
AN ORDINANCE CREATING VACANT BUILDING REGISTRATION ORDINANCE

The Common Council of the City of Berlin do ordain as follows:

Chapter 14, Article V, of the Code of Ordinances shall be created as follows:

**CHAPTER 14
BUILDINGS AND BUILDING REGULATIONS**

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ARTICLE V: VACANT BUILDING REGISTRATION

Sec. 14-140. – Purpose.

- (a) The purpose of this article is to establish standards for the regulation and registration of vacant buildings. The adoption of this article reflects the formal finding of fact by the City of Berlin that registration of vacant buildings advances the following compelling governmental interests:
- (1) Decrease calls for police services, reduces incidence of fires, both accidental and intentional, and reduces the decline and disinvestment in neighborhoods.
 - (2) Stabilize and improve impacted neighborhoods, assist in the development of code enforcement efforts, and promote public safety through aggressive monitoring of vacant properties.
- (b) 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 intends, as provided in this article, that the owner or entity functioning as a trustee of an owner of such property be charged the costs of any public safety services rendered to the property while non-compliant with this article as well as for any abatement necessary to bring the property into compliance with this article.
- (c) Registering of vacant residential buildings (excluding single and two-family dwellings) or any other vacant 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.

Sec. 14-141. – Definitions.

In this article, unless the context or subject matter clearly requires otherwise, all words and phrases shall have definitions as set forth in Wis Stats. §236.02, and otherwise as follows:

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.

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.

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% vacancy.

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.

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

Sec. 14-142. – 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 for each building with the building inspector on forms provided by the building inspector as prescribed below:

- (1) Each vacant building registration certificate shall be issued and shall be valid for 6 months from the date the certificate is issued.
- (2) There shall be no fee, and no inspection shall be required, for the initial registration of a vacant building,

- (3) If the building remains vacant beyond the 6 month validity period of the registration certificate, the owner shall be required to renew the registration certificate for another 6 month period and pay a vacant building inspection renewal fee in the amount set forth in the fee schedule on file in the city clerk-treasurer's office, and the building inspector and/or the fire inspector shall inspect the building for violations of this article. If the building is determined to be in violation of any of the provisions of this article during said renewal inspection, the normal renewal inspection fee shall be doubled for the next subsequent renewal if the building remains vacant beyond the 6 month extension of the certificate. If a building is determined to still be in violation of any of the provisions of this article during the next renewal inspection following a renewal for which the inspection fee was doubled, the normal inspection fee shall be tripled for the next subsequent renewal. If a building is determined to still be in violation of any of the provisions of this article during the next renewal inspection following a renewal for which the inspection fee was tripled, the normal inspection fee shall be quadrupled for the next subsequent renewal and all subsequent renewals thereafter if the building continues to remain in violation of any of the provisions of this article during such subsequent renewal inspections.
- (4) An additional fee in an amount set forth in the fee schedule on file in the city clerk-treasurer's office shall be imposed if the owner does not provide access to city officials for inspection at the scheduled time.
- (5) Vacant building inspection fees shall be set forth in a statement sent via first class mail to the owner. If the statement is not paid in full within 30 days thereafter, such fee shall be assessed against the building as a special charge pursuant to Wis. Stat. § 66.0627.
- (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 article. This person shall reside within Green Lake County or Waushara County.

Sec. 14-143. – Exemptions.

The following are exempt from the provisions of this article:

- (1) Property owned by governmental bodies or the community development authority.
- (2) Property that is vacant as a result of a natural disaster and covered by emergency response requirements issued by the city emergency management director.
- (3) 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 building inspector in accordance with and subject to the provisions of subsections 14-143(3)a - b.
 - a. An owner may request an exemption pursuant this subsection 14-143(3) by filing with the building inspector 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:
 1. The legal description of the lot or parcel of land as obtained from official records.
 2. The name and address of the owner of the premises.
 3. The name and address of the person or contractor completing the work.
 4. A detailed description of the renovation or rehabilitation.
 5. The projected cost of the renovation or rehabilitation.
 6. The time frame for completion of the renovation or rehabilitation.
 - b. The building inspector 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 building inspector the continuation of the exemption

will be contrary to this article's purpose of safeguarding persons, property and general welfare.

- (4) Single family and two-family dwelling residential property.
- (5) Properties that are part of an estate that is in probate and are not subject to bankruptcy provided the personal representative or executor resides within Green Lake County or Waushara County.

Sec. 14-144 – Owner Responsibilities.

The owner of any building that has become vacant shall:

- (1) Enclose and secure the building as provided in section 14-145.
- (2) Maintain the building in a secure and closed condition until the building is again occupied or demolished.
- (3) Acquire or otherwise maintain liability insurance on the building in an amount not less than schedule for required insurance on file with the city clerk-treasurer, 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 building inspector.

Sec. 14-145 – Minimum Requirements for Vacant Buildings.

The owner of any vacant building for which registration is required by this article shall provide access to the building inspector and fire inspector 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 building inspector and/or the fire inspector may apply for and obtain a special inspection warrant pursuant to Wis. Stat. § 66.0119. In addition, failure to provide access to the property at the scheduled time shall subject the property owner to the fees specified in subsection 14-142(a)(4). In addition to any other applicable requirements required by this code of ordinances, vacant buildings shall comply with the following requirements:

- (1) *Lot Maintenance Standards.* The lot the building stands on and the surrounding public way and be maintained in such a condition so that it does not become a public nuisance, as such is defined in section 46-152.

