the following:

a. Maintenance of landscaping and plant materials in good condition.

b. Maintenance of the exterior of the building, including but not limited to paint and finishes, in good condition.

c. Regular removal of all exterior trash, debris and graffiti.

d. Maintenance of the building in continuing compliance with all applicable codes and regulations.

e. Prevention of criminal activity on the premises, including but not limited to use and sale of controlled substances, prostitution and criminal street gang activity.

f. The posting of a notice in a conspicuous place on the front of the building stating the name, address, and telephone number of both the owner and, if applicable, the owner's agent in control of the building. This notice shall have lettering not less than two (2) inches high, and shall be generally readable from at least thirty (30) feet away.

8.100.1250 Administrative penalty.

Notwithstanding the provisions of section 1.28.010(C)(3) of this code, any owner of a building that is in violation of section 8.100.1230 shall be subject to an administrative penalty, in an amount not to exceed one thousand dollars (\$1,000.00) per building for the first violation.

A second administrative penalty shall be imposed upon an owner pursuant to this article if the owner's building remains in violation of section 8.100.1230 thirty (30) days following the imposition of the first administrative penalty. Additional penalties may be imposed in each thirty (30) day period following the imposition of an administrative penalty under this article. Additional penalties may be imposed so long as the violations continue. A second and any subsequent penalty shall be in an amount not to exceed five thousand dollars (\$5,000.00).

If a previous administrative penalty has been imposed pursuant to this article upon an owner within two years of the date of the imposition of the present administrative penalty, and that previous administrative penalty related to a vacant building other than the building presently the subject of an administrative penalty, any penalty imposed shall be imposed pursuant to section 1.28.010(D) of this code, but in no case shall it be less than two thousand dollars (\$2,000.00), nor more than ten thousand dollars (\$10,000.00).

8.100.1260 Monitoring Fee for Vacant Nuisance Properties.

Any vacant building that also constitutes a public nuisance as defined in chapters 8.04, 8.08, 8.96, or 8.100 of this code shall be subject to monthly monitoring fees and enforcement response fees, to recover the city's regulatory costs to monitor and respond to the vacant building. The separate monthly monitoring fee and enforcement response fee shall be set by resolution of the City Council. The monitoring fee shall be applicable even in the absence of any action, administrative or otherwise, by the city pursuant to any other provision of the city code. The monitoring fee shall be imposed upon the initial determination that the vacant building constitutes a public nuisance as defined in chapters 8.04, 8.08, 8.96, or 8.100 of this code. The fee shall thereafter be imposed in each thirty (30) day period following the imposition of the initial monitoring fee. On buildings requiring more than one (1) involuntary city enforcement response within any thirty (30) day period, an additional and separate enforcement response fee shall be imposed, for each response, upon the owner. Monitoring fees shall be imposed as long as the vacant building remains a public nuisance as defined in those chapters.

Any monitoring fee imposed pursuant to this section may be appealed and shall be collected in the same manner as is specified in section 1.28.010(D) of this code.

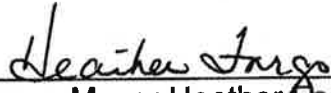
Adopted by the City of Sacramento City Council on July 24, 2007 by the following vote:

Ayes: Councilmembers, Cohn, Fong, Hammond, McCarty, Pannell, Sheedy,
Tretheway, Waters and Mayor Fargo.

Noes: None.

Abstain: None.

Absent: None.



Mayor Heather Fargo

Attest:



Shirley Concolino, City Clerk

Passed for Publication July 17, 2007
Published July 20, 2007
Effective August 23, 2007



Vacant Property Guidelines

If a building is vacant for more than 30 days, the owner must:

1. Secure all openings as may be necessary to ensure against any unlawful entry.
2. Register the vacant building as a vacant property with Department of Buildings.
 - a.) a \$250 registration fee is required each time the building is registered
 - b.) each registration lasts only for a period of 6 months
 - c.) maintain and provide proof of "Liability Insurance" coverage in the following amounts:
 - i. \$300,000 minimum liability policy for residential structures
 - ii. \$1,000,000 minimum liability policy for commercial structures
3. Post a sign with the Name, Address, and Telephone number of the current owner (or the agent for the owner) in a conspicuous location on the building.
4. Keep the premises clean. Cut the grass, remove weeds, garbage, debris, dead trees or any fallen limbs. In winter, shovel any accumulated snow to allow public use of the adjacent sidewalk and keep the property free from pests such as rats and other rodents. Bait the property as necessary.
5. Maintain foundation, basements, crawlspaces, exterior walls, exterior windows and doors, roof, gutters, downspouts, scuppers, flashing, chimneys, flues outside stairs, steps, decks, verandas and balconies. Keep exit areas continuously lit from dusk to dawn.
6. Keep the vacant building's interior free from junk, debris, trash, rodents and pests. Keep plumbing free from leaks and winterize the structure. Maintain the foundation, floors, walls, stairs, and ceilings. Exit doors should be secured with an internal deadbolt lock. Maintain interior stairs and risers in a safe, usable condition.
7. Buildings Security Standards:
 - a. Building doors, windows and openings may be secured with plywood for the first six (6) months.
 - b. After 6 months, all plywood must be removed and replaced with commercial-grade steel security panels or, alternatively, replace the plywood with secure doors, glazed windows and an operable 24-hour burglar alarm system.



Vacant Building Registration Application

City of Richfield | 6700 Portland Avenue S | Richfield, MN 55423 | 612-861-9700 | www.cityofrichfield.org

Permit No.	Date Issued:
Date of Application	<input type="checkbox"/> New Application <input type="checkbox"/> Renewal <input type="checkbox"/> "Snowbird"

You must notify the compliance official of any changes in information within fifteen (15) days of any change.

Property Information: *	Street Address:		
	Legal Description:		
	Tax Parcel ID #:		
Owner or Owner's Representative *	Name(s):		
	Address:		
	City:	State:	Zip:
	Phone:	Email:	
Lien Holders or others with Legal Interest *	Name(s):		
	Address:		
	City:	State:	Zip:
	Phone:	Email:	
Local Agent or Management Company	Name(s):		
	Address:		
	City:	State:	Zip:
	Phone:	Email:	
Property became vacant on:	Expected Date of Re-Occupancy or Demolition:	Sheriff Sale Date:	
Building Security		Status of Utilities	
Security system <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, provide contact info in attached property plan		Water <input type="checkbox"/> On <input type="checkbox"/> Off	
Bldg equipped with fire sprinklers <input type="checkbox"/> Yes <input type="checkbox"/> No		Water Shut Off Requested <input type="checkbox"/> Yes <input type="checkbox"/> No	
Doors/windows secured by <input type="checkbox"/> Lock <input type="checkbox"/> Other		Water Meter Removed <input type="checkbox"/> Yes <input type="checkbox"/> No	
If Other, describe:		Electric Service Disconnected <input type="checkbox"/> Yes <input type="checkbox"/> No	
		Natural Gas <input type="checkbox"/> On <input type="checkbox"/> Off	
Property Plan (check all that apply)	<input type="checkbox"/> For Sale	Listing Date	Closing Date
	<input type="checkbox"/> Renovation	Start Date	Permits Needed
	<input type="checkbox"/> For Rent	Start Date	Rental License Applied
	<input type="checkbox"/> Demolish	Will Remove By	
Property Plan consisting of ___ pages is attached to this application. The property plan, and any changes to the plan, must be approved by the compliance official.			
Applicant is	<input type="checkbox"/> Owner <input type="checkbox"/> Realtor <input type="checkbox"/> Service Co <input type="checkbox"/> Mortgage Co <input type="checkbox"/> Other		
Property Type	<input type="checkbox"/> Single Family/Duplex <input type="checkbox"/> Multi-family <input type="checkbox"/> Commercial <input type="checkbox"/> Industrial		
<input type="checkbox"/> Other	Property Size:	Lot Size:	

* Attach additional sheets if necessary

DATA PRACTICES INFORMATION: The following information is classified as private or nonpublic data: any data that could be used to identify the location or security status of a registered vacant building is considered to the "security data" under Minnesota Statutes section 13.37. You are required by ordinance to provide this information. The information is used for purposes of ordinance enforcement. If you refuse to provide the information, the City will administratively register the property. The classified information is made available only to the owner, registered agent or other person responsible for the maintenance of the property, and to City staff persons involved in ordinance enforcement. The data may become public if enforcement actions are taken under the ordinance, such as nuisance abatement or criminal citation.

General Information:

Fees will be assessed on an annual basis. Reminder of registration renewal will arrive approximately 45 days prior to the due date. Your permit will arrive by mail at the address listed above after review by the compliance official.

"Snowbirds", as defined by the ordinance, are exempt from fees but are required to register their vacant building each year.

A property plan must be provided with this application. The plan must: identify known code violations on the property; identify conditions for which repairs or alterations are either required or planned; identify the manner in which code violations, repairs or maintenance will be addressed; provide a timetable for addressing code violations, repairs or maintenance and for either returning the building to occupancy or demolishing the building.

