

407. Vacant Buildings

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407.01. Declaration of policy.

The purpose of this chapter is to protect the public health, safety and welfare by enactment of this ordinance which:

- (1) Establishes a program for identification and registration of vacant buildings.
- (2) Determines the responsibilities of owners of vacant buildings and structures.
- (3) Provides for administration, enforcement and penalties.

407.02. Definitions.

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

- (1) Dangerous structure: A structure which is potentially hazardous to persons or property, including, but not limited to:
 - a. A structure which is in danger of partial or complete collapse;
 - b. A structure with any exterior parts which are loose or in danger of falling;
or
 - c. A structure with any parts, such as floors, porches, railings, stairs, ramps, balconies or roofs, which are accessible and which are either collapsed, in danger of collapsing or unable to support the weight of normally imposed loads.
- (2) Enforcement officer: The city staff or any duly authorized representative.
- (3) Owner. Those shown to be the owner or owners on the records of the Washington County Department of Property Taxation, those identified as the owner or owners on a vacant building registration form, holder of an unrecorded contract for deed, a mortgagee or vendee in possession, a 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, mortgagee for the benefit of the owner or owners of the beneficial interests in possession, or its nominee. Any such person shall have a joint and several obligation for compliance with the provisions of this chapter.

- (4) Secured by other than normal means: A building secured by means other than those used in the design of the building.
- (5) Unoccupied: A building which is not being used legally for living or sleeping.
- (6) Unsecured: A building or portion of a building which is open to entry by unauthorized persons without the use of tools or ladders.
- (7) Vacant building; categorical classification standards: A building or portion of a building which is:
- a. Unoccupied and unsecured. A building or portion of a building meeting this definition is deemed a category I building.
 - b. Unoccupied and secured by other than normal means. A building or portion of a building meeting this definition is deemed a category I building.
 - c. Unoccupied and a dangerous structure. A building or portion of a building meeting this definition is deemed a category III building.
 - d. Unoccupied and condemned. A building or portion of a building meeting this definition is deemed a category II building.
 - e. Unoccupied and has multiple housing or building code violations. A building or portion of a building meeting this definition is deemed a category II building.
 - f. Condemned and illegally occupied. A building or portion of a building meeting this definition is deemed a category II building.
 - g. Unoccupied for a period of time over three hundred sixty-five (365) days and during which time the enforcement officer has issued an order to correct nuisance conditions. A building or portion of a building meeting this definition is deemed a category I building.

For the purpose of regulating vacant buildings, the following additional categorical standards may also apply:

Any category I building or portion thereof may be deemed a category II building where the building or portion thereof would also meet the combination of any two (2) category I classifications standards under this section.

Any category I building or portion thereof may be deemed a category II building where the building or portion thereof also meets the definition of a vacant building under subdivision (7)(b) of this section or is unoccupied and has, for a period greater than thirty (30) days, no more than one (1) boarded window.

Any category II building or portion thereof may be deemed a category III building where the building or portion thereof also meets the definition of a nuisance building under chapter 404.110 of this code or has been a category II vacant building for more than twenty-four (24) consecutive months. For

the purpose of computing the number of months under this paragraph, the calculation shall commence as of the date the subject building becomes a vacant building as defined under section 407.02(7)a., b. and d. through g. No deferment, or any appeal filed with the legislative enforcement officer, regarding any enforcement action or order, shall serve to stay the computation of the number of months under this paragraph.

- (8) Code violations: violations of any code adopted and/or enforce by the city, which may include but not be limited to the City of Birchwood Village Code, codes covering plumbing, electrical, mechanical or building construction, installation or maintenance standards, zoning or fire codes.

407.03. Vacant building registration.

- (a) The owner shall register with the enforcement officer not later than thirty (30) days after any building in the city becomes a vacant building, as defined in section 407.02(7).
- (b) The registration shall be submitted on forms provided by the enforcement officer 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 use and/or for demolition of the building.
- (c) The owner shall order and pay for a code compliance inspection in accordance with Minnesota State Building Code within sixty (60) days after the designation of any building or portions thereof classified under Code § 407.02(7) as a category II or a category III vacant building. The code compliance inspection is required regardless of the building's legal occupancy standard or intended use. Owners of category II or III vacant buildings on the effective date of this ordinance that have not ordered a code compliance inspection shall have sixty (60) days following the effective date of this ordinance to order and pay for a code compliance inspection.
- (d) In order to decrease the risk of fire, explosion or dangerous conditions, the owner shall install an excess flow automatic gas shut-off valve ("excess flow valve") on the building's gas piping immediately downstream of the gas meter outlet within sixty (60) days after the designation of any building or portions thereof classified under Code § 407.02 (7) as a category II or a category III vacant building. If the owner fails to install an excess flow valve, the enforcement officer, under the authority of Code 619, may install the excess flow valve on the building and enter the building if necessary. The costs incurred by the city for installation of the excess flow valve shall be assessed

against the property as a summary nuisance abatement under the provisions of Code 619. Owners of category II or III vacant buildings with active water and gas service on the effective date of this ordinance shall have sixty (60) days following the effective date of this ordinance to install an excess flow valve. Prior to installation of the excess flow valve, the owner, or another who can demonstrate a secured interest in the property must obtain the required permits from the City. Any excess flow valve model must be approved and installed as required by the Department of Safety and Inspections.