- (2) *Exterior Maintenance Standards.* The exterior of the building shall be enclosed, secured and maintained in such a condition so that it does not become a public nuisance, as such is defined in section 46-152, and shall also meet the following requirements:
- a. 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. 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.
 - c. Exterior windows and doors shall be maintained in sound condition and good repair and prevent rain from entering the building. 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.
 - d. 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.
 - e. Chimneys and flues shall be kept in sound, functional, weathertight condition and in good repair.
 - f. 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.
- (3) *Interior Maintenance Standards.* The interior of the building shall be maintained in such a condition so that it does not become a public nuisance, as such is defined in section 46-152, and shall also meet the following requirements:

- a. 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.
- b. 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. 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.
- d. Interior stairs shall have treads and risers that have uniform dimensions, are sound, securely fastened and have no rotting, loose or deteriorating supports.
- e. Every owner shall be responsible for the extermination of insects, rodents and other vermin in or about the premises.

(4) *Building Security Standards.* The following apply to the securing of vacant buildings:

- a. All building openings shall be closed and secured.
- b. If a building has been vacant for 6 months or longer, and the building inspector determines that the building is found to not be secure, the building inspector may send by first class mail a written notice of the violation to the owner of the building or to the authorized agent for service of process. Within 30 days of the mailing of the notice of violation, the owner shall be required to secure the building and 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.

Sec. 14-146 – Issuance of Variances.

Upon written application by an owner or an owner's agent, the common council may approve a variance from compliance with of any provision of this article, including the requirement for inspections and fees, provided the spirit and functional intent of the article will be observed and the public health, welfare and safety will be assured as to the building in question.

Sec. 14-147 – 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 section 14-143 shall, upon conviction, be subject to a penalty as provided in section 1-16, and shall be held responsible for the cost of the action, and in default of payment thereof may be imprisoned in an appropriate county facility as allowed 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 section 14-144 or section 14-145 shall, upon conviction, be subject to a penalty as provided in section 1-16, and shall be held responsible for the cost of the action, and in default of payment thereof may be imprisoned in an appropriate county facility as allowed by law.

Sec. 14-148 – Maintenance or Securing of Vacant Building by City.

- (a) *Summary abatement.* If the inspecting officer shall determine that a violation of this article exists and that there is great and immediate danger to the public health, safety, peace, morals or decency, the inspecting officer may cause such public nuisance to be abated, and shall charge the cost of such abatement to the owner, occupant or person causing, permitting or maintaining the nuisance, as the case may be.
- (b) *Abatement after notice.* If the inspecting officer shall determine that a public nuisance, described in this article, exists within the city, but that the nature of such nuisance is not such as to threaten great and immediate danger to the public health, safety, peace, morals or decency, such officer shall serve notice on the owner or to the authorized agent for service of process to abate the violation within 30 days from

the date of service. If such violation is not abated within such 30 day period, the city shall cause the nuisance to be abated. Service of notice hereunder may be made by personal service or U.S. First Class Mail to the owner's address listed in the county tax records department.

- (c) *Other methods not excluded.* Nothing in this article shall be construed as prohibiting the abatement of public nuisances or razing of buildings by the city or its officials in accordance with other ordinances or as otherwise allowed by law.
- (d) *Injunctive or equitable relief.* Violations of this article may also be abated by injunctive or other equitable relief, for which conviction will include a right to collect reasonable attorney's fees for the city prosecuting attorney and a right to an award of damages for the city. The imposition of a penalty does not prevent injunctive relief.
- (e) *Cost of Abatement.* In addition to any other penalty imposed by this article, the cost of abating any violation of this article by the city shall be collected as a debt from the owner of the building. The rates charged for such city abatement shall be at the rates set forth on the fee schedule on file in the city clerk-treasurer's office, if applicable, but shall otherwise be at actual cost (which may include but not be limited to actual out of pocket costs, expert consultant and legal costs, actual staff compensation costs and expenses, and/or administrative fees for services rendered). The charges shall be set forth in a statement to the clerk-treasurer who, in turn, shall mail the statement to the owner, occupant or person in charge of the premises. If the statement is not paid in full within 30 days thereafter, such cost of abatement shall be assessed against the real estate as a special charge pursuant to Wis. Stats. § 66.0627.

Sec. 14-149 – Charge for Public Safety Services.

- (a) *Charges.* Any property owner or entity functioning as a trustee of an owner that fails to comply with any provision of this article shall be charged for any public safety services rendered to the property by the police department or fire department while non-compliant with this article. The chief of police and fire chief shall provide a record of each service rendered to the property and the costs of services, investigation, administration and enforcement to the city clerk-treasurer. 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 made solely to the common council by requesting a hearing. Notice of appeal must be in writing and submitted to the common council in care of the clerk-treasurer, with a copy submitted to the chief of police or fire chief as applicable. Chapter 68 of the Wisconsin Statutes does not apply to this article.

- (b) *Cost Recovery.* Upon receipt of a cost referral letter from the chief of police or fire chief pursuant to section 14-149(a), the city clerk-treasurer shall charge any premises owner or entity functioning as a trustee of an owner found to be in violation of this article 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 pursuant to Wis. Stats. § 66.0627. The city clerk-treasurer, upon consultation with the chief of police and fire chief, shall establish reasonable rates for charges for the costs of administration and enforcement of this section.

This ordinance shall then take effect the day after publication. The numeric article and section numbers and headings shall be subject to modification in the discretion of the codifier, and the approval of the City Attorney, during codification into the City's current Code of Ordinances.

Passed, approved and adopted this 12th day of June, 2018.

ROLL CALL VOTE:

CITY OF BERLIN

5 AYES

BY: _____

0 NAYS

Richard D. Schramer, Mayor

1 ABSENT

APPROVED AS TO FORM:

ATTEST: _____

Jodie Olson

City Clerk-Treasurer

Matthew G. Chier
City Attorney