



Legislation Details (With Text)

File #: 141669 **Version:** 1
Type: Ordinance **Status:** Passed
File created: 2/10/2015 **In control:** COMMON COUNCIL
On agenda: **Final action:** 3/3/2015
Effective date:
Title: A substitute ordinance relating to vacant building registration and requirements.
Sponsors: ALD. WADE, ALD. BOHL
Indexes: BUILDING CODE, BUILDING-REGULATION
Attachments: 1. Hearing Notice List, 2. Letter to the Mayor, 3. Notice Published on 3-6-15

Date	Ver.	Action By	Action	Result	Tally
2/10/2015	0	COMMON COUNCIL	ASSIGNED TO		
2/24/2015	1	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	HEARING NOTICES SENT		
2/24/2015	1	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	HEARING NOTICES SENT		
2/24/2015	1	CITY CLERK	DRAFT SUBMITTED		
2/24/2015	1	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	HEARING NOTICES SENT		
2/24/2015	1	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	HEARING NOTICES SENT		
3/3/2015	1	COMMON COUNCIL	PASSED	Pass	15:0
3/3/2015	1	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	RECOMMENDED FOR PASSAGE	Pass	4:0
3/5/2015	1	MAYOR	SIGNED		
3/6/2015	1	CITY CLERK	PUBLISHED		

141669

SUBSTITUTE 1

090428, 101401, 131505

ALD. WADE AND BOHL

A substitute ordinance relating to vacant building registration and requirements.

200-19-2 am

200-33-64 cr

200-51.7 cr

275-32-7-a-0 am

275-32-7-a-7 am

On November 3, 2009, the common council passed file number 090428, a substitute ordinance relating to vacant building registration and requirements. This ordinance included a sunset provision stating that the authorization of the vacant building registration program shall expire 5 years from the effective date of the ordinance, January 1, 2010, unless reauthorized by the common council. The ordinance expired January 1, 2015.

This ordinance reestablishes the vacant building inspection program, thereby making it a permanent program.

Whereas, Economic conditions and the rise in the number of mortgage foreclosures has resulted in a significant increase in the number of vacant buildings; and

Whereas, Vacant buildings often become abandoned and dilapidated because they are not maintained by their owners; and

Whereas, Vacant buildings often are not properly managed or monitored, may facilitate drug dealing and other criminal activity, may harbor vermin, attract trespassers, attract nuisance activity, and attract criminals and may be damaged by vandals or arsonists; and

Whereas, Vacant buildings invite dumping, trash and other debris; and

Whereas, Vacant buildings contribute to blight, causing a decrease in property values and discouraging neighbors from making improvements to their buildings, encouraging neighbors to move out of the neighborhood and discouraging persons from moving into the neighborhood; and

Whereas, The City of Milwaukee spends additional public safety resources on vacant buildings, as well as the staff and time to secure or demolish vacant buildings; and

Whereas, The Common Council considers these vacant buildings to have a negative effect on the neighborhoods and constitute a hazard to the public health, safety and welfare; now, therefore

The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. Section 200-19-2 of the code is amended to read:

200-19. Penalties.

2. In addition to other applicable enforcement procedures and pursuant to the authority of s. 66.0113, Wis. Stats., the department may issue citations pursuant to the citation procedure set forth in s. 50-25 to any person violating any provision of ss. 200-11, 200-20-2, 200-21.5, 200-22-5, 200-24, 200-42, >>200-51.7, << 200-53, 200-61, ch. 207, ch. 214, ss. 218-2, 218-6, 218-9-6, 222-11-2, 222-13-1, 222-19-1, ch. 223, ss. 225-2-1, 225-3-4, 225-3-5-a, ch. 236, ch. 240, s. 244-3, ch. 246, s. 252-1, ch. 261, ch. 275, ch. 289, ch. 290, ch. 295 or s. 320-21-11.