- (e) The procedures in paragraph (d) above may not be followed under the following conditions:
 - (1) If the enforcement officer determines that failure to install an excess flow valve constitutes an immediate danger or hazard which if not immediately addressed will endanger the health or safety of the public, the city may proceed with an emergency abatement under the provisions of Chapter 619
 - (2) The owner or another who can demonstrate a secured interest in the property shall be exempt from the requirements of subdivision (d) above if the following conditions are met:
 - (i) The owner or another who can demonstrate a secured interest in the property has registered the building as a vacant building with the enforcement officer; and
 - (ii) After registration, the owner or another who can demonstrate a secured interest in the property has received or ordered a code compliance inspection and has shut off gas service and winterized the property.
- (f) For all vacant buildings, the owner shall submit a plan and timetable for demolition or rehabilitation which must meet the approval of the enforcement officer. The enforcement officer shall require completion of the plan within a reasonable period of time, up to three hundred sixty-five (365) days. The plan submitted shall comply with the Housing provisions of Chapter 404 . Any repairs, improvements or alterations to the property must comply with any applicable housing or building codes.
- (g) All applicable laws and codes shall be complied with by the owner. The owner shall notify the enforcement officer 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 enforcement officer.
- (h) The owner and the subsequent owners shall keep the building secured and safe and the building and ground properly maintained until the rehabilitation or demolition has been completed.

- (i) Failure of the owner or any subsequent owner to maintain the building and premises that result in a summary 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.
- (j) The new owner(s) shall register or re-register the vacant building with the enforcement officer 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 enforcement officer.
- (k) Vacant building fees:
 - (1) The owner of a vacant building shall pay the annual registration fee set in the city fee schedule each year the building remains a vacant building.
 - (2) The first annual fee shall be paid no later than thirty (30) days after the building becomes vacant. If the fee is not paid within thirty (30) days of being due, the owner shall be subject to prosecution as prescribed in section 407.05
 - (3) The fee shall be paid in full prior to the issuance of any building permits, with the exception of a demolition permit.
 - (4) All delinquent fees shall be paid by the owner prior to any transfer of an ownership interest in any vacant building. If the fees are not paid prior to any transfer, the new owner shall pay the annual fee no later than thirty (30) days after the transfer of ownership and subsequent annual fees shall be due on the original anniversary date.
- (l) The enforcement officer 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.
- (m) Any building or portion of a building classified as a vacant building under this section shall be posted with a placard by the enforcement officer. The placard shall include all the information specified under Chapter 404.130(1).

407.04.

Exemptions.

- (1) Fire, wind and tree damaged structures fee exemption. In order to encourage the prompt renovation of property, the owner of a fire, wind or tree damaged building may be exempt from paying vacant building fees required under the chapter; provided, that within thirty (30) days from the date of the damage, the owner at the time of the damage, submits a request for a exemption in writing to the enforcement officer. This request shall include the following information supplied by the owner:

- (a) A description of the premises.
- (b) The names and address of the owner or owners.
- (c) A statement of intent to repair and reoccupy the building in an expedient manner.
- (d) An exemption granted under this section shall be valid for no more than ninety (90) days. In the event that the owner of the property at the time of the damage who received an exemption under this section should, at any time after the damage, transfer to another person any ownership interest in the subject property, the exemption under this section is immediately void and any new owner(s) shall be responsible for paying any required vacant building fees.

407.05. Inspections. The enforcement officer shall inspect any premises in the city for the purpose of enforcing and assuring compliance with the provisions of this chapter. Upon the request of the enforcement officer, an owner shall provide access to all interior portions of an unoccupied building in order to permit a complete inspection.

407.06. Notification. The enforcement officer shall maintain a current list, updated monthly of all vacant buildings which have become known to the enforcement officer, as well as a list of all previously declared vacant buildings which are no longer subject to the provisions of this chapter. The vacant building list shall be public as and to the extent provided by law. A copy of the list shall be available for review in the office of building code inspections or the fire marshal's office as the case may be.

407.07. Penalties. Any person violating any provision of this chapter or providing false information to the enforcement officer shall be punished as provided by section 619 of the city code.

407.08. Alternative procedures. Nothing in this chapter shall be deemed to abolish or impair existing remedies of the city authorized under Chapters 619 or Minnesota Statutes Section 463.15 through 463.26. Any conflicts between this chapter and Chapters 404 and 619 will be superseded by the provisions of Chapter 404 and 619.

407.09. Collection of unpaid fees.

(1) Written notice.

- a. Written notice of fees. The department of safety and inspections shall, in addition to any other action the department may undertake, serve written notice of the fees in conformance with the requirements set forth in this chapter.
- b. Notice for collection of fees shall include the amount of the vacant building fee that is the responsibility of the building owner and a statement that the fee shall be paid within the time period(s) identified in the notice.

- (2) Fee and liability. The city shall be entitled to collect the costs of vacant building registration and monitoring. The fees associated with the vacant building program shall be a debt owed to the city and unpaid costs shall be collected by special assessment under the authority in Minnesota Statutes, Section 429.101. Action under this section does not preclude any other civil or criminal enforcement procedure.

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