

AN ORDINANCE AMENDING
CHAPTER 93 OF THE VILLAGE CODE OF ORDINANCES

WHEREAS, the Village has established a combined waterworks and sewer system within the Village; and

WHEREAS, the current financial climate and the increased rate of foreclosures has likewise tended to increase the number of vacant properties within the Village of Romeoville; and

WHEREAS, during periods of extreme winter weather, such as have been experienced within the Village during the winter of 2008-2009, vacant properties and/or properties not receiving gas or electric service have a greatly increased risk of having pipes freeze and burst therein, thereby in turn creating a substantial risk that such properties will be rendered uninhabitable without extensive and costly repairs; and

WHEREAS, vacant properties with internal flood damage tend to negatively affect their neighborhood in a variety of ways, including but not limited to reducing neighborhood property values, discouraging others from purchasing or investing in property within the neighborhood, prompting current neighborhood property owners to disinvest in the neighborhood, creating blight through lack of maintenance and repair, and providing attractive locations for vandalism and other criminal activity; and

WHEREAS, it has been the experience of the Village staff that one vacant property within a neighborhood or block, left to remain indefinitely vacant, tends to deteriorate, and that once such deterioration commences, it tends to continue unchecked, and may influence the maintenance and condition of other properties in the neighborhood or block, and that this tendency is only increased when the vacant property is also damaged; and

WHEREAS, as of the date of this Ordinance the Village has already experienced numerous incidents of frozen and burst pipes within properties within the Village, many of which have also suffered extensive interior flood damage as a result thereof; and

WHEREAS, the existence of significant numbers of attached housing units within the Village exacerbates the danger of flood damage from frozen and burst pipes, as flooding within a vacant attached housing unit can easily affect and damage adjoining attached housing units which are lawfully occupied; and

WHEREAS, the Village has also experienced numbers of internal flood damaged vacant properties in times when extreme weather conditions do not exist due to a

variety of reasons, including but not limited to vandalism, criminal activity, negligent maintenance or lack of maintenance, and finds that vacant properties can also become nuisances due to internal flooding at any times of the year; and

WHEREAS, the Village also finds that the existence of an active connection to the public water supply in a vacant property as hereinafter defined could pose a threat to the safety and security of the public water supply; and

WHEREAS, the Village is a home rule municipality under the Illinois Constitution of 1970, and possesses authority under the Illinois Municipal Code to define and prohibit nuisances, and this ordinance is enacted pursuant to the Village's home rule powers and pursuant to the authority granted by the Illinois Municipal Code; and

WHEREAS, the Village finds, based upon the foregoing, that vacant properties and the attendant risk of internal flooding thereof from frozen, damaged or burst pipes constitute a public nuisance within the Village of Romeoville, all as more specifically set forth, and that the abatement of same in the manner hereinafter provided will promote the health, safety, morals and welfare of the Village and its residents.

NOW THEREFORE BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES FOR THE VILLAGE OF ROMEOVILLE, WILL COUNTY, ILLINOIS; THAT
:

SECTION 1: RECITALS. The foregoing recitals are hereby incorporated into this Ordinance as if fully set forth herein.

SECTION 2: AMENDMENT TO CHAPTER 93 OF THE VILLAGE CODE OF ORDINANCES. Those portions of all heretofore adopted Village Ordinances codified at Chapter 93 shall hereby be amended by the addition of the following text, to be codified as and for a new Chapter 93.015:

93.015 Internal Flooding Public Nuisance.

(A) Definitions.

"Dangerous" means, with respect to any building, structure, or portion thereof, presenting potential hazard or risk of harm to persons or property, including but not limited to hazard or risk of harm threatened by (a) the partial or complete collapse thereof, (b) loose, falling or otherwise movable portions of exterior surfaces thereof, (c) the partial or complete collapse of parts thereof such as floors, porches, stairs, railings, balconies, decks or roofs, which are accessible to persons, or the inability of the same to support the normal loads and uses for which they were originally intended.

