

VILLAGE OF LEMONT

ORDINANCE 0-60.10

**ORDINANCE ADDING CHAPTER 8.34 TO THE
LEMONT MUNICIPAL CODE ENTITLED:
VACANT PROPERTY**

**ADOPTED BY THE
PRESIDENT AND BOARD OF TRUSTEES
OF THE VILLAGE OF LEMONT**

This 23rd day of August, 2010

**Published in pamphlet form by
authority of the President and
Board of Trustees of the Village of
Lemont, Counties of Cook, Will, and
DuPage, Illinois this 23rd day
of August, 2010**

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**ORDINANCE ADDING CHAPTER 8.34 TO THE
LEMONT MUNICIPAL CODE: VACANT PROPERTY**

WHEREAS, the Village of Lemont desires to amend Title 8 of the Lemont Municipal Code by adding Chapter 8.34 entitled: Vacant Property; and

WHEREAS, the text of Chapter 8.34 in its entirety is attached hereto as Exhibit A.

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Lemont, Cook, Will and DuPage Counties, Illinois that the Lemont Municipal Code is hereby amended by adding Chapter 8.34: Vacant Property.

All Ordinances or parts of ordinances in conflict with this amendment are hereby repealed.

This Ordinance shall become effective upon passage, approval and publication in the manner provided by law.

PASSED AND APPROVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LEMONT, COOK, WILL AND DU PAGE COUNTIES, ILLINOIS on this 23rd day of August, 2010.

	<u>AYES</u>	<u>NAYS</u>	<u>PASSED</u>	<u>ABSENT</u>
Debby Blatzer	✓			
Paul Chialdikas	✓			
Clifford Miklos	✓			
Rick Sniegowski	✓			
Ronald Stapleton	✓			
Jeanette Virgilio	✓			


BRIAN K. REAVES, Village President

Attest:


CHARLENE SMOLLEN, Village Clerk

Chapter 8.34

Vacant Properties

Sections:

8.34.010	Declaration of Policy
8.34.020	Other Ordinances
8.34.030	Definitions
8.34.040	Vacant Building Determination
8.34.050	Appeal of Commissioners Determination of "Vacant Building"
8.34.060	Obligation to Register Vacant Buildings
8.34.070	Approval of Plan
8.34.080	Authority to Modify Plan, Right of Appeal
8.34.090	Failure to Comply with Plan
8.34.100	Other Enforcement
8.34.110	Certification
8.34.120	Time Restrictions – Vacant Buildings
8.34.130	Violation – Penalties
8.34.140	Inspection Fees

8.34.010 Declaration of policy.

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

- (1) Establishing a program for identification, registration, and maintenance of buildings which are or become vacant on and after the effective date of this chapter.
- (2) Determining the responsibilities of the owners of record of vacant buildings.
- (3) Providing for administration, enforcement, including the abatement of public nuisances, and imposition of penalties.

This chapter shall be construed to effect its purpose.

8.34.020 Other ordinances.

This chapter shall not be construed to prevent the enforcement of other applicable ordinances, codes, legislation, and regulations prescribing standards other than are provided herein, and in the event of conflict, the most restrictive shall apply.

8.34.030 Definitions.

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

Boarded building: A building which has had in a manner intended to be temporary or permanent, any or all openings, which openings are windows or doors which were present for the purpose of light, ventilation or egress, some material whether opaque, solid or transparent, affixed to such openings, from the interior or exterior of the building, for the purpose of securing or preventing access or damage to the building or its components.

Building: Any structure used or intended for supporting or sheltering any use or occupancy.

Commissioner: The Building Commissioner for the Village of Lemont, or his or her designee.

Dangerous or unsafe building: All buildings or structures that are found to pose a danger to the life, health, property or safety of the public by not providing minimum safeguards to protect or warn the public in the event of a fire, or because such structure contains unsafe equipment, or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty or incomplete construction or unstable, that partial or complete collapse or systems failures are possible.

Owner: Any person, agent, operator, firm, or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county, or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

Person: Includes a corporation, a partnership, or other entity, as well as an individual.

Premises: A lot, plot or parcel of land including any structure thereon.