Permit Registration Fee		
Single Family Property	Any other type of property	
Vacant less than 1 year \$100 Vacant 1+ years \$200	Less than 20,000 square feet in building size AND less than 1 acre of lot size	More than 20,000 square feet in building size OR more than 1 acre of lot size
	Vacant less than 1 year \$500 Vacant 1+ years \$1000	Vacant less than 1 year \$1,250 Vacant 1+ years \$2,500
Permit Fee Total		\$ _____

Purpose: The vacant building ordinance and registration is a mechanism to protect neighborhoods from health and safety hazards and from blight through the lack of adequate maintenance and security of vacant buildings.

Acknowledgement of Responsibility: It is the joint responsibility of owner and/or applicable responsible Party(ies) to ensure information is complete and accurate. Failure to comply is a misdemeanor. The Richfield Vacant Building Ordinance requires the buyer to meet all city codes and conditions of the approved property plan.

Applicant Name: _____ Signature: _____
(Please Print)

City Use Only		
Permit Sub Type	<input type="checkbox"/> Vacant Building Registration	<input type="checkbox"/> Annual Registration Renewal
	<input type="checkbox"/> "Snowbird" Registration (no fee)	<input type="checkbox"/> Administrative Registration
Property Plan Approved	By _____	Date _____
Amendment Approved	By _____	Date _____
Amendment Approved	By _____	Date _____
Notes:		

Applications must be submitted in person or mailed with payment. Applications will not be accepted via email or by fax.
City of Richfield, City Clerk, 6700 Portland Ave S., Richfield, MN 55423

DATA PRACTICES INFORMATION: The following information is classified as private or nonpublic data: any data that could be used to identify the location or security status of a registered vacant building is considered to the "security data" under Minnesota Statutes section 13.37. You are required by ordinance to provide this information. The information is used for purposes of ordinance enforcement. If you refuse to provide the information, the City will administratively register the property. The classified information is made available only to the owner, registered agent or other person responsible for the maintenance of the property, and to City staff persons involved in ordinance enforcement. The data may become public if enforcement actions are taken under the ordinance, such as nuisance abatement or criminal citation.



4141 Douglas Drive North • Crystal, Minnesota 55422-1696

Tel: (763) 531-1000 • Fax: (763) 531-1188 • www.ci.crystal.mn.us

Registration # 2011-_____

VACANT BUILDING REGISTRATION

Application Date: _____

Vacant Building Address: _____ PID #: _____

Owner(s):
Attach additional sheets if necessary

Full Name (PRINT):
Company Name:
Street Address:
City: State: Zip:
Phone: Cell:
Email Address:

Lien Holder(s) or Others w/
Legal Interest in Property:
Attach additional sheets if necessary

Full Name (PRINT):
Company Name:
Street Address:
City: State: Zip:
Phone: Cell:
Email Address:

Responsible Party:
Can be a Realtor®, leasing agent,
management company, mortgagor or
other party with direct or indirect
control or authority over the building.
Attach additional sheets if necessary.

Full Name (PRINT):
Company Name:
Street Address:
City: State: Zip:
Phone: Cell:
Email Address:
Relationship to Owner/Lien Holder:

Date building became vacant: _____ Property Plan Attached or Must be Submitted by: _____
(within 30 days of Application Date)

Acknowledgement of Responsibility: The undersigned owner/agent: 1) avows and acknowledges that the information herein is complete and accurate; 2) assumes responsibility for maintaining and securing the subject building in conformity with Crystal City Code Section 435 and other applicable codes; and 3) acknowledges the responsibility to notify the city in writing within 30 days of any changes to information contained in this registration form.

Owner or Agent: _____ Signature: _____
(Please Print Name)

City Staff Use
\$500 Annual Registration Fee Pd (0100.4276)
\$35 Administrative Fee Pd, if applicable (0100.4276)
Submitted Property Plan on:
JDE Receipt No.
Registration Issued on:

Property Plan for Vacant Building at: _____

Property Status	<input type="checkbox"/> Property is actively listed for sale Listing Date: _____
<i>(Check all that apply)</i>	<input type="checkbox"/> Property sale is pending Closing Date: _____
	<input type="checkbox"/> Building is being renovated Completion Date: _____ <input type="checkbox"/> All required permits have been issued; or <input type="checkbox"/> Applications for all required permits will be submitted by: _____
	<p><u>If single-family or two-family residential:</u></p> <input type="checkbox"/> Code Compliance inspection performed on: _____ Compliance Date: _____ <input type="checkbox"/> Seller to make repairs prior to closing; or <input type="checkbox"/> Buyer to assume responsibility for repairs; or <input type="checkbox"/> Not sure at this time which party will assume responsibility for repairs <input type="checkbox"/> Rental inspection completed on: _____ Compliance Date: _____ Date by which property is to be rented and occupied: _____

Property Maintenance	<p>Owner/responsible party attests that the following steps have been or will be taken. <u>For any boxes left unchecked, you must provide a date by which the item will be completed.</u></p> <input type="checkbox"/> The building is secured against unauthorized entry by persons or pests in accordance with standards of City Code Section 435.20 <input type="checkbox"/> All hazardous material or hazardous refuse has been removed <input type="checkbox"/> The building's water system has been protected from freezing <input type="checkbox"/> Building is adequately heated to prevent freezing <input type="checkbox"/> Water service to the building has been shut off at the curb stop <input type="checkbox"/> Non-compliant electrical service lines, wiring or fixtures have been removed/disconnected <input type="checkbox"/> Exterior lighting is being maintained and used to illuminate building and walkways <input type="checkbox"/> Heating facilities have been removed, rendered inoperable, or are maintained per code									
	<input type="checkbox"/> Owner/responsible party affirms that the subject property shall be maintained in compliance with all applicable property maintenance regulations and city codes including, but not limited to the following: <table style="width: 100%; margin-left: 20px;"> <tr> <td>▪ Nuisances</td> <td>▪ Grass and weeds</td> <td>▪ Animals</td> </tr> <tr> <td>▪ Exterior maintenance</td> <td>▪ Motor vehicles</td> <td>▪ Garbage and refuse</td> </tr> <tr> <td>▪ Dead/hazardous trees</td> <td>▪ Graffiti</td> <td>▪ Abandoned pools</td> </tr> </table>	▪ Nuisances	▪ Grass and weeds	▪ Animals	▪ Exterior maintenance	▪ Motor vehicles	▪ Garbage and refuse	▪ Dead/hazardous trees	▪ Graffiti	▪ Abandoned pools
▪ Nuisances	▪ Grass and weeds	▪ Animals								
▪ Exterior maintenance	▪ Motor vehicles	▪ Garbage and refuse								
▪ Dead/hazardous trees	▪ Graffiti	▪ Abandoned pools								

Signatures	Owner/Responsible Party: _____ Date: _____
-------------------	--

	City Review/Approval by: _____ Date: _____
--	--



VACANT PROPERTY REGISTRATION

ALL INFORMATION ON THIS APPLICATION MUST BE COMPLETED

1) New Registration ___ Registration Renewal ___ Subsequent Owner ___ (PLEASE PRINT)

2) PROPERTY DESCRIPTION

Property Address: _____

Property Identification Number: _____

Property Type: Single Family Dwelling ___ Duplex ___ Unimproved ___ Other ___

Describe Current Property Conditions: _____

3) OWNER INFORMATION

Name: _____ Business Name: _____

Mailing Address: _____

City: _____ State: _____ Zip: _____

Phone Numbers: Business _____ Evening _____

Cell _____ Emergency _____ Fax _____

Email _____

****Attach information for all other owners on a separate sheet****

4) LIST ALL KNOWN LIEN HOLDERS/ OTHER PARTIES WITH AN OWNERSHIP INTEREST

Lien Holder 1

Name: _____ Business Name: _____

Mailing Address: _____

City: _____ State: _____ Zip: _____

Phone Numbers: Business _____ Evening _____

Cell _____ Emergency _____ Fax _____

****Attach information for all other lien holders on a separate sheet****

5) EXPECTED TIME PERIOD OF VACANCY _____

6) PLAN FOR OCCUPANCY / COMPLIANCE / DEMOLITION

Proposed Action Type: Re-Occupancy _____ Compliance _____ Demolition _____

Estimated Timeline For Necessary Actions & Corrections: _____

Describe Any Conditions That Need Correction: _____

Brief Description of Proposed Plan: _____

7) REGISTRATION FEES

The registration fees for vacant properties in the City of Hopkins are as follows:

Single property not within five hundred feet of another Vacant Property with same Owner - \$500.00 per property first calendar year, \$1000.00 each subsequent calendar year the properties remain vacant.

Two or more Vacant Properties with same Owner located within five hundred feet of each other - \$1,000.00 per property first calendar year, \$2,500.00 each subsequent calendar year the properties remain vacant.

