

ORDINANCE NO. 5963-12-14

**AN ORDINANCE AMENDING CHAPTER 18, ADDING A NEW ARTICLE X.
ESTABLISHING REGULATIONS GOVERNING THE REGISTRATION,
MAINTENANCE, SECURITY AND MONITORING OF VACANT PROPERTIES BY
THEIR OWNERS**

WHEREAS, vacant structures and properties, if left unattended, are likely to fall into disrepair, create public nuisance, drain City resources, contribute to the decrease in value of surrounding properties, precipitate disinvestment by neighboring owners, provide locations for illegal activities and undermine the aesthetic character of the City; and

WHEREAS, further, structures and properties that remain vacant over an extended period of time are detrimental to the public health, safety and welfare and can pose an extraordinary danger to police officers, firefighters and City officials when entering the premises in response to emergencies or in the normal course of their duties; and

WHEREAS, vacant structures and properties often are owned or controlled by individuals or other entities, including court appointed receivers who should be responsible for the properties preservation; and

WHEREAS, the registration of these vacant structures and properties and the implementation of maintenance and monitoring plans will help encourage property owners and those responsible to properly maintain the structure and property, therefore preventing these properties from becoming a burden to the residents and tax payers of the City and provide an impetus for returning these properties to their intended use and to the tax rolls; and

WHEREAS, the City of Edwardsville is a home-rule municipality and is empowered to enact legislation to define, prohibit and abate public nuisances; and

WHEREAS, the City Council of the City has determined that the abatement of nuisances caused by vacant structures and properties, the repair and rehabilitation of vacant structures and properties with a subsequent occupancy is in the best interests of the citizens of the City, and further, the City Council desires to enact an ordinance providing for the declaration of vacant structures and properties, whether boarded up or not, as public nuisances and providing for their abatement is a means of maintaining sanitation, health and safety standards, preventing illegal activities, avoiding fires, and eliminating or minimizing the detrimental effect such properties have on the economic wellbeing of the City.

BE IT ORDAINED by the Mayor and City Council of the City of Edwardsville, Madison County, Illinois that:

SECTION 1: Chapter 18 of the Codified Ordinances of Edwardsville, Illinois is hereby amended to provide a new Article X as follows:

CHAPTER 18

ARTICLE X.

**REGISTRATION AND MAINTENANCE OF
VACANT STRUCTURES AND PROPERTIES**

Sec. 18-450. DEFINITIONS

For the purposes of this article, the following words and phrases shall have the meanings set forth below:

Nuisance: Vacant, unused, or unoccupied buildings and structures within the city, which are allowed to become or remain open to entrance by unauthorized persons or the general public, because of broken, missing, or open doors, windows, or other openings, so that the same may be used by vagrants or other persons in a manner detrimental to the health and welfare of the inhabitants of the city.

Owner: Every person, entity or service company who alone or jointly or separately with others:

(a) have the legal or equitable title to any dwelling, dwelling unit, building, land or structure; or

(b) has care, charge, or control of any dwelling, dwelling unit, building, land or structure in any capacity, including but not limited to executor, administrator, trustee or guardian of the estate of the holder of legal title; or

(c) is a mortgagee under the terms of a mortgage, where the mortgagor is no longer taking responsibility for the property, and where the mortgage in question contains a provision authorizing the mortgagee to act to secure or repair the property; or

(d) is a mortgagee in possession of any such property; or

(e) is a mortgagee that has instituted foreclosure proceedings against the mortgagor; or

(f) is a trustee or other person appointed by the courts invested with possession or control of any such property.

Responsible Party: Includes owners, tenants, occupiers, property managers, lessees or agents.

Statement of Intent: A form completed by the owner, as defined, of a vacant structure or responsible party which contains specific information regarding the structure and the owners' plans for rehabilitation, maintenance, demolition and/or removal.

Structure: Any physical object or edifice that is built or installed and is located on and affixed to the land. The term "structure" shall include any part of a structure.

