

**ORDINANCE NO. 329**  
**AN ORDINANCE CREATING**  
**SECTION 15.10**  
**OF THE VILLAGE OF DARIEN MUNICIPAL CODE**  
**RELATING TO VACANT BUILDING CODE**

NOW, THEREFORE, the Board of Trustees of the Village of Darien, Wisconsin do ordain as follows:

**Section 1.** Section 15.10 of the Village of Darien Municipal Code is hereby created to read as follows:

“15.10 Vacant Building Code.”

**15.10.010 Legislative Intent**

- A. Purpose: The Village Board of the Village of Darien, Wisconsin finds that there are now, and may in the future be vacant buildings which are dilapidated, unsafe, unhygienic and inadequately maintained so as to create or contribute to blight and so as to jeopardize the health, safety, prosperity and general welfare, and so as to create a public and/or private nuisance.
- B. Intent: The intent of this Code is to establish the measures and requirements reasonably necessary to protect the health, safety and welfare of the public from the public nuisances, blight and negative market impact of vacant or abandoned buildings and structures.

**15.10.020 Public Record**

- A. Finding: In addition to the purposes in Section 15.10.10, the Village finds that vacant buildings are targets for vandalism, arson, and other illegal activities. The Village still further finds that the public disclosure of the identification of any or all vacant buildings would provide to persons with criminal intentions a data source to locate vacant buildings in which to carry out illegal activity. While the Village acknowledges the requirements of the Wisconsin Public Records Law embodied in Wisconsin States §§ 19.31 through 19.39, and the strong public policy underpinning those statutes that all persons are entitled to the greatest possible information regarding the affairs of government, the Village also recognizes that against that strong public policy, records custodians must balance contrary public policy such as that found by the Village in this subsection 1, that would weigh against disclosure of a particular document.
- B. Policy: Prior to releasing any records that are received, created, or maintained pursuant to the provisions of this chapter or are received, created, or maintained to accomplish the purpose of this chapter, the records custodian will consider the intent of the Village articulated in this section.

**15.10.030 Rules of Interpretation and Definitions**

- A. Rules of Interpretation.

1. Tense. Words used in the present tense shall be interpreted to include the future tense.
2. Gender. Words used stating or implying gender shall be interpreted to include the masculine, feminine and neuter.
3. Number. Words used to imply the singular shall be interpreted to include the plural, where appropriate, and vice versa.
4. “May” and “Shall”.
  - a. The word “may” is permissive.
  - b. The word “shall” is mandatory and not directory.
5. “Used For”. The phrase “used for” shall include the phrases “arranged for”, “designed for”, “intended for”, “maintained for”, and “arranged for”.

B. Definitions.

1. Accessory Building/Structure. A detached building or structure on the same lot, with and of a nature customarily incidental and subordinate to the principal building or structure or use of the land, i.e., a child’s playhouse, garden house, greenhouse, garage, carport, shed, fence, or retaining wall.
2. Building. Any Structure used or intended for supporting or sheltering any use or occupancy. For multi-unit structures, each non-residential unit is deemed a separate “building” subject to this chapter; in multi-unit structures, individual residential units are to be considered a part of the larger building that encompasses the other residential units.
3. Code Official. The Building Inspector, or any duly authorized designee of the Building Inspector.
4. Exterior Premises. The open space on the premises or the portion of the premises upon which there is not a structure.
5. Garbage. The animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.
6. Good Repair. “Good Repair” shall mean free from blighting and hazardous conditions, clean and sanitary, and in a safe condition.
7. Imminent Hazard. A condition which could cause serious or life-threatening injury or death at any time.
8. Mixed Occupancy. Occupancy of a structure in part for residential use and in part for some other lawful use under the Zoning Code, not accessory thereto.