8. EXEMPTION FROM REGISTRATION FEES

This property is exempt from registration fees for the following: (check all that apply)

- Valid Rental License Per Hopkins Ordinance Section 407 and is actively marketed "for rent" (must show proof)
- Property is actively marketed as "for sale" (must show proof)
- Valid (Re) Development Agreement with City of Hopkins HRA
- Registration Fee For Current Calendar Year Paid By Previous Owner
- Plan to Re-occupy Within 180 days (execute attached Affidavit)

You are being asked for this information pursuant to Hopkins Ordinance 455.03, for the purposes of complying with the Vacant Property registration requirements of Section 455. If you own "Vacant Property," as that term is defined under Hopkins Ordinance 455.01, then you are required to provide required registration information and failure to do so is a misdemeanor, may result in a request for injunctive relief, and may result in increased registration fees under Hopkins Ordinance 455.13. The City intends to maintain this information as "security information," as that term is defined by the Minnesota Government Data Practices Act, and will attempt to limit its dissemination. However, the City will comply with all mandatory data practices or litigation requests.

Applicant:

I hereby attest to the truth and accuracy of the information contained in this application.

Signature of Owner / Agent _____ Date: _____

Print Name: _____

For City Use Only	Date Received _____
Application checked and approved by: _____	Date Approved _____

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Richfield's Vacant Building Registration Program

March 15, 2011 By [Aaron Dickinson](#) [Leave a Comment](#)

The City of Richfield is currently considering a lengthy and wide-reaching ordinance regarding vacant buildings – both residential and commercial. This issue has come up in many cities recently but this proposed ordinance is one of the most aggressive ones I have seen. [Please read the proposed ordinance here.](#)

Cities across the country today are dealing with large numbers of foreclosures and with that come problem properties for the cities to deal with – which costs time and money and also affects the surrounding neighborhood. While Richfield's desire to reduce/eliminate blight and to better manage costs for protection and code enforcement are admirable, this proposed ordinance goes well beyond what I believe necessary.

I wanted to point out a few areas of this ordinance that I thought are of particular note:

1. **Vacant properties do not mean abandoned properties**

There are many vacant properties in cities that are regularly checked and maintained by the owners or a caretaker – while these properties may not have an occupant, they are not dilapidated or unsecured. This ordinance makes no distinction between properties that are well cared for and those that are not.

F k d w # z l w k # x v \$

2. Policing a vacant but maintained property should not bear any additional costs

The City states in the cover letter to the ordinance that they are looking for the extra costs of monitoring vacant properties be assigned to the owners of those properties. If a vacant property's exterior is being maintained and the home is properly secured, then the City's costs to "monitor" the property are no higher than with any other property in the city. In many circumstances it is impossible to tell a properly maintained home is vacant.

3. "Snow birds" are given special treatment

If the concern is that vacant buildings are a source of crime and disrepair, why are snow birds and other extended vacationers given special treatment? A vacant property is a vacant property, is it not? Snow birds still have to register the property but are given a waiver from fees.

4. Vacant homes become code compliance nightmares

The ordinance would allow building officials to inspect any vacant building at will and look for any code violations on or in the property and enforce code compliance prior to re-occupancy – power they do not have on occupied properties, except at time of sale. (4A-6 Subd.7)

5. Properties vacant for more than 365 days can be required to be demolished

While the provision does note that compliance officials can override this rule if a compliance officer approves a property plan, this leaves a very broad opportunity for the city to demolish problem properties and could be a shortcut to normal demolition procedures? (4A-4 (b) (4))

6. Significant power rests with compliance officials

Many provisions of the ordinance allow decision discretion to be made by the compliance officials and such decisions therefore may be unequally determined in each case. (pg 4A-2, Subd. 4)

7. Many unintended parties may be impacted by this ordinance

- * Relocating homeowners in process of selling their home (any property vacant for 30 days is affected)
- * Estate situations
- * Military deployments
- * Temporary employment in another location
- * Vacationing residents unaware of the ordinance
- * Landlords that have a gap in renters of more than 1 month (common especially in commercial)

8. The problems that this ordinance intends to address are largely short-term problems

The huge influx in foreclosed homes these last few years has added significantly to the list of problem properties, but this influx appears to already be peaking and should wane in the coming years. Consequently the broad and complex nature of this ordinance will have substantially diminished value in just a few years.

9. Most of the underlying issues can be resolved by general property maintenance ordinances

- * Occupied houses can have severe blight
- * Just like "time of sale" inspections, this ordinance will only have power over a subset of properties so it isn't a comprehensive attack on city blight.
- * Exterior maintenance (yard, debris, building, secured doors) should be an area of focus for all homes, not just the vacant ones
- * This is a very involved compliance process, which means significant resources will be spent on this – time better spent in locating and addressing problem properties through conventional means.
- * "Problem properties" could have escalating enforcement and fines/penalties without targeting the innocent and compliant owners

We all desire stable, safe and appealing neighborhoods but views on the proper approach to achieve such goals will vary widely. An ordinance with such impact needs discussion amongst all the stakeholders (property owners, real estate agents, property managers, city staff, city council) and an opportunity for dialog and input by the public at large before this is enacted. The City of Richfield should slow this process down to allow for these conversations to happen before taking any further action.

A second reading is scheduled for March 22, 2011 and after that second reading, the City Council may vote to approve the ordinance at that time or any date subsequent. If you are concerned about this ordinance, the time to act is NOW!

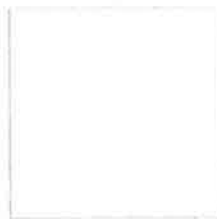
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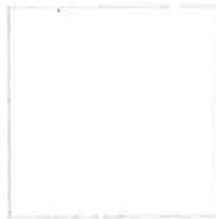
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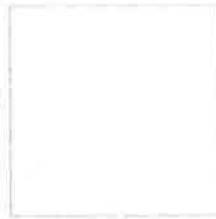
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Stupidly Slow Short
Sales That Seldom
Sell



Foreclosures are a
Lagging Indicator



2010 Twin Cities
Pre-Foreclosure
Notices up 20% vs
2009

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F'k d#w#z l#w#xv\$

GENERAL REQUIREMENTS

the release mechanism shall be located on the pool side of the gate. Self-closing and self-latching gates shall be maintained such that the gate will positively close and latch when released from an open position of 6 inches (152 mm) from the gatepost. No existing pool enclosure shall be removed, replaced or changed in a manner that reduces its effectiveness as a safety barrier.

Exception: Spas or hot tubs with a safety cover that complies with ASTM F 1346 shall be exempt from the provisions of this section.

SECTION 304 EXTERIOR STRUCTURE

304.1 General. The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

304.1.1 Unsafe conditions. The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the *International Building Code* or the *International Existing Building Code* as required for existing buildings:

1. The nominal strength of any structural member is exceeded by nominal loads, the load effects or the required strength;
2. The *anchorage* of the floor or roof to walls or columns, and of walls and columns to foundations is not capable of resisting all nominal loads or load effects;
3. Structures or components thereof that have reached their limit state;
4. Siding and masonry joints including joints between the building envelope and the perimeter of windows, doors and skylights are not maintained, weather resistant or water tight;
5. Structural members that have evidence of *deterioration* or that are not capable of safely supporting all nominal loads and load effects;
6. Foundation systems that are not firmly supported by footings, are not plumb and free from open cracks and breaks, are not properly *anchored* or are not capable of supporting all nominal loads and resisting all load effects;
7. Exterior walls that are not *anchored* to supporting and supported elements or are not plumb and free of holes, cracks or breaks and loose or rotting materials, are not properly *anchored* or are not capable of supporting all nominal loads and resisting all load effects;
8. Roofing or roofing components that have defects that admit rain, roof surfaces with inadequate drainage, or any portion of the roof framing that is not in good repair with signs of *deterioration*, fatigue or without proper anchorage and incapable of supporting all nominal loads and resisting all load effects;
9. Flooring and flooring components with defects that affect serviceability or flooring components that show signs of *deterioration* or fatigue, are not properly *anchored* or are incapable of supporting all nominal loads and resisting all load effects;
10. Veneer, cornices, belt courses, corbels, trim, wall facings and similar decorative features not properly anchored or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects;
11. Overhang extensions or projections including, but not limited to, trash chutes, canopies, marquees, signs, awnings, fire escapes, standpipes and exhaust ducts not properly *anchored* or that are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects;
12. Exterior stairs, decks, porches, balconies and all similar appurtenances attached thereto, including *guards* and handrails, are not structurally sound, not properly *anchored* or that are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects; or
13. Chimneys, cooling towers, smokestacks and similar appurtenances not structurally sound or not properly *anchored*, or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects.

Exceptions:

1. When substantiated otherwise by an *approved* method.
2. Demolition of unsafe conditions shall be permitted when *approved* by the *code official*.

304.2 Protective treatment. All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences, shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All siding and masonry joints, as well as those between the building envelope and the perimeter of windows, doors and skylights, shall be maintained weather resistant and water tight. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion, and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

[F] 304.3 Premises identification. Buildings shall have *approved* address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of 4 inches (102 mm) in height with a minimum stroke width of 0.5 inch (12.7 mm).

304.4 Structural members. All structural members shall be maintained free from *deterioration*, and shall be capable of safely supporting the imposed dead and live loads.