Substantial Rehabilitation: Any rehabilitation, the cost of which exceeds fifty percent (50%) of the market value of the existing structure.

Vacant: Vacant means a structure that is:

(a) lacking the habitual presence of human beings, who have a legal right to be on the premises for sixty (60) consecutive days, or;

(b) a structure at which substantially all lawful business or construction activity or residential occupancy has ceased, or;

(c) which is substantially devoid of contents, or;

(d) a multifamily residential property containing ten (10) or more dwelling units when ninety percent (90%) of the dwelling units are unoccupied.

For the purposes of this article, exceptions to the definition of vacant shall be made for single family homes or owner occupied 2-family properties that have been used as a residence by the owner for a period of at least five (5) months within the previous twelve (12) months and the owner intends to resume residing at the property, and for those properties which are under active, ongoing rehabilitation or reconstruction and have a building permit from the City.

Vacant Structure Maintenance Standards: The maintenance standards, to which the vacant structures are subject under this article, are set forth in the Edwardsville Property Maintenance Code, the International Property Maintenance Code as adopted by the City Council, and all other applicable Building and Zoning Ordinances of the City, as amended from time to time.

Vacant Structure Registration Certificate: Document issued by the City for structures meeting the definition of "vacant structure".

Sec. 18-451. ENFORCEMENT AUTHORITY.

The City Building Official is authorized to administer and enforce the provisions of this article, including, but not limited to, maintaining lists setting forth the status of vacant structures. The City Building Official may delegate his/her powers and duties to an appropriate designee or inspector.

Sec. 18-452. RESPONSIBLE PARTIES; LIENS.

Every responsible party with respect to any vacant property shall be jointly and severally liable with every other responsible party for the obligations set forth in this article. In reference to an owner in this article shall include all responsible parties. All fees, costs and charges assessed or incurred by the City shall constitute a lien on the real estate upon which such vacant structure is situated.

Sec. 18-453. OBLIGATIONS OF OWNERS OF VACANT STRUCTURES.

(a) Within thirty (30) days of a structure becoming vacant, as defined herein, the owner of the structure shall apply for a Vacant Structure Registration Certificate and pay a fee of \$25.00. If the structure is still vacant at the time of expiration of the original Vacant Structure Registration Certificate (six (6) months as defined below), the owner shall immediately apply to renew the certificate. At the City's sole discretion, renewal may be had upon demonstrated need for a maximum of three 6-month periods, for an aggregate maximum of twenty four (24) months total vacancy registration. Renewed permits shall be subject to all conditions and obligations imposed by this article on the initial certificate, including the payment of a \$25.00 fee at each renewal. It shall be the responsibility of the registered owner to file an amended registration within ten (10) days of any changes contained in the initial application, including occupancy or transfer. During the period of registration, the owner shall provide access to the City to conduct inspections of the structure, both interior and exterior if deemed necessary by the City, and, following reasonable notice, to determine compliance with this ordinance and any other relevant codes and ordinances of the City.

(b) The owner of a vacant structure shall comply with all regulations of the City. To this end, the owner shall apply for all building, fire prevention and zoning permits necessary to bring the structure into compliance within ten (10) days of obtaining a Vacant Structure Registration Certificate.

(c) The owner of a vacant structure shall, within ten (10) days of receipt of the Vacant Structure Registration Certificate, complete the removal of all:

1) combustible materials from the structure in compliance with the applicable fire prevention regulations;

2) waste, rubbish or debris from the interior of the structure; and

3) waste, rubbish, debris or excess vegetation including grass in excess of 8 inches from the yards surrounding the vacant structure in accordance with the Edwardsville Property Maintenance Code (The International Property Maintenance Code as adopted by the City Council) and the City Code.

(d) The owner of a vacant structure shall immediately lock, barricade or secure all doors, windows and other openings in the structure to prohibit entry by unauthorized persons, in accordance with the vacant structure maintenance standards of this article. The owner shall, as needed, provide additional security in the event of increased danger to human life of the public welfare, as determined by the City.