Part 2. Section 200-33-64 of the code is created to read:

64. VACANT BUILDING REGISTRATION CERTIFICATE.

- a. Each vacant building registration certificate shall be issued and shall be valid for 6 months from the date the certificate is issued.
- b. There shall be no fee for the initial registration for each building.
- c. There shall be a vacant building inspection renewal fee of \$250 for each building.
- d. Any building in violation of any of the provisions of s. 200-51.7 at the time of any 6-month inspection shall be charged a vacant building inspection renewal fee of \$500.
- e. Any building continuing to be in violation of any of the provisions of s. 200-51.7 at the time of any 6-month inspection shall be charged a vacant building inspection renewal fee in increasing increments of \$250 at each renewal to a maximum of \$1,000.
- f. Vacant building inspection fees shall be charged against the real estate and shall be assessed and

collected as a special charge. (See s. 200-51.7.)

g. A fee of \$50 shall be imposed if the department is unable to gain access to the structure for the inspection pursuant to s. 200-51.7-7 at the scheduled time.

Part 3. Section 200-51.7 of the code is created to read:

200-51.7. Vacant Building Registration.

1. FINDINGS. The common council finds that a significant relationship exists between vacant buildings and increased calls for service for police services, higher incidence of fires, both accidental and intentional, and decline and disinvestment in neighborhoods. Vacant buildings become havens for vandalism, arson and drug crimes, representing not only a clear drain of valuable governmental resources, but also creating a significant reduction of the quality of life for the surrounding neighborhood. Registration, inspection and aggressive monitoring of vacant properties helps stabilize and improve impacted neighborhoods and helps in the development of code enforcement efforts as well as public safety. The common council further finds that a property owner or entity functioning as a trustee of an owner that does not register, permit inspection, insure, secure and maintain a vacant building places an undue and inappropriate burden on the taxpayers of the city and poses an increased risk to public safety. The common council therefore directs the chief of police, fire chief and the commissioner of neighborhood services, as provided in this section, to charge the owner or entity functioning as a trustee of an owner of such property the costs of any public safety services rendered to the property while non-compliant with this section.

2. PURPOSE. Registering of residential buildings or any other building, including, but not limited to, buildings designed for manufacturing, industrial, storage or commercial uses is essential for the proper enforcement of the city's building, fire and zoning code and to safeguard persons, property and general welfare. Residential condominium and rental units are excluded from this section provided the vacancy rate of the building they are situated in does not exceed 95%.

3. DEFINITIONS. In this section:

a. "Owner" means the person in whom is vested all or part of the legal title to the property or all or part of the beneficial ownership and right to present use and enjoyment of the premises.

b. "Secured" means a building that has a permanent door or window in each appropriate building opening that is secured to prevent unauthorized entry and has all its door and window components, including frames, jambs, rails, stiles, muntins, mullions, panels, sashes, lights and panes intact and unbroken.

c. "Vacant" means a building which lacks habitual presence of human beings who have a legal right to be on the premises, or at which substantially all lawful business or construction operation or residential occupancy is at a level of at least 95% vacant. An owner occupied single family home or owner occupied 2 family dwelling residential property shall not be deemed vacant if it has been used as a residence by the owner for a period of at least 3 months within the previous 9 months and the owner intends to resume residing at the property.

d. "Violation" means that an order has been issued by the department and the conditions forming the basis for the order have not been fully abated.

e. "Unsecured" means any building that does not meet the definition of secured.

4. REGISTRATION REQUIRED.

a. The owner of any building that has become vacant shall within 30 days after the building becomes vacant or within 30 days after assuming ownership, whichever is later, file a registration statement and pay a registration fee as prescribed in s. 200 33 64 for each such building with the department on forms provided by the department.

b. In addition to other information, the registration statement shall include the name, street address

and telephone number of a person 21 years of age or older, designated by the owner or owners as the authorized agent for receiving notices of code violations and for receiving process, in any court proceeding or administrative enforcement proceeding, on behalf of the owner or owners in connection with the enforcement of this section. This person shall reside within the 7- county area as described in s. 200-51.5-2-j.

c. The owner shall be required to renew the registration for successive 6 month periods as long as the building remains vacant and shall pay a registration renewal fee as prescribed in s. 200-33-64 for each registered building.

d. If, at the time of any 6-month inspection by the city, the building is in violation of any provision of this section, the owner shall pay a vacant building inspection renewal fee as provided in s. 200-33-64.