304.5 Foundation walls. All foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests.

304.6 Exterior walls. All exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent *deterioration*.

304.7 Roofs and drainage. The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or *deterioration* in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

304.8 Decorative features. All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

304.9 Overhang extensions. All overhang extensions including, but not limited to canopies, marquees, signs, metal awnings, fire escapes, standpipes and exhaust ducts shall be maintained in good repair and be properly *anchored* so as to be kept in a sound condition. When required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

304.10 Stairways, decks, porches and balconies. Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.

304.11 Chimneys and towers. All chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

304.12 Handrails and guards. Every handrail and *guard* shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

304.13 Window, skylight and door frames. Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight.

304.13.1 Glazing. All glazing materials shall be maintained free from cracks and holes.

304.13.2 Openable windows. Every window, other than a fixed window, shall be easily openable and capable of being held in position by window hardware.

304.14 Insect screens. During the period from [DATE] to [DATE], every door, window and other outside opening required for *ventilation* of habitable rooms, food preparation

areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with *approved* tightly fitting screens of minimum 16 mesh per inch (16 mesh per 25 mm), and every screen door used for insect control shall have a self-closing device in good working condition.

Exception: Screens shall not be required where other *approved* means, such as air curtains or insect repellent fans, are employed.

304.15 Doors. All exterior doors, door assemblies, operator systems if provided, and hardware shall be maintained in good condition. Locks at all entrances to dwelling units and sleeping units shall tightly secure the door. Locks on means of egress doors shall be in accordance with Section 702.3.

304.16 Basement hatchways. Every *basement* hatchway shall be maintained to prevent the entrance of rodents, rain and surface drainage water.

304.17 Guards for basement windows. Every *basement* window that is openable shall be supplied with rodent shields, storm windows or other *approved* protection against the entry of rodents.

304.18 Building security. Doors, windows or hatchways for *dwelling units*, room units or *housekeeping units* shall be provided with devices designed to provide security for the *occupants* and property within.

304.18.1 Doors. Doors providing access to a *dwelling unit*, *rooming unit* or *housekeeping unit* that is rented, leased or let shall be equipped with a deadbolt lock designed to be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort and shall have a minimum lock throw of 1 inch (25 mm). Such deadbolt locks shall be installed according to the manufacturer's specifications and maintained in good working order. For the purpose of this section, a sliding bolt shall not be considered an acceptable deadbolt lock.

304.18.2 Windows. Operable windows located in whole or in part within 6 feet (1828 mm) above ground level or a walking surface below that provide access to a *dwelling unit*, *rooming unit* or *housekeeping unit* that is rented, leased or let shall be equipped with a window sash locking device.

304.18.3 Basement hatchways. *Basement* hatchways that provide access to a *dwelling unit*, *rooming unit* or *housekeeping unit* that is rented, leased or let shall be equipped with devices that secure the units from unauthorized entry.

304.19 Gates. All exterior gates, gate assemblies, operator systems if provided, and hardware shall be maintained in good condition. Latches at all entrances shall tightly secure the gates.

SECTION 305 INTERIOR STRUCTURE

305.1 General. The interior of a structure and equipment therein shall be maintained in good repair, structurally sound

City of Minneapolis, Minnesota City Code

CHAPTER 249. - VACANT DWELLING OR BUILDING, NUISANCE CONDITION

249.10. - Policy.

Pursuant to authority provided in Minnesota Statutes, Section 463.26, permitting cities to enact and enforce ordinances on hazardous buildings, and in order to enhance the livability and preserve the tax base and property values of buildings within the city, and based upon the findings contained in section 249.20; and because of the need to assure that buildings which are capable of rehabilitation are promptly rehabilitated and buildings which are not capable of rehabilitation be promptly demolished, the city hereby declared that it is the policy of the city to promote rehabilitation of vacant and unoccupied buildings, and to assure a prompt process for demolition of hazardous buildings through a procedure fixing appropriate responsibility in accordance with due process requirements. (92-Or-110, § 1, 9-11-92)

249.20. - Findings.

The city council finds, determines and declares that buildings which remain vacant and unoccupied for any appreciable period of time become an attractive nuisance to children, a harborage for rodents, and invitation to derelicts, vagrants and criminals as a temporary abode, and an increased fire hazard, and increased risk of explosion due to the theft of internal piping, and that the unkept grounds surrounding such property invite the dumping of garbage and rubbish thereon; that such buildings are permitted to become dilapidated since such buildings are often economically obsolete and the owners of such buildings are unwilling to expend the necessary funds to repair or raze the buildings; that such buildings contribute to the growth of blight within the city, depress market values of surrounding properties to the detriment of the various taxing districts and require additional governmental services; that the use and maintenance of property in such condition and manner endangers the public safety and health, constitutes an unreasonable use and condition to the annoyance, discomfort and repose of a considerable number of the public, is detrimental to the public good and to the common welfare; and renders a considerable number of the public insecure in the use and enjoyment of their property, and thus may constitute a nuisance condition. Adequate protection of public health, safety and welfare, therefore, requires the establishment and enforcement of the means by which such nuisance conditions may be abated. (76-Or-102, § 1, 7-9-76; 78-Or-233, § 1, 11-9-78; 92-Or-110, § 1, 9-11-92; 2008-Or-073, § 1, 9-12-08)

249.25. - Securing vacant buildings.

(a) In general, if any building becomes vacant or unoccupied and is deemed hazardous due to the fact that the building is open to trespass and has not been secured and the building could be made safe by securing the building, the director of regulatory services may order the building secured and shall cause notice of the order to be served upon the owner of the premises. Such notice may be served personally or by mail. Service by mail is complete upon mailing a copy of the order to the owner at the last known address. If the owner fails to comply with the order within six (6) days after the order is served, the director of regulatory services shall cause the building to be

boarded up or otherwise properly secured. Whenever a building is boarded up pursuant to the authority of this chapter, the director of regulatory services may cause all openings to the building to be boarded and secured.

- (b) *Emergency.* When it is determined by the director of regulatory services or the chief of police, or the fire chief that an emergency exists with respect to the health or safety of persons in the community, and immediate boarding and securing of a building is required, and where danger will exist to children, transients or others in the absence of an immediate boarding or securing of the building, the director of regulatory services or the chief of police, or the fire chief may waive all requirements herein and immediately board or otherwise secure the building, provided that:
- (1) The conditions showing the existence of an exigency are documented in writing by the director of regulatory services or the chief of police or the fire chief or their designees.
 - (2) Notice be mailed immediately by the department invoking this section to the address of the owner and taxpayer, and, if recorded on the assessors rolls, the address of the mortgage holder, of the date of boarding or otherwise securing and the reasons therefor.
- (c) After a vacant or unoccupied building has been boarded or otherwise secured under this section, should the owner fail to maintain the building in a secured condition until such time as it has been repaired and reoccupied, the director of regulatory services shall resecure any openings into the building whenever it again becomes open to trespass, without further notice to the owner. An administrative fee of one hundred dollars (\$100.00) and all other costs incurred by the city for boarding or otherwise securing a building under this chapter, including, but not limited to the actual costs for boarding, inspecting, posting and monitoring the building, shall be assessed as provided in section 227.100. "Owner," for the purposes of this section, shall mean the person who is listed as the contact person on the current rental licensing application on file with the city, if any; or, if none, the person listed as owner by the city assessor on the homestead record; or, if none, the taxpayer as shown by the records of the city assessor. "Owner" shall not include a community development agency organized pursuant to the Laws of Minnesota 1980 Chapter 595.
- (d) After a vacant or unoccupied building has been boarded or otherwise secured under this section for a period of sixty (60) days, the owner of the building shall have the gas to the building turned off and the building winterized. If the owner fails to have the gas to the building turned off the director of regulatory services may order the utilities company to shut off the gas to the building. The director of regulatory services shall then require the building to be winterized to prevent the water pipes from freezing and damaging the building. The costs incurred by the city for winterizing the building shall be assessed as provided in section 227.100. (94-Or-123, § 1, 9-16-94; 2001-Or-054, § 1, 4-20-01; 2006-Or-065, § 1, 6-16-06; 2008-Or-008, § 1, 2-1-08; 2008-Or-073, § 2, 9-12-08; 2013-Or-165, § 1, 12-6-13)

249.30. - "Nuisance condition" defined; waiver of waiting period.

