
THE VILLAGE OF BLOOMINGDALE

DUPAGE COUNTY, ILLINOIS

ORDINANCE

NUMBER 2020 - 10

**AN ORDINANCE ADOPTING REGULATIONS TO ESTABLISH A
REGISTRATION PROGRAM FOR VACANT OR ABANDONED BUILDINGS
OR STRUCTURES WITHIN THE VILLAGE OF BLOOMINGDALE;
AMENDING VILLAGE CODE TITLE 10 (BUILDING AND DEVELOPMENT);
ADOPTING CHAPTER 14 VACANT OR ABANDONED BUILDINGS AND
STRUCTURES**

Franco A. Coladipietro, Mayor
Jane E. Michelotti, Village Clerk

Vince Ackerman
William Belmonte
Bill Bolen
Frank Bucaro
Patrick Shannon
Judi Von Huben

Village Board

Published in pamphlet form by authority of the
President and the Board of Trustees of the Village of Bloomingdale
on this the 9th day of March, 2020

ORDINANCE NO. 2020 - 10

AN ORDINANCE ADOPTING REGULATIONS TO ESTABLISH A REGISTRATION PROGRAM FOR VACANT OR ABANDONED BUILDINGS OR STRUCTURES WITHIN THE VILLAGE OF BLOOMINGDALE; AMENDING VILLAGE CODE TITLE 10 (BUILDING AND DEVELOPMENT); ADOPTING CHAPTER 14 VACANT OR ABANDONED BUILDINGS AND STRUCTURES

WHEREAS, the Village of Bloomingdale, DuPage County, Illinois (hereinafter referred to as the “Village”) is a home rule unit of local government, and as such may exercise any power and perform any function pertaining to its government and affairs, except as limited by Article VII, Section 6 of the 1970 Illinois Constitution; and

WHEREAS, the Village is empowered to provide reasonable safeguards to protect the public life, health, safety and welfare, to insure against the potential hazards of inadequate, defective or unsafe vacant or abandoned buildings and structures and,

WHEREAS, the Village President and Board of Trustees deems it in the best interest of the Village to adopt regulations for the control of buildings and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms as hereby referred to, adopted and made a part thereof, as if fully set out in the Village Code as set forth in this Ordinance.

NOW, THEREFORE, BE IT ORDAINED, in an open meeting assembled by the Village President and Board of Trustees of the Village of Bloomingdale, DuPage County, Illinois pursuant to its home rule powers as follows:

Section One: Recitals: The Board of Trustees hereby find that all of the recitals hereinbefore stated as contained in the preamble to this Ordinance are full, true and correct and do hereby, by reference, incorporate and make them part of this Ordinance as legislative findings.

Section Two: Village Vacant or Abandoned Buildings and Structures Code: Title 10

(Building and Development); Chapter 14 (Vacant or Abandoned Buildings and Structures) of the

Village Code amended as follows:

TITLE 10, CHAPTER 14: VACANT OR ABANDONED BUILDINGS AND STRUCTURES

CODE:

10-14-1: VILLAGE VACANT OR ABANDONED BUILDINGS AND STRUCTURES

CODE:

This chapter, including any and all regulations adopted hereunder, shall hereinafter be referred to and cited as the "Vacant or Abandoned Buildings and Structures Code".

10-14-2: PURPOSE AND SCOPE:

The purpose of this chapter is to protect the public life, health, safety and welfare, to insure against the potential hazards of inadequate, defective or unsafe vacant or abandoned buildings and structures. The regulations adopted hereunder establish a program for identification, registration and regulation of buildings or structures which are or become vacant or abandoned on and after the effective date of these regulations.

10-14-3: APPLICATION AND INTERPRETATION OF REGULATIONS:

The building and zoning department shall be charged with the enforcement of these regulations, and the building commissioner shall be known as the code enforcement official charged with the application, interpretation, and implementation of these regulations.