9. Municipal Code. The Municipal Code for the Village of Darien, Wisconsin, which includes the Vacant Building Code.
10. Occupied. A building is occupied when it is open to the public, when a business or manufacturing activity is performed therein, or when people reside therein. Any building or structure shall be deemed to be occupied if one or more persons actually conducts a lawful business or resides in all or any part of the building as the licensed business-occupant, or as the legal or equitable owner/occupant(s) or tenant(s) on a permanent, non-transient basis, or any combination of the same. For purposes of this Chapter, evidence offered to prove that a building is so occupied may include, but shall not be limited to, the regular receipt of delivery of regular mail through the U.S. Postal Service; proof of continual telephone, electric, gas, heating, water and sewer service.
11. Owner. Every person, partnership, limited partnership, corporation, service corporation, limited liability company or partnership, or other legally-recognized entity or association, who alone or jointly or severally with others:
  - a. Has the legal title to a Building or Structure;
  - b. Has legal right or obligation to the care, charge, or control of any Building or Structure, in any capacity including but not limited to, agent; executor, administrator, trustee, guardian, or personal representative of the estate of the holder of legal title; or an agent, trustee, receiver or other person appointed by court order with authority to have possession or control of the Building or Structure; or
  - c. Is a mortgagee, where either:
    - (1) the mortgagee has obtained a judgment of foreclosure against the mortgagor with regard to the premises containing the Vacant Building or Structure; or
    - (2) the mortgage or note secured by the mortgage contains a provision authorizing the mortgagee to act to secure or repair the property of the mortgagor, and the mortgagor no longer maintains the vacant Building or Structure; or
  - d. Is a land contract vendor, where either:
    - (1) the land contract vendor has obtained a judgment of foreclosure against the land contract vendee with regard to the premises containing the vacant Building or Structure; or
    - (2) the land contract contains a provision authorizing the land contract vendor to act to secure or repair the property of the vendee, and the vendee no longer maintains the Vacant Building or Structure.
  - e. "Owner" does not include any real estate licensee providing brokerage services in accordance with Wis. Stat. Chapter 452.
12. Partially Vacant. A multi-storied building or structure that has one (1) or more stories vacant.
13. Responsible Person. A natural person who is the owner, operator or manager of any structure or premises.
14. Rubbish. Combustible and noncombustible waste materials, except garbage. The term shall include the residue from the burning of wood, coal, coke, and other combustible materials,

paper, rags, cartons, boxes, wood excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, and dust and other similar materials.

15. Secured. A Building that has a permanent door or window in each appropriate building opening that is secured to prevent unauthorized entry and has all of its door and window components, including frames, jambs, rails, stiles, muntins, mullions, panels, sashes, lights and panels intact and unbroken.
  16. Structure. Anything constructed or erected, which requires location on the ground or attached to something having location on the ground.
  17. Unified Business District. Any commercial building or group of commercial buildings comprised of permitted and/or conditional uses located on a lot or group of lots, which lot or group of lots has a common ownership, and which is planned, developed or functions as a unit.
  18. Vacant. A building or structure shall be deemed vacant if no person or persons, currently conducts a lawfully licensed business, or lawfully resides or lives in any part of the building as the legal or equitable owner(s), tenant-occupant(s), owner-occupants or tenant(s) on a permanent, non-transient basis. Vacant status is determined from a totality of circumstances. For purposes of this chapter only, rebuttable evidence of vacancy includes, but is not limited to, low or no utility usage, lack of customary furnishing consistent with occupancy, accumulation of newspapers or fliers, and fixtures or window coverings which are not Secured.
  19. Waste. "Waste" shall mean garbage, ashes, rubbish and trash, but not of an earthly or construction nature.
  20. Weeds. "Weeds" or "Noxious Weeds" or "other rank growth of vegetation" as referred to in Chapter 8 Section 24.030 (F) of the Village of Darien Municipal Code.
  21. Zoning Ordinance. The Zoning Ordinance for the Village of Darien, Wisconsin.
- C. Terms Defined Elsewhere. Where terms are not defined in this Code and are defined in other Village Ordinances, Codes or ASHRAE and NFPA 70, such terms shall have the meanings ascribed to them herein.
- D. Terms Not Defined. Where terms are not defined herein, or through the methods of interpretation authorized by this Section, such terms shall have ordinarily accepted meanings, such as the context indicates.

#### **15.10.040 Applicability**

- A. General. The provisions of this Vacant Building Code shall apply to all manufacturing, commercial, institutional, residential, and mixed occupancy buildings vacant for one hundred

eighty (180) consecutive days, and all manufacturing, commercial and mixed occupancy buildings, which have been partially vacant for one hundred eighty (180) days.

Upon application to the Building Inspector, an exemption from the provisions of this code may be granted for a period of up to 365 days.

In the event an exemption is granted, the premises must be maintained in a clean and sanitary condition with grass/weeds cut and snow removed and the building maintained in good condition during the exemption period consistent with the Property Maintenance Code. The exemption may be revoked for a failure of the applicant to maintain the building or the premises associated with the building free from violation of law.