- (a) A building within the city shall be deemed a nuisance condition if:

- (1) It is vacant and unoccupied for the purpose for which it was erected and for which purpose a certificate of occupancy may have been issued, and the building has remained substantially in such condition for a period of at least six (6) months; or
 - (2) The building is unfit for occupancy as it fails to meet the minimum standards set out by city ordinances before a certificate of code compliance could be granted, or is unfit for human habitation because it fails to meet the minimum standards set out in the Minneapolis housing maintenance code, or the doors, windows and other openings into the building are boarded up or otherwise secured by a means other than the conventional methods used in the original construction and design of the building, and the building has remained substantially in such condition for a period of at least sixty (60) days; or
 - (3) Evidence, including but not limited to neighborhood impact statements, clearly demonstrates that the values of neighborhood properties have diminished as a result of deterioration of the subject building; or
 - (4) Evidence, including but not limited to rehab assessments completed by CPED, clearly demonstrates that the cost of rehabilitation is not justified when compared to the after rehabilitation resale value of the building.
- (b) When it is determined by the director of regulatory services or the city fire marshal that a building constitutes an immediate hazard to the public health and safety, and after approval by the city council, the sixty-day waiting period set out in this section may be waived and the other procedures, as set out in this chapter, may be implemented immediately.
- (c) Notwithstanding the foregoing provisions, accessory buildings such as garages, barns and other similar structures, not intended to be used for human habitation, shall be deemed to constitute a nuisance condition when such buildings are in violation of section 244.1560 of the housing maintenance code which regulates nondwelling structures or when such accessory buildings are structurally unsound in the opinion of the director of regulatory services. (76-Or-102, § 1, 7-9-76; 77-Or-226, § 2, 11-10-77; 78-Or-233, § 2, 11-9-78; 79-Or-016, § 1, 1-26-79; 80-Or-181, § 1, 8-8-80; 84-Or-095, § 1, 6-15-84; 86-Or-236, § 1, 10-10-86; 91-Or-157, § 1, 8-9-91; 92-Or-110, § 2, 9-11-92; 93-Or-142, § 1, 10-1-93; 94-Or-123, § 2, 9-16-94; 2006-Or-059, § 1, 5-26-06; 2013-Or-165, § 2, 12-6-13)

Editor's note— It should be noted that Ord. No. 2006-Or-059, adopted May 26, 2006, was effective October 1, 2006.

249.40. - Abatement of nuisance condition.

Buildings determined to be a nuisance condition may be rehabilitated or razed by order of the director of regulatory services.

- (1) Before any action is taken to abate a nuisance condition, except as provided in section 249.25 relating to securing vacant buildings, the director of regulatory services shall examine the building to ascertain whether the nuisance condition should be ordered for rehabilitation or demolition. Among the criteria to be considered are the following:
 - a. The need for neighborhood housing;

- b. The historic value of the building;
 - c. The impact on the neighborhood and the ability of the neighborhood to attract future residents;
 - d. The capacity of the neighborhood to use the property;
 - e. The zoning and comprehensive plan classifications for the property use;
 - f. The market potential for the property;
 - g. The estimated cost of rehabilitation;
 - h. The severity and the history of neglect;
 - i. The availability of funds for rehabilitation to the owner;
 - j. The structural condition of the building.
- (2) If the director of regulatory services determines that the building is a nuisance condition, the director of regulatory services shall order the building to be demolished, or rehabilitated. The director may impose any and all conditions deemed appropriate to ensure compliance with the order.
- (3) The department of regulatory services shall give notice of the director's order to demolish or rehabilitate the building to the owner and other persons shown to have an interest in the building deemed to create a nuisance condition. Proper notice shall be sufficiently given when mailed by certified mail return receipt requested, postage prepaid, addressed to the owner to whom the building is registered with the department of regulatory services or, if not registered, to the owner or other persons shown to have an interest in the property as ascertained by the files and records of the register of deeds or registrar of titles in and for Hennepin County. Such notice shall also be given to such persons that the director of regulatory services has actual knowledge of having an interest in the said property. In addition, such notice shall be served by three (3) weeks' published notice in any newspaper of general circulation in the City of Minneapolis as provided for in Minnesota Rules of Civil Procedure and by posting such notice at the street entrance to such building. The notice shall state:
- a. That the director has determined that the building is a nuisance condition as defined by section 249.30 and that the building is to be demolished or rehabilitated. If the director is ordering that the building be rehabilitated, the notice shall state all of the conditions that are to be imposed.
 - b. The specific reasons the building has been determined to constitute a nuisance condition.
 - c. That unless the notice is appealed within twenty-one (21) days of the date the notice was mailed, in the manner provided in section 249.45, the department of regulatory services will proceed to demolish the building or that the department of regulatory services will impose the conditions of rehabilitation on the property.
 - d. The notice shall describe how an appeal may be filed under section 249.45.
 - e. The notice shall state that the owner of the property will be responsible for the payment of all costs incurred by the city in razing or rehabilitating the building, as

well as an administrative fee of fifteen (15) percent of the cost. The notice shall state that if the costs are unpaid, the costs and the administrative fee shall be levied and collected as a special assessment against the property as provided for under section 227.100.

- (4) If no appeal is received within twenty-one (21) days of the notice being mailed, the department of regulatory services may proceed with the director's determination to demolish the building by razing the building, or may proceed with the director's determination to rehabilitate the building by imposing the conditions set forth in the notice.
- (5) When the owner of a property, that has received a director's order to demolish or rehabilitate the property, intends to sell an interest in the property, the owner must disclose to the purchaser that a director's order to demolish or rehabilitate the property has been previously issued. (76-Or-102, § 1, 7-9-76; 76-Or-165, § 1, 9-24-76; 78-Or-233, § 4, 11-9-78; 82-Or-256, § 1, 12-23-82; 85-Or-114, § 1, 6-4-85; 92-Or-110, § 4, 9-11-92; 94-Or-123, § 3, 9-16-94; 2001-Or-054, § 2, 4-20-01; 2006-Or-059, § 2, 5-26-06; 2013-Or-165, § 3, 12-6-13)

Editor's note— It should be noted that Ord. No. 2006-Or-059, adopted May 26, 2006, was effective October 1, 2006.

249.45. - Abatement of nuisance condition appeals.

- (a) There is hereby created a nuisance condition process review panel. The panel shall consist of the building official, the fire marshal, the director of community planning and economic development, and the city assessor or their designees. Three (3) members of the panel shall constitute a quorum. The panel shall make decisions by a majority vote. The director of regulatory services' order, as set forth in the notice, shall be upheld if the panel is deadlocked.
- (b) The panel shall have authority to hear and decide all appeals from the director of inspections' order to demolish or rehabilitate a nuisance condition building. The panel shall uphold or overturn the director's determination that the building is a nuisance condition as defined by section 249.30 and shall uphold or overturn the director's determination that the building should be demolished or rehabilitated. If the director of regulatory services imposes conditions on an order to rehabilitate the building, the panel shall have the authority to uphold, modify or overturn those conditions.
- (c) Any person wishing to appeal a determination of the director of regulatory services ordering demolition or rehabilitation shall file a written notice of appeal with the department of regulatory services within twenty-one (21) days after receipt of the director's order. The notice shall contain a statement of the grounds for the appeal. The notice of appeal shall be accompanied by a fee of three hundred dollars (\$300.00).
- (d) The panel shall meet at the call of the chair to hear appeals. The panel shall notify the owner and any other person known to have an interest in the property in writing of the time and place of the hearing. In addition, notice of the hearing shall be sent to all property owners within three hundred fifty (350) feet of the subject property and to any neighborhood organization in which the property is located.

- (e) Notice to the owners, or other parties with an interest in the property, shall inform the owner and parties of (1) the right to appear individually or through a representative or to submit a written statement, (2) the right to examine witnesses at the hearings and offer such evidence as may bear on the decision to demolish or rehabilitate the building, and (3) that the hearing will be recorded. Neighborhood organizations and owners of property within three hundred fifty (350) feet of the subject property shall be entitled to present joint or individual neighborhood impact statements to the panel. The neighborhood impact statements shall specifically address the items contained in section 249.40(1)a., b., c. and d., and such other relevant material as may be offered.
- (f) At the hearing, the panel shall hear all relevant evidence and argument. The panel may admit and give probative effect to evidence that possesses probative value commonly accepted by reasonably prudent persons in the conduct of their affairs. The panel shall record the hearing and keep a record of documentary evidence submitted.
- (g) At the hearing, the department of regulatory services shall present an oral summary of the background and reasons for its recommendation. A report, including any pertinent documents and photos shall be filed as part of the record. All parties having an interest in the property may review department documents, subject to restrictions in the Government Data Practices Act, prior to the hearing, and shall be permitted to present evidence in support of their position. Parties having an interest in the property shall have the right to question witnesses at the hearing.
- (h) The panel shall render its decision in writing within thirty (30) days after the close of the hearing. The panel shall determine whether the building meets the definition of nuisance condition as set forth in section 249.30 and whether the director of regulatory services' order to demolish or rehabilitate the building should be upheld or overturned and shall specify the factual and legal basis for the determination. The panel shall make its determination based upon the preponderance of the evidence.
- (i) The panel shall mail a copy of its decision to the appellant.
- (j) The panel shall refer its decision to the city council, which shall have the final authority to determine whether the building is a nuisance condition as set forth in section 249.30 and whether the building should be rehabilitated or razed. The panel's findings shall include the date and time of the hearing before the public safety and regulatory services committee. The regulatory, energy and environment committee may hear arguments from the appellants and from the department of regulatory services, but shall take no further evidence unless the committee determines that the new evidence is relevant, not duplicative, will aid the committee in making its determinations and has been submitted in a timely manner. The committee may, in lieu of hearing the new evidence, refer the matter back to the panel to hear the new evidence and develop the record. If the committee hears new evidence from the appellant or the department it shall ensure that the adverse party has an opportunity to respond to and, if appropriate, rebut such evidence and may, as appropriate, continue the matter in order to do so. (2006-Or-059, § 3, 5-26-06; 2013-Or-165, § 4, 12-6-13)

Editor's note— It should be noted that Ord. No. 2006-Or-059, adopted May 26, 2006, was effective October 1, 2006.

249.50. - Alternatives to demolition.