10-14-4: DEFINITIONS:

ABANDONED BUILDING or STRUCTURE: Any single or multi-tenant building or structure that has been unoccupied for a period of ninety (90) consecutive days and any of the following conditions exist:

1. Open to uninvited entry or trespass;
2. Damaged by fire, flood, weather, or vandalism to an extent which prohibits safe occupancy;
3. Is the site of loitering or vagrancy;
4. Is the site of unlawful criminal or quasi-criminal activity;
5. Lack of property maintenance and upkeep as evidenced by one or more violations of the Village Property Maintenance Code, Fire Code, or Zoning Regulations;
6. Under notice for being in violation of Village Code(s);

7. Boarded up for at least thirty (30) days;
8. Outstanding bills, invoices or fees in arrears to the Village for a period of time exceeding three hundred sixty-five (365) days;
9. Utilities are disconnected or not in use;
10. Not actively for sale or rent;
11. Under condemnation notice or legal order to vacate;
12. Structurally unsound;
13. Potential hazard or danger to persons.

Exception: Not to include abandoned buildings or structures that are actively under construction, rehabilitation or renovation, and in compliance with Village Code. Not to include multi-tenant buildings or structures where at least 50% of the square footage of the building or structure is occupied.

VACANT BUILDING or STRUCTURE: Any single or multi-tenant building or structure, or portion thereof, that has been unoccupied for a period of ninety (90) consecutive days, no violation(s) of Village Code, and any of the following conditions exist:

1. Unoccupied and secured;
2. All lawful residential or business activity has ceased, including lack of contents;
3. Actively for sale or rent;
4. Actively a foreclosure, Sheriff sale, or up for auction;

Exception: Not to include vacant unoccupied buildings or structures that are actively under construction, rehabilitation or renovation, and in compliance with Village Code. Not to include multi-tenant buildings or structures where at least 50% of the square footage of the building or structure is occupied.

10-14-5: DETERMINATION OF VACANT OR ABANDONED BUILDINGS OR STRUCTURES:

The building commissioner, or designee, shall evaluate buildings and structures within the Village to determine compliance with regulations contained herein.

10-14-6: REGISTRATION OF VACANT OR ABANDONED BUILDINGS OR STRUCTURES:

- A. Registration Form: The owner(s) of a vacant or abandoned building or structure shall register with the Village and provide information on a Vacant or Abandoned Building or Structure Registration form provided by the Village, and pay the required registration fee. The registration fee is an annual non-prorated fee.

- B. Registration Fees: Registration fee of \$200.00 is due at time of registration submittal to the building commissioner for review. This fee has been established to support services rendered by the Village in the course of its duties related to monitoring and acting upon vacant or abandoned buildings or structures. Failure to register a vacant or abandoned building or structure as required shall be cause for penalty in the amount of one hundred percent (100%) of the unpaid registration fee, in addition, shall be punishable as provided in section 1-4-1 of this code for each day of violation. Unpaid fees and assessed fines shall be a lien upon the property. Registration of a vacant or abandoned building or structure shall not preclude the Village from taking necessary action on a building or structure to make safe, including demolition.

10-14-7: ABATEMENT PROVISIONS, BUILDINGS OR STRUCTURES:

- A. Conditions: If any building or structure has become dangerous to life, limb or property or to the public because of structural defects, deterioration, or damage, or has become so unsanitary or out of repair as to render the same unsafe and unfit for occupancy or human habitation, it shall be deemed a nuisance, and the building commissioner, if and when he shall find any such conditions exist, shall declare such building or other structure a nuisance and shall condemn the same, and no person, firm or corporation shall occupy, rent, lease or use such building or other structure with or without compensation. The violations of the provisions of this section shall constitute a misdemeanor, and any person, firm or corporation found guilty of a violation thereof shall be subject to a fine in the manner and amount as provided by section 1-4-1 of the village code.
- B. Notice of Unsafe Building or Condemnation - Notices and Orders: Whenever the building commissioner shall condemn and declare any building or other structure to be a nuisance because of dangerous or unsanitary condition thereof, he shall cause a notice in writing to be served upon the owner or owners, upon the tenant and occupant thereof, if any, and upon the holder or holders of any encumbrances or general tax lien thereof, if any, ordering and directing said building or other structure to be put in a safe or sanitary condition or be demolished and removed. Service of said notice may be effected by personal delivery thereof, or by mailing a copy thereof by registered mail directed to the person involved, at his last address known to the building commissioner or available to him upon examination of the records of the county treasurer and county clerk of DuPage County, Illinois, and by posting a copy thereof upon the premises subject to such condemnation.
- C. Notice of Unsafe Building or Condemnation - Notices and Orders Method of Service: Such service shall be deemed to be properly served upon such owner if a copy thereof is delivered to the owner personally; or by leaving the notice at the usual place of abode, in the presence of someone in the family of the age of 13 years or upwards, who shall be informed of the contents thereof, provided that the person making service shall also mail a copy of the notice with postage fully prepaid, addressed to the owner at his or her usual place of abode; or by certified or registered mail addressed to the owner at the last known address with return receipt requested; or if the certified or registered letter is returned with receipt showing that it has not been delivered, by posting a copy thereof in a conspicuous place in or about the structure affected by such notice, or at least one publication of such notice in a local newspaper of general circulation.

- D. Reconstruction or Removal: Rebuilding, restoration or removal must begin within five (5) days of condemnation notice. Any building or structure condemned and declared to be a nuisance by the building commissioner shall be put in a safe or sanitary condition or be demolished and removed. Within five (5) days after the service of notice in the manner and form provided, to make such building or structure safe or sanitary or to remove and demolish the same, the owner or owners or the party or parties interested therein shall proceed to begin the work of making said building or structure safe or sanitary or the work of removing and demolishing the same and shall prosecute said work continuously without unnecessary delay to a completion thereof; provided, however, that should the owner or person in possession of said building or structure deem himself aggrieved by any direction to repair or remove such building or other structure alleged by the building commissioner to be a nuisance, he shall, within a period of five (5) days after the giving of the notice, have the right to appeal in writing from the judgment of the building commissioner to the zoning board of appeals, which board shall make the investigation and report its findings to the village board. If in the judgment of the village board upon consideration of the report of the zoning board of appeals, said building or structure is unsafe or unsanitary and should be declared a nuisance, it shall order the owner or other person in possession thereof to forthwith begin the work of making safe or sanitary or of demolishing and removing said building or structure. After demolition, the premises shall be maintained free from all unsafe and hazardous conditions. Removal of all underground and in-ground structures is required. Restoration of established grades is required to insure proper lot drainage in compliance with village engineering regulations.
- E. Noncompliance with Notice of Unsafe Buildings: Upon the failure of the owners of said building or other structure, or the party or parties interested therein, within five (5) days after the service of the notice to begin the work of making safe or sanitary or of removing and demolishing said building or other structure, or upon the failure of the owner or owners or the party or parties interested therein after beginning such work to proceed continuously without unnecessary delay to completion thereof, the village may take any action at law or in equity to restrain the use of such structure, or may proceed against the owner or any person in possession of the same in a penal action before the Village of Bloomingdale Administrative Adjudication Court or 18th Circuit Court for the violation(s) of the provisions of this ordinance. The village may also, in its discretion, cause the said structure to be secured to prevent access, cleaned of unsanitary conditions detrimental to the public, or removed in its entirety after the failure, within the time hereinabove provided for, to restore the same to a safe condition.
- F. Failure to Comply with Demolition Order: Whenever the owner of a property fails to comply with a demolition order within the time period prescribed, the building commissioner shall immediately report such failure to comply to the corporate authorities. The corporate authorities may demolish, or cause the demolition of dangerous and unsafe buildings or uncompleted and abandoned buildings within the village by applying to the 18th Circuit Court for an order authorizing such action to be taken with respect to any such building if the owner or owners thereof, including the lien holders of record, after at least 15 days written notice by mail to do so, have failed to demolish it. Where, upon diligent search, the identity or whereabouts of the owner or owners of any such building including the lien holders of record is not ascertainable, notice mailed to the person or persons in whose name such real estate was last assessed is sufficient notice under this subsection. The cost of such demolition incurred by the