Any one of the following circumstances may be a basis for an exemption from the provisions of this chapter:

1. A Building under active construction, rehabilitation, renovation, or repair for which a Building Permit has been obtained.
  2. A Building with a raze permit or with a raze order pending from the Village of Darien.
- B. Conflict. In any case where a provision of this Code is found to be in conflict with a provision of the Zoning Ordinance or any other provisions of the Municipal Code, the provisions which established the higher standard for the protection of the public health, safety and welfare shall prevail.
- C. Application of Other Ordinances. Nothing contained herein shall be deemed to authorize the use of a structure or premises contrary to any other provision of the Municipal Code or the Zoning Ordinance. Repairs, additions or alterations to a structure shall be done in accordance with the procedures and provisions of State law, Chapter 14 of the Municipal Code and NFPA 70. Nothing in this Vacant Building Code shall be construed to cancel, modify or set aside any provision of the Zoning Ordinance.
- D. Existing Remedies. The provisions in this Code shall not be construed to abolish or impair existing remedies of the Village, or its officers or agencies, under State laws or other Village General or Zoning Ordinances relating to the removal or demolition of any structure which is dangerous, unsafe and unsanitary, or the abatement of public nuisances.
- E. Historic Buildings. The provisions of this Code shall apply to structures designated by the Federal Government, State or Village as historic buildings. Any work to said structures shall also comply with the Zoning Ordinance and Chapter 70 ILHR of the Wisconsin Administrative Code.
- F. Referenced Statutes, Ordinances, Codes and Standards. The Statutes, Ordinances, Codes and standards referenced in this Code shall be incorporated herein by reference and be part of the requirements of this Code to the prescribed extent of each such reference, and include amendments, renumbering and successor acts.

- G. Requirements Not Covered By This Code. The requirements necessary for the strength, stability, or proper operation of an existing structure or equipment, or for the public safety, health and general welfare, not specifically covered by this Code, shall be determined by the Code Official, subject to a right of appeal to the Village Board.

#### **15.10.050 Severability**

- A. If any provision of this Vacant Building Code is, for any reason, held to be unconstitutional, invalid or unenforceable by any court of competent jurisdiction, such judgment shall not affect the validity of the remaining provisions of this Code, which shall remain in full force and effect.
- B. If the application of any provision of this Vacant Building Code is for any reason held to be an invalid application to a particular premises or structure by any court of competent jurisdiction, such provisions shall continue to apply and remain in full force and effect to any premises or structure not specially included in said judgment.

#### **15.10.060 Code Official**

- A. Code Official. The Code Official shall have the authority to exercise the power and duties of the position specified in this Code. The Code Official shall administer and enforce this Code.
- B. Code of Conduct. The Code Official in administering and enforcing this Code, shall abide by the Village of Darien's Ethical Standards of Public Officials and Employees and Code of Ethics.
- C. Inspections. The Code Official has the power to inspect Premises and structures to determine compliance with this Code. All reports of such inspections shall be in writing, signed or initialed and dated. The Code Official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise in the course of their duties, in accordance with Village policy.
- D. Right of Entry. The Code Official is authorized to enter structures or Premises, at reasonable times, with the express or implied consent of the owner, operator or occupant, to inspect and conduct administrative interior and exterior inspections for Code administration and enforcement and Licensing/Permitting purposes specified in this and other ordinances. If entry is refused or not obtained, the Code Official is authorized to pursue recourse to obtain entry as provided by law.
- E. Reinspections. Every owner, operator and occupant of a Premises shall cooperate with and facilitate reinspections of Premises at reasonable times pursuant to reasonable notice by the Code Official to determine Code compliance with an Order to Repair. Failure by said owner, operator, or occupant to cooperate with and facilitate such reinspections by the Code Official shall be a violation of this Code.
- F. Obstruction. No owner, or operator of a Premises may deny the Code Official the right to enter and inspect any portion thereof under the control of a lawful occupant where such occupant has consented to said entry and inspection.

- G. Denial of Entrance. No occupant of a Premises shall obstruct the owner thereof from complying with any order(s) of the Code Official made under authority of this Code. Obstruction shall include the denial of entrance into a Premises at reasonable times pursuant to reasonable notice.
- H. Identification. The Code Official shall carry Village issued identification when entering and inspecting Premises in the performance of their duties under this Code and display such identification, when asked.
- I. Notices and Orders. The Code Official shall, as necessary, issue notices and orders to responsible persons and tenants, where relevant, to obtain compliance with this Code.
- J. Records. The Village is responsible for keeping official records of all business and activities of the Village specified in the provisions of this Code in accordance with State and Village record keeping requirements.