(a) The city council may consider as an alternate to demolition:

- (1) Ordering the owner of any nuisance condition to rehabilitate the building and specifying the time within which such rehabilitation shall occur. If rehabilitation is the alternative required by the city council, the owner shall present a plan for rehabilitation to the director of inspections that shall contain a commitment of funds to accomplish the plan. If the plan required herein is not received by the director of regulatory services within the time ordered by the council, the city shall proceed to demolish the building.
- (2) If the owner is, for any reason, unwilling or unable to immediately rehabilitate the building, the city may elect to rehabilitate and assess the cost thereof provided that the estimated cost may not exceed fifty (50) percent of the estimated after-rehabilitation market value of the property. Such costs shall be assessed against the property, in the manner provided for in section 249.60.
- (3) Notwithstanding the limitations of section 249.50(a)(2), and in order to make funds available for rehabilitation, the city may, to the extent neighborhood action plans of the neighborhood revitalization program allow, create a revolving fund for housing purposes to be used in the neighborhood for which the funds have been earmarked. The city may receive applications and consider, where appropriate, loans to owners for housing rehabilitation purposes.

(b) The city council shall order demolition or rehabilitation of the building. The city council shall make such order as it deems appropriate based upon the evidence and record of the appeal hearing. The city council may also impose any and all conditions it deems appropriate. These conditions may include the posting of a performance bond in an amount not to exceed the estimated cost of rehabilitation. The regulatory, energy and environment committee may postpone its decision and order the owner to update the committee at a future date on the progress of rehabilitation. The order shall be mailed to the last known address of the owner to whom the building is registered with the division of inspections or, if not registered, to persons shown to have an interest in the property as ascertained by the files and records of the registrar of deeds or registrar of titles in and for Hennepin County.

(c) The owner of the subject property shall comply with the city council's decision and order. If the owner fails to abide by the order, the director of regulatory services shall immediately notify the city council which may then order immediate demolition or otherwise amend its order. (76-Or-102, § 1, 7-9-76; 77-Or-226, § 3, 11-10-77; 78-Or-233, § 5, 11-9-78; 92-Or-110, § 5, 9-11-92; 93-Or-107, § 1, 7-30-93; 93-Or-142, § 2, 10-1-93; 2001-Or-054, § 3, 4-20-01; 2004-Or-051, § 1, 5-14-04; 2006-Or-059, § 4, 5-26-06; 2013-Or-165, § 5, 12-6-13)

Editor's note— It should be noted that Ord. No. 2006-Or-059, adopted May 26, 2006, was effective October 1, 2006.

249.60. - Collection of costs.

The director of regulatory services shall notify the owner of the cost incurred in razing or rehabilitating the building, under section 249.50, and the owner shall be responsible for the payment of the same, together with an administrative fee of fifteen (15) percent of the cost, within thirty (30) days of such notification. Upon default of payment after the said thirty (30) days, the cost of such razing or rehabilitating and the administrative fee shall be levied and collected as a special assessment against the property as provided for under section 227.100 of this Code, with interest at the rate of eight (8) percent per annum on the unpaid balance thereof. (76-Or-102, § 1, 7-9-76; 78-Or-233, § 6, 11-9-78; 92-Or-110, § 6, 9-11-92; 93-Or-142, § 3, 10-1-93; 2013-Or-165, § 6, 12-6-13)

249.65. - Revolving fund for abatement of buildings in a nuisance condition.

The department of regulatory services shall maintain a revolving fund to be known as the nuisance building abatement fund (hereinafter referred to as "the fund"). The fund may be drawn upon to perform abatement of buildings within the city that have been deemed to be a nuisance condition pursuant to Chapter 249. All costs and fees incurred abating buildings that are a nuisance condition, including appropriate interest, shall be recovered from the property owner pursuant to section 249.60 and 227.100. The fund shall be credited with the collection of the costs and fees recovered. Disbursements from the fund shall not be subject to the provisions and requirements of the procurement process of the city. (2006-Or-059, § 5, 5-26-06; 2013-Or-165, § 7, 12-6-13)

Editor's note— It should be noted that Ord. No. 2006-Or-059, adopted May 26, 2006, was effective October 1, 2006.

249.70. - [Authority of city.]

Nothing herein shall limit the city's authority under the provisions of Minnesota Statutes, Chapter 463. (92-Or-110, § 7, 9-11-92; 93-Or-142, § 4, 10-1-93)

249.80. - Vacant building registration.

(a) The owner of a building shall register the building with the director of regulatory services within five (5) days after it becomes a vacant building. In this section, a "vacant building" is one that is:

- (1) Condemned; or
- (2) Unoccupied and unsecured for five (5) days or more; or
- (3) Unoccupied and secured by means other than those normally used in the design of the building for thirty (30) days or more; or
- (4) Unoccupied and has multiple housing maintenance, fire or building code violations existing for thirty (30) days or more; or

- (5) Unoccupied for a period of time over three hundred sixty-five (365) days and during which time an order has been issued to correct a nuisance condition pursuant to section 227.90; or
 - (6) A vacant commercial or residential building or structure, which is unable to receive a certificate of occupancy due to expired permits, or demonstrated work stoppage of one hundred eighty (180) days or more as determined by the building official.
- (b) The owner of a commercial building or structure designated as vacant pursuant to this section may appeal such designation within twenty-one (21) days after receipt of the designation or a billing statement therefore to the nuisance condition process review panel pursuant to the procedures established in section 249.45. The notice of designation or billing statement shall notify the building owner of such appeal rights.
 - (c) The registration shall be submitted on forms provided by the director of regulatory services and shall include the following information supplied by the owner:
 - (1) A description of the premises;
 - (2) The names and addresses of the owner or owners;
 - (3) The names and addresses of all known lienholders and all other parties with an ownership interest in the building;
 - (4) The period of time the building is expected to remain vacant; and a plan and timetable for returning the building to appropriate occupancy or for demolition of the building.
 - (d) The owner shall submit a plan and timetable that must comply with the guidelines adopted by the director of regulatory services. The guidelines are adopted for purposes of preventing nuisance conditions and maintaining compliance with this Code. These guidelines shall be made available to building owners. The plan shall be submitted at the time of registration, or within a reasonable period of time thereafter to be determined by the director of regulatory services.
 - (e) The owner shall comply with all applicable laws and codes. The owner shall notify the director of regulatory services of any changes in information supplied as part of the vacant building registration within thirty (30) days of the change. If the plan or timetable for the vacant building is revised in any way, the revisions must meet the approval of the director of regulatory services.
 - (f) The owner and the subsequent owners shall keep the building secured and safe and the building and grounds properly maintained until the rehabilitation or demolition has been completed.
 - (g) Failure of the owner or any subsequent owner to maintain the building and premises that result in abatement completed by the city shall be grounds for revocation of the approved plan and shall be subject to any applicable penalties provided by law.
 - (h) The new owner(s) shall register or re-register the vacant building with the director of regulatory services within thirty (30) days of any transfer of an ownership interest in a vacant building. The new owner(s) shall comply with the approved plan and timetable submitted by the previous owner until any proposed changes are submitted and meet the approval of the director of regulatory services.

- (i) The director of regulatory services shall 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.
- (j) Vacant building fees:
 - (1) The owner of a vacant building shall pay an annual fee as established pursuant to section 91.70. The fee is imposed to recover all costs incurred by the city for monitoring and regulating vacant buildings, including nuisance abatement, enforcement and administrative costs. This fee may be waived or suspended for the current year as a term or condition of a written restoration agreement or order issued pursuant to section 249.50. This fee may be waived for the current year and previous years if the property is acquired by the community planning and economic development (CPED) department.
 - (2) The first annual fee shall be paid no later than five (5) days after the building becomes vacant. Subsequent annual fees shall be due on the anniversary date of initial vacancy. The fees shall be paid in full prior to the issuance of any building permits, with the exception of a demolition permit.
 - (3) Unpaid fees shall be levied and collected as a special assessment against the property as provided for under section 227.100, with interest at the rate of eight (8) percent per annum on the unpaid balance thereof. Upon transfer of ownership, the new owner(s) shall be responsible for all unpaid and subsequent annual fees.
- (k) A building owner shall provide access to all interior portions of an unoccupied building in order to permit a complete inspection for the purpose of enforcing and assuring compliance with the provisions of this chapter. (92-Or-110, § 8, 9-11-92; 2001-Or-054, §§ 4, 5, 4-20-01; 2006-Or-059, § 6, 5-26-06; 2008-Or-017, § 1, 2-29-08; 2009-Or-041, § 1, 5-22-09; 2009-Or-053, § 1, 7-17-09; 2010-Or-062, § 1, 7-23-10; 2013-Or-165, § 8, 12-6-13)

249.90. - Penalties.

Any person who violates a provision of this chapter or provides false information on a required registration or plan, is guilty of a misdemeanor, punishable as provided in section 1.30 of this Code. (93-Or-003, § 1, 1-15-93; 2001-Or-054, §§ 6, 7, 4-20-01)



The City That Soars!