Unoccupied building: A building or portion thereof which lacks the habitual presence of human beings who have a legal right to be on the premises, including buildings ordered vacated by the Commissioner pursuant to authority granted by the Village Code. [This definition does not include a building that is actively for sale, lease or rent, as evidenced by a contractual agreement between the homeowner of record and a licensed real estate agent or brokerage, and performance of sufficient maintenance that the building or the property on which it sits does not become a nuisance.]

Vacant buildings: Any building that has not been legally occupied for a consecutive period of six months unless one of the following is true:

- (1) The building is the subject of an active building permit for repair or rehabilitation and the owner is progressing diligently to complete the repair or rehabilitation.
- (2) The building meets all codes, is not in a state of disrepair or deterioration, is ready for occupancy, and is actively being offered for sale, lease or rent: or is actively being maintained and monitored by the owner.

8.34.040 “Vacant building” determination.

- (a) Within 60 days after the effective date of this chapter, the Commissioner shall evaluate all buildings in the Village believed to be unoccupied on the effective date of

this chapter and make a determination for each as to whether the building is a “vacant building” within the meaning of this chapter. The Commissioner may determine that a building which meets any of the criteria set forth in this chapter is not to be regulated under this chapter for a stated period, if upon consideration of reliable, substantiated and sufficient evidence, the Commissioner determines that regulation of the building under this chapter would not serve the public health, welfare, and safety and makes written findings in support of this decision. The determination shall be in writing and shall state the factual basis for the determination.

(b) For buildings the Commissioner determines to be “vacant buildings”, the Commissioner shall, within seven (7) days of making that determination, send notice of this written determination with the factual findings to the last recorded person, firm or corporation in possession of the property as listed on the most recent and applicable county recorder of deeds. Said notice of determination shall be sent first-class United States mail, with proper postage prepaid. Failure of delivery shall not excuse a person from complying with this chapter. The Commissioner may personally serve or cause personal service of the notice of determination. Any person making such service shall execute an affidavit attesting to the facts of service. The Commissioner shall maintain an affidavit of such mailing for each notice of determination sent.

Furthermore, the Commissioner may cause to have said notice of determination physically attached or posted to the subject property which shall fulfill the service requirements of this chapter.

(c) The notice shall specify a date and time on which the owner may voluntarily allow for a code compliance inspection of the interior of the vacant building and surrounding yards and property to determine the extent of compliance with Village property, building, health, fire, and plumbing codes. The notice shall contain a statement of the obligations of the owner of a building determined to be vacant, a copy of the registration form the owner is required to file pursuant to section this Chapter, and a notice of the owner's right to appeal the Commissioner's determination.

8.34.050 Appeal of Commissioner's determination of “vacant building”.

(a) An owner of a building determined by the Commissioner to be a vacant building as provided for in this chapter may appeal that determination to the Village manager. Such appeal shall be in writing and shall be filed with the Village manager within 15 days of the date of mailing of the notice of determination. The filing of an appeal stays the owner's obligation to register his building as required by this Chapter. The appeal shall contain a complete statement of the reasons the owner disputes the Commissioner's determination, shall set forth specific facts in support thereof, and shall include all evidence the owner relies upon to support the appeal. The Village manager shall decide the appeal on the basis of facts presented by the owner in his or her written appeal and the Commissioner's written determination.

(b) The burden is upon the owner to present sufficient evidence to persuade the Village manager that had the evidence been known to the Commissioner at the time the

Commissioner made the determination, the Commissioner would more likely than not have determined that the subject building was not a “vacant building” within the meaning of this chapter.

(c) The Village manager shall send written notice of a decision to the owner prior to any inspections or issuance of citations. The Village manager may, but is not required to, seek additional information from the owner or Commissioner.

(d) An owner who wishes to challenge applicability of this chapter to his/her building without the Commissioner's determination having been made, shall set forth specific facts to support non-applicability in a writing to the Commissioner. In the event the Commissioner determines that the subject building is a “vacant building”, the owner shall have the right to appeal the Commissioner's determination to the Village manager as provided for herein.