5. EXEMPTIONS. The following are exempt from the provisions of this section:

a. Property owned by governmental bodies and the housing authority.

b. Abandoned residential property pending foreclosure while subject to s. 200- 22.5.

c. Property that is vacant as a result of a natural disaster and covered by emergency response requirements issued by the commissioner.

d. d-1. Property that is undergoing an active renovation or rehabilitation, provided a written plan for such renovation or rehabilitation has been submitted to and approved by the commissioner in accordance with subd. 2. The commissioner may revoke his or her approval of an exemption under this paragraph for violation of any condition or provision of application for such approval, for violation of any ordinance, law, lawful order or Wisconsin statute relating to the property, or if in the opinion of the commissioner the continuation of the exemption will be contrary to this section's purpose of safeguarding persons, property and general welfare.

d-2. An owner may request an exemption pursuant to subd. 1 by filing with the commissioner a written application and plan for the subject renovation or rehabilitation on a form furnished for such purpose. All plans submitted for approval shall include:

d-2-a. The legal description of the lot or parcel of land as obtained from official records.

d-2-b. The name and address of the owner of the premises.

d-2-c. The name and address of the person or contractor completing the work.

d-2-d. A detailed description of the renovation or rehabilitation.

d-2-e. The projected cost of the renovation or rehabilitation.

d-2-f. The time frame for completion of the renovation or rehabilitation.

e. A single-family home or owner occupied 2 family dwelling residential property that has been used as a residence by the owner for a period of at least 3 months within the previous 9 months and the owner intends to resume residing at the property.

f. Residential condominium and rental units in buildings whose vacancy rate does not exceed 95%.

g. Properties that are part of an estate that is in probate and are not subject to bankruptcy provided the personal representative or executor resides in the 7 county area as defined in 200-51.5-2 j.

6. OWNER RESPONSIBILITIES. The owner of any building that has become vacant shall:

a. Enclose and secure the building as provided in sub. 7.

b. Maintain the building in a secure and closed condition until the building is again occupied or demolished.

c. Acquire or otherwise maintain liability insurance in an amount not less than \$300,000 for buildings designed primarily for residential use and not less than \$1,000,000 for any other building, including, but not limited to, buildings designed for manufacturing, industrial, storage or commercial uses, covering any damage to any person or any property caused by any physical condition of or in the building. Evidence of this insurance shall be available at the request of the commissioner.

7. MINIMUM REQUIREMENTS FOR VACANT BUILDINGS. The owner of any vacant building for which registration is required by this section shall provide access to the city to conduct an exterior

and interior inspection of the building to determine compliance with this section, following reasonable notice. If any owner of a vacant building does not provide access to the property at the scheduled time, the commissioner may apply for and obtain a special inspection warrant pursuant to s. 66.0119, Wis. Stats. In addition, failure to provide access to the property at the scheduled time shall subject the property owner to the fees specified in s. 200-33-64-g. In addition to any other applicable requirements, vacant buildings shall comply with the following requirements:

a. Lot Maintenance Standards. Lot maintenance standards include the lot the building stands on and the surrounding public way and shall meet the following:

a-1. All grass and weeds on the premises including abutting sidewalks, gutters and alleys shall be kept below 7 inches in height and all dead or broken trees, tree limbs or shrubbery shall be cut and removed from the premises.

a-2. Any public sidewalk adjoining the lot shall be shoveled clear of snow so as to comply with s. 79-13.

a-3. Junk, rubbish, waste and any material that creates a health, safety or fire hazard, including but not limited to any mail or flyers that have been delivered to the building, shall not be permitted to accumulate on any portion of the exterior lot of the building.

a-4. No portion of the lot nor any structure, vehicle, receptacle or object on the premises shall be maintained or operated in any manner that causes or produces any health or safety hazard or permits the premises to become a rodent harborage or is conducive to rodent harborage.

a-5. The lot shall be maintained so that water does not accumulate or stand on the ground.

a-6. All fences and gates shall be maintained in sound condition and in good repair.

b. Exterior Maintenance Standards. The exterior of the building shall be enclosed, secured and maintained to meet the following:

b-1. Foundations, basements, cellars and crawlspaces shall be maintained in sound and watertight condition adequate to support the building and protected against the entry of rodents or other animals.

