

VILLAGE OF VOLO

**AN ORDINANCE AMENDING TITLE 4, ADDING A NEW CHAPTER 8
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 Village 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 Village; 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 Village 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 Village and provide an impetus for returning these properties to their intended use and to the tax rolls; and

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

WHEREAS, the Board of Trustees of the Village 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 Village, and further, the Board of Trustees 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 Village.

BE IT ORDAINED by the President and Board of Trustees of the Village of Volo, Lake County, Illinois that:

SECTION 1: Title 4 of the Village Code is hereby amended to provide a new Chapter 8 as follows:

**TITLE 4
CHAPTER 8
REGISTRATION AND MAINTENANCE OF
VACANT STRUCTURES AND PROPERTIES**

4-8-1 DEFINITIONS

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

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 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 ninety (90) 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 chapter, exceptions to the definition of vacant shall be made for properties that are actively listed for sale and for those properties which are under active, ongoing rehabilitation or reconstruction and have a building permit from the Village.

Vacant Structure Maintenance Standards: The maintenance standards to which the vacant structures are subject under this chapter, are set forth in the Volo Property Maintenance Code, the International Property Maintenance Code 2003, and all other applicable Building and Zoning Ordinances of the Village, as amended from time to time.

Vacant Structure Registration Certificate: Document issued by the Village for structures meeting the definition of “vacant structure”.

4-8-2 ENFORCEMENT AUTHORITY:

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

4-8-3 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 chapter. In reference to an owner in this chapter shall include all responsible parties. All fees, costs and charges assessed or incurred by the Village shall constitute a lien on the real estate upon which such vacant structure is situated.

4-8-4 OBLIGATIONS OF OWNERS OF VACANT STRUCTURES:

(a) Within ten (10) 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 \$200.00. 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 Village's sole discretion, renewal may be had upon demonstrated need for a maximum of two 6-month periods, for an aggregate maximum of eighteen (18) months total vacancy registration. Renewed permits shall be subject to all conditions and obligations imposed by this chapter on the initial certificate, including the payment of a \$200.00 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 Village to conduct inspections of the structure, both interior and exterior if deemed necessary by the Village, and, following reasonable notice, to determine compliance with this ordinance and any other relevant codes and ordinances of the Village.

(b) The owner of a vacant structure shall comply with all regulations of the Village. 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 Volo Property Maintenance Code (The International Property Maintenance Code 2003) and the Village 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 chapter. 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 Village.

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

4-8-5 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 Building 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 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 Village;

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

4) measures 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 as provided in Section 4-8-4 above;

5) measures 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 two six-month renewals at the Building Official's sole discretion, upon demonstrated need, may be allowed as above.

4-8-6 VACANT STRUCTURE MAINTENANCE STANDARDS:

A vacant structure shall be subject to the maintenance standards as set forth in the applicable provisions of the Property Maintenance Code and the applicable Building and Zoning Codes of the Village.

4-8-7 VACANT STRUCTURE REGISTRATION CERTIFICATE FEE:

The Vacant Structure Registration Certificate application fee of \$200.00 shall also be charged upon application for certificate renewal. The fee shall be paid at the time of application or renewal.

4-8-8 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 Village. Minimum insurance amounts shall be determined by the Village on an individual basis.

4-8-9 AFFIXING CONTACT/EMERGENCY INFORMATION TO VACANT PROPERTY:

The owner or owner's agent shall affix to the vacant structure a copy of the Vacant Structure Registration Certificate in a front window so that it is able to be read by law enforcement or Village personnel as needed.

4-8-10 ENFORCEMENT AND PENALTIES:

(a) Any person found to be in violation of any provision of this chapter 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 Village's remedies under 65 ILCS 5/11-13-15.

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

(c) At the expiration of eighteen (18) 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 eighteen (18) month maximum registration period shall be considered abandoned and a public nuisance and the Village may pursue whatever legal action is afforded to it by law for the removal and/or abatement of public nuisance.

4-8-11 REQUEST FOR WAIVER:

(a) Any owner of a vacant residential property of one or three units, who is a natural person with insufficient income or resources to fulfill all of the obligations imposed herein, may petition the Village for a waiver of the annual 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 for a period of time not to exceed twelve (12) months. Application for a waiver of financial requirements shall be in writing on forms provided by the Village. The decision of the Village 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 Village President, in writing, within fourteen (14) days of the mailing or delivery of the decision. Individuals who are granted a twelve (12) month waiver under the Section are still obligated to keep the registered property secure and safe, and the exterior property areas free from debris, with grass regularly mowed.

(b) A request for a waiver from the provisions of Section 4-8-10 for good cause as set forth in the waiver request, shall be made by the owner to the President and Board of Trustees, in writing and submitted to the Village Clerk. The waiver request shall be heard at Board of Trustees meeting within thirty (30) days of receipt by the Village Clerk and the decision of the Village Board shall be in writing and mailed or delivered to the petitioner.

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. This Ordinance shall be published in pamphlet form.

Passed this 22nd day of February, 2011, by roll call vote as follows:

	Ayes	Nays	Absent	Abstain
Trustee Bruce Buschick	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Trustee Stephen Henley	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Trustee Carol Porter	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Trustee Chrissi Steffani-Wardlow	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Trustee Michael Wagner	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Trustee LeRoy Wegener	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
President Burnell C. Russell	<u> </u>	<u> </u>	<u> </u>	<u> </u>

APPROVED THIS 23rd DAY OF FEBRUARY, 2011

Village President

(SEAL)

ATTESTED:

Village Clerk