“Owner” means any person or entity having a legal or equitable interest in a vacant property, any person or entity disclosed by the records of the Will County Recorder’s Office as having or holding such an interest, any person who has entered into a contract for deed with respect to a vacant property, any mortgagee in possession of a vacant property, any guardian, trustee, executor or administrator of any person, estate or entity having a legal or equitable interest in vacant property, and any person or entity possessing control of a vacant property. For the purposes of the foregoing provision, a person or entity shall be deemed to possess control of a vacant property if such person or entity is party to any agreement or instrument together with any other owner (including a mortgage) or has purchased or holds rights thereunder, where such agreement or instrument authorizes or grants rights to such person or entity to enter a vacant property, make repairs to a vacant property, abate or remedy ordinance violations existing with respect to a vacant property, to terminate utility service with respect to a vacant property, to secure a vacant property, or to otherwise take action with respect to a vacant property.

“Secured by other than normal means” means, with respect to a building, structure or portion thereof rendered inaccessible to unauthorized or illegal entrants by methods other than those contemplated in the original design and construction of the building, structure or portion thereof.

“Unoccupied” means, with respect to a building, structure or portion thereof, lacking in the regular and habitual presence of natural persons lawfully entitled to be present therein. In determining whether a building, structure or portion thereof is unoccupied, the following factors may be considered along with other relevant factors or evidence: (a) whether utility service is being provided to or used at the building, structure or portion thereof, (b) whether any lawful activities are being conducted therefrom, (c) whether and to what extent the building, structure or portion thereof contains any contents, fixtures, or personal property consistent with the intended lawful occupancy thereof, (d) whether and to what extent the building, structure or portion thereof has been the subject of violations of applicable portions of the Village Code of Ordinances, and, in the event that the property has been so subject, whether and to what extent has any response been made to any communications from the Village pertaining thereto, (e) whether the building, structure or portion thereof is involved in a foreclosure action, (f) whether an accumulation of mail, newspapers, circulars, flyers or other similar matter exists at a building, structure or portion thereof, (g) whether and to what extent the real estate on which the building, structure or portion thereof is characterized by the presence of overgrown or dead vegetation, (h) whether a portion of a building or structure in question demonstrates the presence or absence of any of the foregoing (or any other) indicia of occupancy in a manner or to an extent different from the balance of the building or structure in question, and (i) the proportion of a building, structure or portion thereof in question that demonstrates any of the foregoing indicia of occupancy (or any other indicia of occupancy) as compared to the overall area of the building, structure or portion thereof in question.

“Unsecured” means, with respect to any building, structure or portion thereof, open to entry by unauthorized or illegal entrants without the use of tools or ladders.

“Vacant property” means any building, structure, or portion thereof that is either (a) unoccupied and unsecured, (b) unoccupied and secured by other than normal means, (c) unoccupied and dangerous, (d) illegally occupied, (e) unoccupied and the subject of a notice issued pursuant to Division 31 of the Illinois Municipal Code, (f) unoccupied and the subject of pending and unabated violations of any applicable provision of the Village Code of ordinances, (g) unoccupied under circumstances that do not reasonably indicate an intention to occupy the building, structure or portion thereof in question at any particular time, (h) the subject of disconnected gas and/or electric utility service, or (i) during the period from November 1 of any given year through April 1 of the following year, not being kept heated to a minimum internal temperature of sixty degrees Fahrenheit, as determined by the setting of a properly functioning thermostat or like device or as demonstrated by thermometer temperature readings, and exclusive of refrigerated or intentionally cooled areas where the intended use thereof reasonably requires the temperature to be maintained at a lower level.

(B) Any vacant property as defined in Chapter 93.015(A) that is connected to the Village water system shall be and hereby is declared to be a public nuisance due to the risk of internal flooding of and damage to such vacant property, as well as the risk of damage to other adjacent or neighboring properties.