REQUEST FOR PLANNING COMMISSION ACTION

Meeting Date	September 24, 2019
Agenda Item	G3
Attachment(s)	Excerpt from April 23, 2019 packet
Submitted By	Justin Markon, Community Development Coordinator

Item	Discuss Tatum St vacant parcel
Description	At the April 23, 2019 Planning Commission meeting, the commission briefly discussed a request from Mr. John Labalestra to place a multifamily structure on the empty parcel that he owns on Tatum Street. He has requested that the commission revisit the topic and discuss thoughts on a multifamily structure or single family home. The commission packet information from April 23 is attached.
Budget Impact	No impact
Attachment(s)	<ul style="list-style-type: none"> Excerpt from April 23, 2019 Planning Commission packet
Action(s) Requested	Staff request discussion on vacant parcel and viability of its future use.

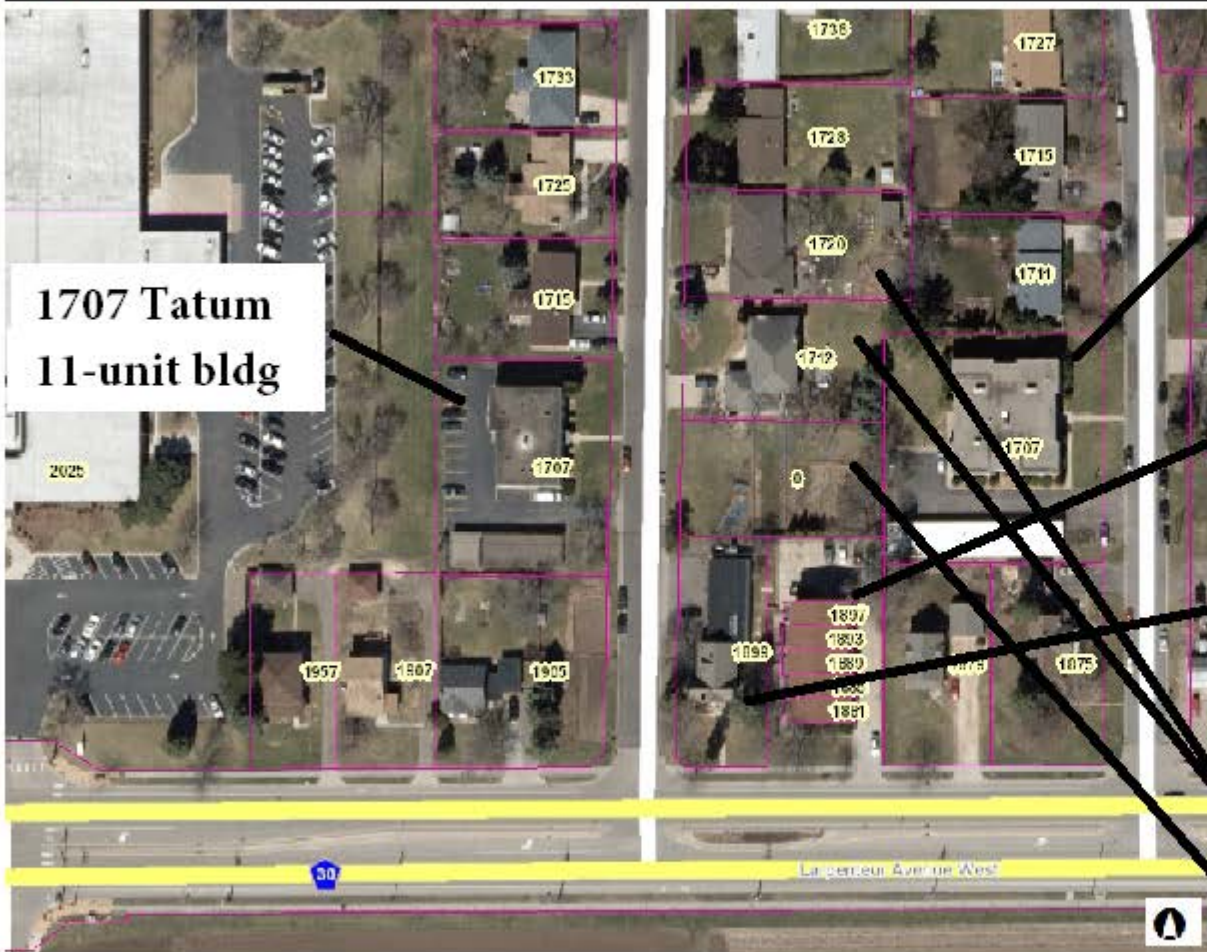


The City That Soars!

REQUEST FOR PLANNING COMMISSION ACTION

Meeting Date	April 23, 2019
Agenda Item	G1
Attachment(s)	Area diagram, R-3 and PUD regulations
Submitted By	Justin Markon, Community Development Coordinator

Item	Discuss property in Labalestra Park (Tatum Street)
Description	<p>Mr. John Labalestra has requested a Workshop with the Planning Commission to discuss his ideas for development of a vacant lot he owns on Tatum Street. He also wishes to change the lot lines of the two properties to the north, which he also owns, as they are currently incongruent with the houses on the lots. A diagram of the area is included in the following pages.</p> <p>Mr. Labalestra met with Staff in late January to discuss his proposal for the vacant lot, during which he shared that he believes pursuing a PUD is the best option for the property. He believes that a 4-unit attached townhome project is a good use of the space because it promotes density, is near other multi-family properties, and would be consistent with other nearby building heights. It is also located near Larpenteur Ave and the University of Minnesota.</p> <p>Following the change to the lot lines, the property would have ~10,575 square feet, with lot dimensions of 75x141 feet. The minimum requirements for an R-3 lot, of which townhouses is a conditional use, is a lot area of 12,500 sq. ft and a lot width of 90 feet.</p> <p>At the Workshop, Mr. Labalestra would like to share his plans and solicit feedback from the Commission on the proposal. He has also indicated that he is open to the Commission's thoughts on the use that best fits the area. He would plan to build starting next summer.</p>
Budget Impact	No impact
Attachment(s)	<ul style="list-style-type: none"> • Tatum Street area • R-3 and PUD regulations
Action(s) Requested	None at this time



1707 Tatum
11-unit bldg

1707 Lindig
12-unit apartment bldg

1881-1897 Larpenteur
5-unit attached townhomes

1899 Larpenteur
home and dance studio

1712 & 1720 Tatum owned by
Mr. Labalestra
currently vacant lot

Sec. 113-176. - R-3 medium density multiple-family residential district-apartment buildings.

- (a) *Scope.* The provisions of this section apply to the R-3 medium density multiple-family residential district.
- (b) *Permitted uses.* All permitted uses in the R-2 district.
- (c) *Conditional uses.* No structure or land shall be used for the following uses except by conditional use permit, except that multifamily dwellings shall not exceed 12 per acre.
 - (1) Any conditional use permitted in the R-1 and R-2 districts.
 - (2) Conversion or enlargement of existing homes to accommodate one-, two-, three- or four-dwelling units.
 - (3) Large group homes as defined in this chapter.
 - (4) Townhouses. See performance standards as permitted in article VI, division 3 of this chapter.
 - (5) Buildings containing two or more dwelling units not exceeding 12 dwelling units per acre.
- (d) *Permitted accessory uses.* The following uses shall be permitted accessory uses:
 - (1) All accessory uses as permitted in the R-1, R-2 districts.
 - (2) Conversion or enlargement as required by terms of a conditional use permit.
- (e) *Lot area, height, lot width and yard requirements.*
 - (1) See performance standards as permitted in article VI, division 3 of this chapter (or as required by conditional use permit).
 - (2) No structure or building shall exceed three stories, or 30 feet, whichever is lesser in height, except as provided in section 113-243.
 - (3) A side yard abutting on a street shall not be less than 30 feet in width, and when a side yard of a multifamily structure abuts a single-family residence, the side yard shall not be less than 20 feet.
 - (4) The following minimum requirements shall be observed subject to additional requirements except as a modification set forth in this section and section 113-241.

Lot Area	Lot Width	Front Yard	Side Yard	Rear Yard
12,500 sq. ft.	90 feet	30 feet	10 feet or ½ the height of the building, whichever is greater	30 feet

*Lot area for single-family residence may be reduced to 10,000 square feet.

(Code 1993, § 9-7.01; Ord. No. 0-93-07, § 7, 7-28-1993; Ord. No. 10-06, § 3, 9-8-2010)

Editor's note— Ord. No. 10-06, § 3, adopted Sept. 8, 2010, changed the title of § 113-176 from "R-4 medium density multiple-family residential district-apartment buildings" to "R-3 medium density multiple-family residential district-apartment buildings". This historical notation has been preserved for reference purposes.

ARTICLE V. - PLANNED UNIT DEVELOPMENT (PUD)

Sec. 113-199. - Purpose.

The planned unit development district is intended to permit flexibility of site design, the conservation of land and open space through clustering of buildings and activities, and an incentive to developers to plan creatively by providing density bonuses. This flexibility can be achieved by allowing deviations from standards including setbacks, heights and similar regulations. PUDs are characterized by central management, integrated planning and architecture, joint or common use of parking, open space and other facilities, and a harmonious selection and efficient distribution of uses.

(Code 1993, § 9-16.01)

Sec. 113-200. - Required use.