8.34.060 Obligation to register vacant buildings.

The owner of a building who knows, or should reasonably know, that his or her building is a “vacant building” within the meaning of this chapter after the effective date of this chapter, or the owner of a building, which the Commissioner determines at any time to be a “vacant building”, or the owner of a building whose appeal from the Commissioner's determination has been denied by the Village manager shall take the actions provided for in this section within 15 days after either the date of Commissioner's notice of determination or occurrence of the facts that would cause a reasonable person to believe that the building was a “vacant building”, or denial of the appeal, whichever is applicable. Registration does not exonerate the owner from compliance with all applicable codes and ordinances, including this chapter, nor does it preclude any of the actions the Village is authorized to take pursuant to this chapter or elsewhere in the Village Code.

- (1)
 - a. Register the building with the building department, on a form provided by the Commissioner. The form shall include, as a minimum, the name, street address, and telephone number of the owner; the case name and number of any litigation pending concerning or affecting the building, including foreclosures and/or bankruptcy cases; and the name, street address, and telephone number of all persons with any legal interest in the building or the premises. The form shall require the owner to identify a natural person 21 years of age or older who maintains a permanent address in the State of Illinois to accept service on behalf of the owner with respect to any notices the Commissioner sends pursuant to this chapter or service of process in any proceeding commenced to enforce any provision of this chapter, and file with the Commissioner on the registration form, the name, address, telephone number, of said person. A street address is required. A post office box is not an acceptable address; and
 - b. Renew the vacant building registration each year on the anniversary date of the first filing for the time the building remains vacant; and
 - c. File an amended registration within 15 days of any change in the information contained in the annual registration.

(2) The form shall require the owner to indicate his or her “Acceptance of Notice by Posting” consenting to service of notices sent or required to be sent, pursuant to this chapter, by posting on the building if the owner fails to renew the registration, if required, or maintain as current with the Commissioner the information required regarding the person designated to accept notice and service of process;

The owner shall allow for a code compliance inspection of the interior of the vacant building and shall be subject to Village costs and fees outlined in Section 8.34.140 of the Village Code within 30 days of the inspection. Such inspection will determine the extent of compliance with all applicable Village property, building, residential, electrical, plumbing, fire and similar codes.

(4) *Vacant building plan.* At the time a building is registered as required herein, the owner shall submit a vacant building plan. The Commissioner may prescribe a form for the plan. If the owner fails to submit the plan as provided for by this section, the Commissioner may determine the plan. The plan shall contain the following as a minimum:

a. A plan of action to repair any doors, windows, or other openings which are boarded up or otherwise secured by any means other than conventional methods used in the design of the building or permitted for new construction or similar type. The proposed repair shall result in openings being secured by conventional methods used in the design of the building or by methods permitted for new construction of similar type with board removed. The owner shall maintain the building in an enclosed and secure state until the building is reoccupied or made available for immediate occupancy. If the owner demonstrates that securing of the building will provide adequate protection to the public, the Commissioner may waive the requirement of an enclosure.

b. For buildings and premises thereof that the Commissioner determines as being or containing public nuisances, as defined in this Chapter, then the vacant building plan shall contain a plan of action to remedy such public nuisance(s).

c. A time schedule identifying a date of commencement of repair and approximate date of completion of repair for each improperly secured opening and nuisance identified by the Commissioner.

d. When the owner proposes to demolish the vacant building, then the owner shall submit a plan and time schedule for such demolition.

e. A plan of action to maintain the building and premises thereof in conformance with this chapter.

f. A plan of action, with a time schedule, identifying the approximate date the building will be habitable and approximate date it will be occupied or offered for occupancy or sale. No plan which provides for compliance with this chapter or, which will not, as determined by the Commissioner, achieve such compliance, within six months, in the case of a vacant boarded building, and two years, in the case of a vacant, unboarded, and code compliant building will be approved.

g. All premises upon which unoccupied or vacant buildings are located and the exteriors shall at all times be maintained in compliance with the Village Code.

h. Exterior lighting according to standards established by the Commissioner.

8.34.070 Approval of plan.

(a) The Commissioner shall review the proposed vacant building plan in accordance with the standards below. The Commissioner shall send notice to the owner of the vacant building of the Commissioner's determination.