(e) The obligations of the owner of a vacant structure are continuing obligations which are effective throughout the time of the vacancy as that term is defined in this article.

Sec. 18-454. VACANT STRUCTURE REGISTRATION CERTIFICATE.

(a) Application by the owner of a vacant structure for a vacant structure certificate shall be made on a form provided by the Public Works Department.

The application shall include a "statement of intent" which will set forth information as to:

1) the expected period of vacancy (including the date initial vacancy);

2) the plan (including timeline) for regular maintenance during the vacancy to comply with the vacant structure maintenance standards of this subsection and all of the applicable property maintenance, building and zoning codes of the City;

3) a plan and time line for the lawful occupancy, rehabilitation, removal or demolition of the structure;

4) measures/plans (including timelines) to be taken to ensure that the structure will be kept weather tight and secure from trespassers and that it will be safe for entry by police officers, firefighters and code or building inspectors in time of exigent circumstances or emergency as well as at times of reasonable inspection;

5) measures (and timeline) to be taken to assure that the premises remain free from nuisance conditions and in good order in conformance with the vacant structure maintenance standards; and

6) list all persons authorized to be present in the structure and provide notices of trespass to the police authorizing the arrest for trespass of individuals not on the list. (The owner shall update the authorized person list as needed.)

(b) No Vacant Structure Registration Certificate shall be effective for more than six months from the date of issuance. Only three six-month renewals at the Building Official's sole discretion, upon demonstrated need, may be allowed as above or as otherwise allowed pursuant to a waiver request provided herein.

Sec. 18-455. VACANT STRUCTURE MAINTENANCE STANDARDS.

A vacant structure shall be subject to the following vacant structure maintenance standards in addition to the applicable provisions of the Property Maintenance Code and the applicable Building and Zoning Codes of the City:

- (a) Structure Openings: Doors, windows, areaways and other openings shall be weather tight and secured against entry by birds, vermin and trespassers. Missing or broken doors, windows and other such openings shall be covered by glass or other rigid transparent materials, which are weather protected, and tightly fitted and secured to the opening.
- (b) Roofs: The roof and flashings shall be sound and tight, not admit moisture or have defects which might admit moisture, rain or roof drainage, and allow for drainage to prevent dampness or deterioration in the interior walls or interior of the structure.
- (c) Drainage: The structure storm drainage system shall be functional and installed in a manner consistent with City ordinances and allow discharge in a manner consistent with City ordinances.
- (d) Structure: The structure shall be in good repair, not in violation of City ordinances, structurally sound and free from debris, rubbish and garbage. The structure shall be sanitary. The structure shall not pose a threat to the public health and safety.
- (e) Structural Members: The structural members shall be free of deterioration and capable of safely bearing imposed dead and live loads.

- (f) **Foundation Walls:** The foundation walls shall be structurally sound and in a sanitary condition so as not to pose a threat to public health and safety. The walls shall be capable of supporting the load of normal use and shall be free from open cracks and breaks, free from leaks, and be rodent proof.
- (g) **Exterior Walls:** The exterior walls shall be free of holes, breaks and loose or rotting materials. Exposed metal, wood, or other surfaces 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.
- (h) **Decorative Features:** The cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be safe, anchored and in good repair. Exposed metal, wood or other surfaces 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.
- (i) **Overhanging Extensions:** All balconies, canopies, marquees, signs, metal awnings, stairways, fire escapes, standpipes, exhaust ducts and similar features shall be in good repair, anchored, safe and sound. Exposed metal and wood surfaces 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.
- (j) **Chimneys and Towers:** Chimneys, cooling towers, smokestacks and similar appurtenances shall be structurally safe and in good repair. Exposed metal and wood surfaces 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.
- (k) **Walkways:** Walkways shall be safe for pedestrian travel.
- (l) **Accessory and Appurtenant Structures:** Accessory and appurtenant structures such as garages, sheds and fences shall be free from safety, health and fire hazards and shall comply with City ordinances.
- (m) **Premises:** The premises upon which the structure is located shall be clean, safe and sanitary. It shall be free from waste, rubbish, debris or excessive vegetation in compliance with City ordinances and shall not pose a threat to the public health or safety.