PUD zoning is required for all developments having two or more principal uses or structures on a single parcel of land and may include townhouses, apartment projects involving more than one building, residential subdivisions, multi-use structures such as an apartment building with retail at ground floor level, commercial developments, mixed residential and commercial developments, and similar projects.

(Code 1993, § 9-16.02)

Sec. 113-201. - General requirements and standards.

- (a) *Comprehensive plan/Code consistency.* A PUD must be consistent with the city comprehensive plan and the intent and purpose of the city Code provisions relative to land use, subdivision and development.
- (b) *Operating and maintenance requirements for PUD common open space/facilities.* Whenever joint common open space or service facilities for individual owners or users are provided within the PUD, the PUD plan shall provide reasonable assurance of adequate operation and maintenance of such open space and service facilities.
- (c) *Staging of public and common open space.* When a PUD provides for common or public open space, the total area of common or public open space or security in any stage of development, shall, at a minimum, bear the same relationship to the total open space to be provided in the entire PUD as the stages or units completed or under development bear to the entire PUD.
- (d) *Development stages.* Whenever any PUD is to be developed in stages, no such stage shall, when averaged with all previously completed stages, have a residential density that exceeds 125 percent of the proposed residential density of the entire PUD.
- (e) *Urban development and availability of public services.* All development shall be carefully phased so as to ensure that it will not cause an unreasonable burden upon the city in providing services and utilities or cause a deleterious impact upon the natural environment.

(Code 1993, § 9-16.03)

Sec. 113-202. - Permitted uses and standards.

The permitted uses, standards, and development plan shall be set forth in the ordinance rezoning the property to PUD.

(Code 1993, § 9-16.04)

Sec. 113-203. - Procedure for processing a planned unit development.

- (a) *Approval process.* Planned unit developments may be permitted in the legislative discretion of the city council. The application and hearing process for planned unit developments will be as required for other zoning chapter amendments.
- (b) *Preapplication conference.* Before filing an application for PUD, the applicant of the proposed PUD shall arrange for and attend a conference with the city administrator. The primary purpose of the conference shall be to provide the applicant with an opportunity to gather information and obtain guidance as to the general suitability of his or her proposal for the area for which it is proposed and its conformity to the provisions of this chapter before incurring substantial expense in the preparation of plans, surveys and other data.
- (c) *Application information.* An applicant shall submit a completed application form furnished by the city, together with the following information:
 - (1) Drawings in schematic form containing the following:
 - a. The location, size of site and the proposed uses of the land to be developed.
 - b. The density of land use to be allocated to the several parts of the site to be developed.
 - c. The location and size of all useable open space and the form of organization to own and maintain such space.
 - d. The use, height, bulk and approximate location of buildings and other structures.
 - e. The plans for the distribution of sanitary wastes, stormwater, and the provisions of other utilities.
 - f. The plans for parking of vehicles and the location and width of proposed streets, curbs, gutter and landscaping.
 - g. A schedule showing the proposed times within which application for final approval of all sections of the planned unit development are intended to be filed.
 - (2) A written statement must include the following:
 - a. A narrative explanation of the general character of the planned unit development, its integration with the surrounding land uses and justification of any requested density bonuses.
 - b. A statement identifying the final ownership and describing maintenance of all parts of the development including streets, structures and useable open space.
 - c. The total anticipated population of the planned unit development, with breakdowns as to the estimated number of school age children, adults and families.
 - (3) The following exhibits:
 - a. Abstractor's certified property certificate showing the names and addresses of property owners within 350 feet of the outer boundaries of the property.
 - b. Location map showing property in relation to the city as a whole and to the city's primary

elements such as thoroughfares, schools, parks and shopping areas.

- c. A legal description of the property including approximate total acreage.
- d. Boundary survey prepared by a registered surveyor of the property and 100 feet beyond showing:
 - 1. Existing property lines and dimensions.
 - 2. Ownership of all parcels.
 - 3. Platting and easements.
 - 4. Street and railroad rights-of-way.
 - 5. Buildings.
 - 6. Utility lines and facilities.
- e. A topographic map prepared by a registered civil engineer or registered land surveyor covering the entire tract proposed for development which contains the following information:
 - 1. Contour lines at no more than foot intervals.
 - 2. Hydrologic information including drainage patterns, wetlands, and land subject to periodic flooding.
 - 3. Soil and subsoil conditions.
 - 4. Vegetation including classification of tree cover by species.
- f. Any other material requested by the city council, planning commission or city staff.

(Code 1993, § 9-16.05)

Sec. 113-204. - Coordination with subdivision approval.

If development of the PUD requires subdivision approval, the PUD and subdivision shall be processed concurrently.

(Code 1993, § 9-16.06)

Sec. 113-205. - Development contract.

The city and the developer shall enter into a development contract setting forth any improvements required to be undertaken by the developer. This contract may be combined with the development contract required for subdivision approval.

(Code 1993, § 9-16.07)

Sec. 113-206. - Rezoning.

If approved by the city council, the property shall be rezoned PUD in accordance with the terms of approval. If a concurrent plat application is being processed, PUD rezoning shall be concurrent with final plat approval.

(Code 1993, § 9-16.08)

Sec. 113-207. - Control of planned unit development following completion.

- (a) *Modification of structures.* After the certificate of occupancy has been issued, the use of the land and the

construction, modification or alteration of any buildings or structures within the planned development shall be governed by the final development plan.

- (b) *Changes in final development plan.* After the certificate of occupancy has been issued, no changes shall be made in the approved final development plan except upon application as provided below:
- (1) Any minor extensions, alterations or modifications of existing buildings or structures may be authorized by the planning commission if they are consistent with the purposes and intent of the final plan. No change authorized by this section may increase the volume of any building or structure by more than ten percent.
 - (2) Any building or structure that is totally or substantially destroyed may be reconstructed only in compliance with the final development plan unless an amendment to the final development plan is approved.
 - (3) Changes in the use of common open space or any other substantial changes in the final development plan may be authorized by an amendment to the final development plan.

(Code 1993, § 9-16.09)

Sec. 113-208. - Amendment of plan.

Any substantial changes in the final development plan, including but not limited to changes in land use, increases in development density or intensity or changes in the provisions for common open spaces shall require a PUD amendment. The amendment process for planned unit developments shall be the same as that for all other amendments to this chapter. (See section 113-35.)

(Code 1993, § 9-16.10)

Sec. 113-209. - Urban farm planned unit development district.

- (a) *Legal description.* The legal description of this PUD is lots 1 and 2, block 1, Urban Farm Project Addition.
- (b) *Purpose.* The purpose of the urban farm PUD district is to provide for the mixed uses of an urban farm and an apartment building.
- (c) *Scope.* The provisions of this section apply to the urban farm planned unit development.
- (d) *Permitted uses.* The following uses are permitted subject to the development plan for the PUD, subsection 113-209(f), and the standards and requirements of the R-5M zoning district, except as modified herein:
 - (1) *On lot 1, block 1 an urban farm.* At least 21 paved parking spaces must be maintained next to the main building adjacent to Larpenteur Avenue, as well as at least 24 overflow parking stalls. The urban farm may have up to:
 - 976 square feet of retail space;
 - 2,201 square feet of office/training/kitchen space;
 - 8,580 square feet of distribution/warehouse space;
 - 849 square feet of greenhouse space; and
 - 576 square feet of yard storage building space.

- (2) On lot 2, block 1, a 68-unit apartment building with at least 68 parking spaces. At least 54 of the required spaces must be below grade and integrated into the apartment building. The site may have up to: 60,537 square feet of residential living space;
- Four stories with underground parking; and
- Private access easement between lot 1 and lot 2 to be recorded into the property record of both parcels.
- (3) On lots 1 and 2, block 1, essential services.
- (e) *Permitted accessory uses.*
- (1) On lots 1 and 2, block 1, the accessory uses in the R-5M zoning district;
- (2) On lot 1, block 1, seasonal hoop houses for growing vegetables.
- (f) *Development plan.* The PUD must be maintained in accordance with the following development plan which is on file with the city and which is incorporated herein by reference:
- (1) Urban farm project addition plat;
- (2) Topographic survey and grading, drainage and utility plan prepared by Jacobson Engineers & Surveyors dated July 28, 2014;
- (3) The following plans prepared by LHB for lot 1, block 1:
- Architectural Site Plan w/Landscape Layout dated August 18, 2014;
- First Floor Plan dated August 18, 2014;
- Yard Storage Building - Color Option 1 dated July 28, 2014 or Yard Storage Building - Color Option 2 dated August 18, 2014;
- Exterior Elevations - Color Option 1 dated August 18, 2014 or Exterior Elevations - Color Option 2 dated July ***.
- (4) The following plans prepared by Kelly Brothers, Ltd. for lot 2, block 1:
- Architectural Site Plan w/Landscape Layout dated — TBD
- Exterior Elevations — TBD
- Complete Floor Plan date — TBD

(Ord. No. 13-02, § 2, 5-22-2013; Ord. No. 14-02, § 1, 9-10-2014; Ord. No. 17-01, § 1, 6-14-2017)

Secs. 113-210—113-239. - Reserved.