Village of Bloomingdale, including court costs, attorneys' fees and other costs related to the enforcement of this subsection is recoverable from the owner or owners of such real estate and is a lien thereon, which lien is superior to all prior existing liens and encumbrances, except taxes. Within sixty (60) days after such demolition, the Village of Bloomingdale shall file notice of lien of such cost and expense incurred in the office of the county recorder. The notice must consist of a sworn statement setting out (1) a description of the real estate sufficient for identification thereof, (2) the amount of money representing the cost and expense incurred, and (3) the date or dates when the cost and expense was incurred by the Village or by the lien holder of record. Upon payment of the cost and expense by the owner or persons interested in the property after notice of lien has been filed, the lien shall be released by the Village and the release may be filed of record as in the case of filing a notice of lien. Where the dangerous condition of a structure is deemed by the corporate authorities, upon recommendation of the code official to constitute an imminent and immediate danger to human life, the Village may promptly raze or remove said structure or a portion thereof which has been deemed to cause such a danger in accord with applicable laws and procedures.

10-14-8: RIGHT OF ENTRY AND INSPECTION:

- A. Right of Entry: In order to safeguard the safety, health and welfare of the public, the building commissioner is authorized to attempt to obtain consent to enter at any reasonable time from any owner, occupant, or other person in charge of a building, structure or property subject to this code for the purpose of making inspections and performing duties under this code. Such owner, occupant, or other person in charge shall be informed that entry by the building commissioner is sought for the purpose of making inspection and performing duties under this code. Failure to give consent to entry under this section shall not be punishable by fine or imprisonment.
- B. Search Warrant in Absence of Consent: If the building commissioner, after a reasonable attempt to obtain consent, does not receive consent to enter a building, structure or property subject to the code as described herein, the building commissioner may seek in the 18th Circuit Court of DuPage County a search warrant. An owner, occupant or other person in charge of a building, structure or property subject to the provisions of this code, who is presented with a search warrant obtained pursuant to this code, shall not refuse, impede, inhibit, interfere with, restrict, or obstruct entry and free access to any part of the structure or premises where an inspection authorized by the search warrant is sought to be made.
- C. Procurement of Search Warrants: A search warrant sought pursuant to this code shall be sought in the 18th Circuit Court of DuPage County. The court may consider any of the following factors along with such other matters as it deems pertinent in its decision as to whether a warrant shall be issued:
 - (1) Eyewitness account of violation.
 - (2) Citizen complaints.
 - (3) Tenant complaints.

- (4) Plain view violations.
- (5) Violations apparent from village records.
- (6) Property deterioration.
- (7) Age of property.
- (8) Nature of alleged violation.
- (9) Similar properties in the area.
- (10) Documented violations on similar properties in the area.
- (11) Passage of time since last inspection.
- (12) Previous violations on the property.

- D. Re-occupancy of Abandoned Residential Building or Structure: No abandoned residential building or structure shall be re-occupied until it has been inspected and found to be in full compliance with all applicable Village codes and ordinances and is approved by the building commissioner, all fees are paid in full, and all other conditions set forth in this code are satisfactorily complete.
- E. Occupancy Inspection: No building or part thereof, hereafter erected, or the structure of which shall hereafter be altered or repaired and for which erection, alteration or repair a permit shall be required as provided in the village code, and no existing building in which the character of the occupancy is to be changed, shall be occupied or used in whole or in part until a certificate of occupancy shall have been issued by the building commissioner. Such certificate shall carry the certification of the building commissioner that said building or part thereof conforms to the requirements of this and any other applicable village code or ordinance, and that said building, construction, alteration, or repair has been substantially completed in accordance with plans and specifications upon which a building permit required by village code was issued.
- F. New Occupancy in Existing Non-Residential Space: No property, premises, building or tenant space within a non-residential building or structure shall be occupied or reoccupied without first having been inspected by the village building and zoning department and the appropriate fire protection district to insure compliance with public health, safety and any other applicable village code or ordinance requirements. This verification of compliance is to be initiated through a building permit application for an occupancy inspection.
- G. Change in Use - Occupancy Certificate Requirements: No building upon which a certificate of occupancy shall have been issued shall be used for a different classification or group occupancy until a certificate of occupancy for such different use shall have been issued by the building commissioner; provided, however, that no certificate of occupancy shall be issued in any event unless the occupancy or use of the building complies with the zoning law. "Change of occupancy" is not intended to mean

change of tenant or proprietor, provided the new tenant is to occupy the building for a purpose, which would not involve its reclassification into a different occupancy group.