b-2. Exterior walls shall be free of holes, breaks, loose or rotting boards or timbers, and any other conditions which might admit rain or dampness to the interior portions of the walls or the interior spaces and shall be protected against the entry of rodents or other animals.

b-3. Exterior windows and doors shall be maintained in sound condition and good repair and prevent rain from entering the building, or the opening shall be secured in accordance with s. 275-32-7. The windows and doors shall be equipped with hardware for locking and the locking mechanism shall be maintained in properly functioning condition. All points of possible ingress and egress shall be secured to prevent unauthorized entry.

b-4. The roof shall be adequately supported and maintained in weathertight condition; the gutters, downspouts, scuppers and appropriate flashing shall be in good repair and adequate to remove the water from the building.

b-5. Chimneys and flues shall be kept in sound, functional, weathertight condition and in good repair.

b-6. Every outside stair or step shall be maintained in sound condition and in good repair; every porch, stoop, deck, veranda, balcony and walk shall be maintained in sound condition for its purpose.

c. Interior Maintenance Standards. The interior of any building shall be maintained in accordance with the following:

c-1. It is prohibited to accumulate or permit the accumulation of junk, trash, debris, boxes, lumber, scrap metal or any other materials that may produce any health, fire or safety hazard, or provide harborage for rodents or other animals.

c-2. Every foundation, roof, floor, wall, stair, ceiling or other structural support shall be safe and capable of supporting the loads associated with normal usage and shall be kept in sound condition and repair.

c-3. Any plumbing fixtures shall be maintained with no leaking pipes, and all pipes for water shall either be completely drained or heated to resist being frozen.

c-4. Every exit door shall be secured with an internal deadbolt lock, or with a locking mechanism deemed equivalent or better by the department, and every exit door shall be capable of being opened from the inside easily and without the use of a key or special knowledge.

c-5. Interior stairs shall have treads and risers that have uniform dimensions, are sound, securely fastened and have no rotting, loose or deteriorating supports.

c-6. Every owner shall be responsible for the extermination of insects, rodents and other vermin in or about the premises.

d. Building Security Standards. The following apply to the securing of vacant buildings:

d-1. All building openings shall be closed and secured, using methods and materials so as to comply with the requirements of s. 275-32-7.

d-2. If a building has been vacant for 6 months or longer, or upon any renewal of the registration statement, the building owner shall implement and provide proof satisfactory to the department that in addition to complying with the security standards in subd. 1, it is secured. If the building fails to be secured as determined by the commissioner or the commissioner's designee, then the building shall be boarded in accordance with s. 275-32-7.

d-3. If the owner has provided proof that a building is secured and based on an inspection by the department the building is found to be in violation, the commissioner shall send by first class mail a written notice of the violation to the person responsible for day to day supervision and management of the building or to the authorized agent for service of process or to the owner of record. Within 30 days of the mailing of the notice of violation, the owner shall be required to either comply with subd. 2 or restore the building to a secured state and also install and maintain a working alarm system. The alarm system shall connect to all areas of the building subject to unauthorized human entry, including but not limited to, all exterior doors, windows or other readily accessible openings. The alarm system shall, upon detecting unauthorized entry, send an automatic signal to a licensed alarm business that has 24-hour live operators who will monitor the system and contact the building owner or designated agent.

8. ISSUANCE OF MODIFICATIONS. Upon written application by an owner or an owner's agent, the commissioner may approve a modification of any provision of this section, including the requirement for inspections and fees, provided the spirit and functional intent of the section will be observed and the public health, welfare and safety will be assured. The decision of the commissioner concerning a modification shall be made in writing and the application for a modification and the decision of the commissioner concerning such modification shall be retained in the permanent records of the department.

9. RULES AND REGULATIONS. The commissioner may issue rules and regulations for the administration of this section. These rules may specify additional board up materials which may be used when securing a building, if proof is provided satisfactory to the commissioner that the materials will perform in a manner equivalent to, or better than, the materials specified in this section.