(b) *Standards for plan approval.* In considering the appropriateness of a vacant building plan, the Commissioner shall include the following in his or her consideration and shall make written findings as to each:

- (1) The purposes of this chapter and intent of the Village board to minimize the time a building is boarded or otherwise vacant.
- (2) The effect of the building and the proposed plan on adjoining property.
- (3) The length of time the building has been vacant.
- (4) The presence of any public nuisances on the property.
- (5) The likelihood that the plan or portion(s) thereof will prevent or ameliorate the condition it is designed to address.

8.34.080 Authority to modify plan, right of appeal.

The Commissioner shall, upon notice to the vacant building owner, have the right to modify the vacant building plan by modifying the dates of performance, the proposed methods of action, or by imposing additional requirements consistent with this chapter that the Commissioner deems necessary to protect the public health, safety, or welfare.

8.34.090 Failure to comply with plan.

Failure to have an approved plan within 30 days of filing the registration form or failure to comply with the approved plan shall constitute a violation of this chapter subjecting the owner of the building to penalties as provided in this chapter and to any remedies the Village may avail itself of as provided for herein and elsewhere in the Village Code, including but limited to, an action to compel correction of property maintenance violations.

8.34.100 Other enforcement.

The registration of a vacant building shall not preclude action by the Village to demolish or to take other action against the building pursuant to other provisions of this chapter, the Village Code, or other applicable legislation.

8.34.110 Certification.

A certificate of code compliance for vacant buildings issued by the Building Department, and payment in full of all fines and fees imposed pursuant to this chapter are required prior to any issuance of a certificate of occupancy.

8.34.120 Time restrictions--Vacant buildings.

It is the policy of the Village that boarding is a temporary solution to prevent unauthorized entry into a vacant building and that boarded buildings are a public nuisance. A vacant building may not remain boarded longer than six months unless an extension of that time is part of a plan approved by the Commissioner.

A vacant building which is unboarded and code-compliant and for which boarding is determined by the Commissioner on the basis of police reports, citizen complaints, and other information of other type considered reliable by reasonable persons, to not require boarding to prevent unauthorized entry may not remain vacant for more than two years without an approved plan for occupancy, sale, demolition, or other disposition of the building.

8.34.130 Violation - Penalties.

- (a) Any person, firm or corporation found to have violated any provision of this chapter shall be subject to a fine not less than one hundred dollars nor more than seven hundred fifty dollars for each offense, in addition to any other legal or equitable remedies available to the Village. Such other remedies include, but are not limited to, injunctive relief, application to a court of competent jurisdiction for a receiver, demolition, or condemnation, contracting for the repair or purchase of the premises, or foreclosure of any lien the Village may have thereon. Any expenses incurred by the Village as enumerated above shall be assessed against the building, and may serve as a lien on the property.
- (b) A separate and distinct offense shall be committed each day on which such person or persons shall violate the provisions of this chapter.
- (c) The Village may enforce this chapter in a system of administrative adjudication or through the Circuit Court of the applicable county.
- (d) Nothing herein contained shall prohibit the Village from immediately condemning, as provided for in the Village Code, a building, or taking other immediate action upon a determination that the building is a public nuisance or poses an imminent danger to the occupants of the building, or the public, health, safety and welfare.
- (e) Unless a bona fide emergency, as determined in the sole discretion of the Commissioner, neither the Village nor a contractor engaged on its behalf, shall not enter upon private property to perform maintenance or otherwise alter the property without first obtaining the written permission of the property's owner or an order from a court of competent jurisdiction.

8.34.140 Inspection Fees.

- A. Each vacant building shall include one inspection at no cost. No unused inspections or reinspections may be accumulated, banked, transferred to another unit or building, bought, sold, or transferred at the time of sale.
- B. The fee for each additional reinspection for correction of cited violations shall be:
 - 1. Seventy five dollars (\$75.00) per dwelling unit with remaining uncorrected violation(s).
 - 2. Seventy five dollars (\$75.00) per residential common, exterior, or public area with remaining uncorrected violation(s).
 - 3. Seventy five dollars (\$75.00) per street address, exterior, or public area with remaining uncorrected violation(s).
 - 4. Seventy five dollars (\$75.00) per nonresidential building with remaining uncorrected violation(s).
- C. Additional inspection and reinspection fees may be charged when the Village has scheduled the inspection and provided notice and the responsible party does not provide the required access as required in this chapter.