(C) Prior to determining any property to be a vacant property within the meaning of this Chapter 93.015, the Village shall first issue notice to the owner of such property advising that the property appears to be vacant and a public nuisance pursuant to the provisions of this Chapter, and that the owner should contact the Village immediately with respect to such property. Such notice shall be posted in some reasonably prominent place on such property, and simultaneously sent by regular U.S. mail to the address of the owner of record, as determined by reference to the records of the Will County Treasurer, the Will County Recorder, the Will County Clerk, the Circuit Clerk for the 12th Judicial Circuit, or any of them.

(D) In the event that the Village receives no response or communication from the owner within five business days (defined as Monday through Friday, exclusive of holidays or other days on which the Village is closed by law or ordinance), the Village may at any time thereafter determine that the property in question is a vacant property and public nuisance pursuant to this Chapter.

(E) At such time as the Village determines that a property is a vacant property and a public nuisance, the Village may at any time thereafter abate such nuisance and immediately disconnect such property from the public water system of the Village. Notice that the disconnection has taken place shall be provided to the owner as set forth

in Chapter 93.015(C).

(F) Once a vacant property has been disconnected from the public water system pursuant to this Chapter 93.015, it shall not be reconnected until such time as the vacant property has been inspected by the Village and determined to be in compliance with all applicable Village ordinances. The applicable fee for a reconnection shall be the same as established by ordinance for reconnection after disconnection for non payment of bills for water service.

SECTION 3: SEVERABILITY. That the various provisions of this Ordinance are to be considered severable and if any part or portion of this Ordinance shall be held invalid by any Court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Ordinance.

SECTION 4: CONFLICTS. All prior Ordinances and Resolutions, or parts thereof in conflict or inconsistent with this Ordinance are hereby expressly repealed only to the extent of such conflict or inconsistency.

SECTION 5: REPEALER. All Ordinances or parts of Ordinances in conflict with any of the provisions of this Ordinance shall be, and the same are hereby repealed.

SECTION 6: EFFECTIVE DATE. This Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

PASSED this 4th day of February, 2009 with 6 members voting aye, 0 members voting nay, the President N/A voting, with 0 members abstaining or passing and said vote being:

Linda S. Palmiter
Jose Chavez
Andy Goitia

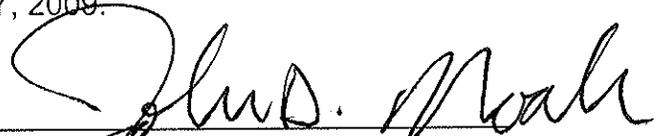
AYE
AYE
AYE

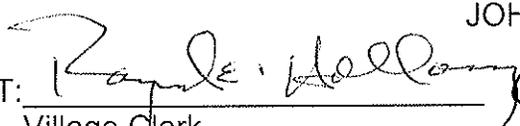
Dr. Edward McCartan
Brian Clancy
Dave Richards

AYE
AYE
AYE


RAYMOND HOLLOWAY, Village Clerk

APPROVED THIS 4th DAY OF FEBRUARY, 2009.


JOHN NOAK, Village President

ATTEST: 
Village Clerk

Request for Village Board Action

Date: 1/28/09

Description/Title: An Ordinance Amending Chapter 93 (Vacant Property Flooding—
Public Nuisance)

Workshop X Regular X

Summary: This ordinance is being proposed in light of numerous instances in the Village of homes being damaged from flooding caused by frozen and burst pipes. If a property is found to be vacant, and the owner does not respond after notification, the water will be shut off to prevent damage to the property in question and other properties until the property can be inspected and determined to be occupied or able to be occupied in compliance with Village ordinances.

Recommendation / Comments By Other Boards or Commissions: N/A

Action Requested by Village Board: Consider the ordinance

Presenter: _____

Dept. Manager: _____

Proofed by: 

Village Manager: 

ORD09-0748
Date: 2/04/09

An Ordinance Amending Chapter 93 of the Village Code of Ordinances

Published in Book and Pamphlet Form
This 5th day of February, 2009
By the Corporate Authority of the
Village Of Romeoville

A handwritten signature in black ink that reads "Raymond E. Holloway". The signature is written in a cursive style with a large initial 'R' and a long, sweeping tail.

Raymond E. Holloway
Village Clerk