10. PENALTY. a. Failure to Register. Any property owner or entity functioning as a trustee of an owner, that fails to register a vacant building as required under sub. 4 shall, upon conviction, forfeit not less than \$500 nor more than \$2,000, together with the cost of the action, and in default of payment thereof may be imprisoned as provided by law.

b. Failure to Secure and Maintain. Any property owner or entity functioning as a trustee of an owner, having a duty to register a vacant building that fails its duty to secure and maintain the property as required under sub. 6 or 7 shall, upon conviction, forfeit not less than \$350 nor more than \$1,500, together with the cost of the action, and in default of payment thereof may be imprisoned as provided by law.

10.5. MAINTENANCE OR SECURING OF VACANT BUILDING BY CITY. a. Common Council

Findings. Notwithstanding the penalty provisions of sub. 10, the commissioner shall promptly, pursuant to s. 66.0119, Wis. Stats., petition the court for a special inspection warrant to enter upon the premises of a vacant building and immediately take all actions necessary to ensure the building is compliant with subs. 6-a and b and 7 if the common council, by resolution, makes findings that:

a-1. The property owner or entity functioning as a trustee of the owner has failed to secure and maintain the property as required by sub. 6 or 7.

a-2. The lack of proper securing or maintenance of the property by the owner or entity functioning as a trustee of the owner is resulting in the permissive waste of the property.

a-3. The property is of substantial and extraordinary historic, architectural or commercial value to the surrounding neighborhood and to the city as a whole.

b. Cost Recovery. Whenever, pursuant to this subsection, the commissioner takes actions necessary to ensure that a building is compliant with subs. 6-a and b and 7, all costs of such actions shall be charged as a lien upon the property and may be assessed and collected as a special charge. The commissioner shall establish a reasonable charge for the costs of administration and enforcement of this section.

11. CHARGE FOR PUBLIC SAFETY SERVICES. a. Any property owner or entity functioning as a trustee of an owner that fails to comply with any provision of this section shall be charged for any public safety services rendered to the property by the police department or fire department while non-compliant with this section. The chief of police or fire chief shall provide a record of each service rendered to the property and the costs of services, investigation, administration and enforcement to the commissioner of neighborhood services. The costs of the services, investigation, administration and enforcement by any police or fire personnel may be charged to the owner or entity functioning as a trustee of an owner and in whole or in part. Appeal of the determination of the chief of police or fire chief imposing costs against the owner or entity functioning as a trustee of an owner may be submitted to the administrative review appeals board as provided by s. 320-11.

b. Cost Recovery. Upon receipt of a cost referral letter from the chief of police or fire chief pursuant to par. a., the commissioner of neighborhood services shall charge any premises owner or entity functioning as a trustee of an owner found to be in violation of this section the costs of enforcement, including administrative costs, in full or in part. A notice of intent to charge shall be issued to the premises owner or entity functioning as a trustee of an owner along with notice that, if the property is brought into compliance with the vacant building registration program within 30 days of the notice, the public safety service charge shall not be issued. If the property is not brought into compliance within 30 days, all costs shall be charged as a lien upon such premises and may be assessed and collected as a special charge. The commissioner shall establish a reasonable charge for the costs of administration and enforcement of this section.

Part 4. Section 275-32-7-a-0 of the code is amended to read:

275-32. Exterior Structure.

7. VACANT STRUCTURES.

a. Owners shall have the responsibility for maintaining all vacant dwelling units, dwellings, structures, principal buildings and accessory buildings in a locked or closed condition so that they cannot be entered without an unlawful break-in. >>The owner of any building that has become vacant shall within 30 days after the building becomes vacant or within 30 days after assuming ownership, whichever is later, file a registration statement pursuant to s. 200-51.7-4.<< The commissioner may, to assure compliance with this subsection, order an owner to board a structure.

Part 5. Section 275-32-7-a-7 of the code is amended to read:

a-7. The owner of a structure boarded under subd. 1 shall be required, upon notification, to provide entry to the structure to the commissioner at least once every 6 months, for inspection purposes >> as specified as s. 200-51.7,<< or at anytime when the structure has been unlawfully entered.

APPROVED AS TO FORM

Legislative Reference Bureau

Date: _____

IT IS OUR OPINION THAT THE ORDINANCE
IS LEGAL AND ENFORCEABLE

Office of the City Attorney

Date: _____

LRB157227-2

Teodros W. Medhin:lp

2/19/2015