Sec. 18-456. VACANT STRUCTURE REGISTRATION CERTIFICATE FEE.

The Vacant Structure Registration Certificate application fee of \$25.00 shall also be charged upon application for certificate renewal. The fee shall be paid at the time of application or renewal.

Sec. 18-457. REQUIRED LIABILITY INSURANCE.

It shall be the responsibility of the owner or owner's agent to maintain liability insurance on all vacant and registered properties under their control. Proof of evidence of such insurance shall be filed with the City.

Minimum insurance amounts are as follows:

- (a) Residential properties of one or two units: \$250,000
- (b) Residential properties of three or more units: \$500,000
- (c) Commercial, manufacturing, storage or any nonresidential property:
\$1,000,000

Sec. 18-458. ENFORCEMENT AND PENALTIES.

(a) Any person found to be in violation of any provision of this article shall be subject to a fine not to exceed \$750.00. Each day that said violation continues shall be considered a new and separate violation. Prosecution under this section is a remedy cumulative to any and all other remedies at law and equity, including but not limited to the City's remedies under the Illinois Municipal Code.

(b) All fees, costs or charges assessed or incurred by the City pursuant to this article shall be a lien upon the real property. The lien shall be superior to all subsequent liens and encumbrances. The City Attorney shall file a notice of lien, within two (2) years after such cost and expense is incurred, in the office of the Madison County Recorder of Deeds. The lien may be enforced by proceeding to foreclose, as in case of mortgages or mechanic's liens.

(c) Unless otherwise granted a waiver as provided herein, at the expiration of twenty four (24) months from the original issuance of the Vacant Structure Registration Certificate, the structure must be reoccupied, removed or demolished. Any structure which is vacant beyond the twenty four (24) month maximum registration period shall be

considered abandoned and a public nuisance and the City may pursue whatever legal action is afforded to it by law for the removal and/or abatement of public nuisance.

Sec. 18-469. REQUEST FOR WAIVER.

Any owner of a vacant residential property of one or two units, who is a natural person with insufficient income or resources to fulfill all of the obligations imposed herein, may petition the City for a waiver of the registration or re-registration fee, a reduction of the minimum amount of liability insurance, and/or a waiver of some or all of the property rehabilitation requirements (hereinafter "financial requirements") under this ordinance. Application for a waiver of financial requirements shall be in writing on forms provided by the City. The decision of the City Administrator, to be made within fourteen (14) days of receiving the petition, shall be made in writing and shall forthwith be mailed or delivered to the petitioner. An appeal of the decision may be made to the City Council, in writing, within fourteen (14) days of the mailing or delivery of the decision. Individuals who are granted a waiver under this Section are still obligated to keep the registered property secure and safe, and the exterior property areas free from debris, with grass regularly mowed.

SECTION 2: All ordinances or parts of ordinances in conflict herewith are hereby repealed, to the extent of such conflict.

SECTION 3: This Ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law.

ADOPTED by the City Council of the City of Edwardsville, Madison County, Illinois this 16TH day of DECEMBER, 2014, pursuant to a roll call vote as follows:

AYES: ALDERMEN STAMER, LOUER, BUTTS, RISAVY, MALLON AND KRAUSE

NAYS: ALDERMEN STACK

ABSENT:

ABSTENTION:

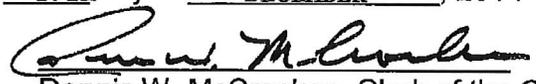
APPROVED by me this 16TH day of DECEMBER, 2014

By: 

Hal Patton, Mayor of the City of
Edwardsville, Madison County, Illinois

ATTESTED, Filed in my office,

this 17TH day of DECEMBER, 2014

By: 

Dennis W. McCracken, Clerk of the City of
Edwardsville, Madison County, Illinois.