10-14-9: NUISANCE ABATEMENT PROVISIONS:

A. Notice of Violation; Failure to Comply; Abatement by Village: Any owner and/or occupant of real estate located within the village upon which a nuisance or violation as indicated by this chapter exists shall be sent or served a notice stating the specific violation. If the violation has not been corrected within seven (7) days after receiving the notice, a citation will be issued by the village for each offense, and a separate offense shall be deemed to have been committed on each day which a violation continues to occur. A court order will then be sought to allow the village, or a duly authorized contractor, to enter upon the property to abate the nuisance. The village will also seek reimbursement for abatement of the nuisance by court order.

B. Costs and Liens:

1. Any costs incurred by the village or a duly authorized contractor in abating a nuisance, violation or any other charge imposed by the village under this chapter shall be a lien upon the real estate in question as authorized under the Illinois municipal code and shall be superior to all other liens and encumbrances except tax liens; provided, that within sixty (60) days after such cost and expense is incurred, the village, or a contractor performing such services as authorized by the village, in his or in its own name, files notice of lien in the office of the county recorder. The notice shall consist of a sworn statement setting out: a) a description of the real estate sufficient for identification thereof; b) the amount of money representing the cost and expense incurred or payable for the service; and c) the date or dates when such cost and expense was incurred by the village. The lien shall not be valid as to any purchaser whose rights in and to such real estate have arisen subsequent to the weed cutting or property maintenance actions by the village and prior to the filing of the notice of lien. The lien shall not be valid as to any mortgagee, judgment creditor or other lienor whose right in and to such real estate arises prior to the filing of the notice.

2. Upon payment of the cost and expense by the owner or other persons interested in such property after notice of lien has been filed, the lien shall be released by the village or person in whose name the lien has been filed, and the release may be filed of record as in the case of filing notice of lien.

10-14-10: MEANS OF APPEAL:

Any person shall have the right to appeal a decision of the building commissioner to the planning and zoning commission. Means of appeal shall follow requirements set forth in section 11-3-7 of the village code.

10-14-11: PENALTIES:

Any person, firm or corporation violating the terms and provisions of this chapter shall be liable for a penalty in the amount of one hundred percent (100%) of any unpaid fee and, in addition, shall be punishable as provided in section 1-4-1 of this code for each day of violation.

Section Three: Conflict: All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of the conflict.

Section Four: Severability: The provisions of this Ordinance shall be severable such that, in the event of any finding of invalidity as to any provision(s) of this Ordinance, any such invalid provision(s) of this Ordinance shall be severed here from without rendering invalid the balance of this Ordinance.

Section Five: Publication: The Village Clerk of the Village of Bloomingdale shall be, and is hereby, directed to publish this Ordinance in pamphlet form pursuant to the Statutes of the State of Illinois.

Section Six: Effective Date: This Ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law.

Section Seven: Recording: This Ordinance shall be entered into the minutes and upon the journals of the Board of Trustees.

/ / /

/ / /

/ / /

/ / /

/ / /

/ / /

/ / /

/ / /

DECIDED pursuant to a roll call vote as follows:


	YES	NO	ABSENT	PRESENT
Vince Ackerman	X			X
William Belmonte	X			X
Bill Bolen	X			X
Frank Bucaro	X			X
Patrick Shannon	X			X
Judi Von Huben	X			X
Franco A. Coladipietro (only if necessary)				X
TOTAL	6	0	0	7

PASSED AND APPROVED by the Village of Bloomingdale Board of Trustees on the 9th day of March, 2020.



Franco A. Coladipietro, Village President

ATTEST:



Jane E. Michelotti, Village Clerk