#### **15.10.070 Vacant or Abandoned Building or Structure Requirements**

- A. Vacant Building Permit. The owner of a vacant building or structure shall obtain a Vacant Building Permit for the period during which it is vacant. When a building or structure becomes vacant, as defined by this Code, the owner of the building or structure shall apply for and obtain a Vacant Building Permit and pay the fee, as set forth in **Section 15.10.080**.

Upon the expiration of a Vacant Building Permit, if the building or structure is still vacant, the owner shall arrange for an inspection of the building and premises with the Code Official pursuant to **Section 15.10.80**, and renew the permit within ten (10) days of expiration in the same manner as the expired permit. All renewed permits shall be subject to all conditions and obligations imposed by this Code.

- B. Code Compliance. The owner of a vacant building or structure shall comply with all building, fire, property maintenance, zoning, and other applicable Codes or Ordinances, and shall apply for all necessary building, fire prevention and zoning permits upon application for a Vacant Building Permit.
- C. Waste Removal. The owner of a vacant building or structure shall immediately remove all waste from the interior of the structure. The owner of a vacant building or structure shall also immediately remove any waste, debris or excessive vegetation from the exterior premises surrounding the vacant building or structure in accordance with the vacant building maintenance standards of this Code and the Municipal Code.
- D. Owner's Responsibility. The owner of a vacant building or structure shall immediately lock, barricade or secure all doors, windows and other openings in the building or structure to prohibit entry by unauthorized persons in accordance with the Vacant Building Maintenance Standards of this Code.

If the owner does not reside within the State, the owner shall provide to the Code Official, the name, address and telephone number of an agent who is available for service of process within the State of Wisconsin.

The owner shall provide to the Code Official, the name, address and telephone number of a manager who is a natural person who is available for contact by the Code Official at all times for emergency repairs and maintenance, and who will respond to the vacant building or structure when required by the Code Official.

The agent and manager may be the same person, and/or either may be a Responsible Person.

The owner shall notify the Code Official within thirty (30) business days of any changes to the name, address or telephone number of the agent or manager.

- E. Owner's Obligations Continuous Through Term of Vacancy. The obligations of owners of a vacant building or structure are continuing obligations which are effective throughout the time of vacancy, as that term is defined in this Code.

#### **15.10.080 Vacant Building Permit; Inspection; Maintenance Standards; Fees**

- A. Permit Application. Application by the owner of a vacant building or structure for a Vacant Building Permit shall be made on a form provided by the Code Official. Applicants shall disclose all measures to be taken to ensure that the building will be kept weathertight, secure from trespassers, and safe for entry by police officers and firefighters in times of exigent circumstances or emergency. The application shall include, but not be limited to, the following:
1. Contact information for each owner. If the owner is other than a natural person or persons, the following shall apply, as appropriate:
    - a. If the owner is a corporation, limited liability company, limited or liability partnership, the registration statement shall provide the names and residence addresses of all responsible persons and the name and business address of the registered agent for service of process appointed pursuant to Wisconsin State Statutes.
    - b. If an estate, the name and business address of the personal representative of the estate.
    - c. If a trust, the names and addresses of the trustee or trustees.
    - d. If a partnership, the names and residence addresses of the partner or partners.
    - e. If another form of unincorporated association, the name and residence address of a responsible person.
    - f. If an individual person, the name and residence address of that individual person.
  2. Any rehabilitation or demolition plans.



3. An acknowledgement by the owner that grass and weeds shall not exceed a height of either (12") inches, and that snow and ice shall be removed from the public right-of-way within twenty-four (24) hours of a snowfall.

B. Inspection of Premises.

1. Purpose. The Code Official, or his/her designee, may inspect vacant buildings to determine the structural integrity of the building, the repairs necessary to maintain structural integrity, to determine what repair actions must be undertaken to maintain the premises safe for entry of police officers and firefighters in times of exigent circumstances or emergency, that the building and its contents do not present an imminent hazard to the public during the time that the building remains vacant, and that the building and structure are in compliance with the Vacant Building Maintenance Standards.

2. Inspector. The Code Official, or his/her designee, may conduct inspections made pursuant to the provisions of this Vacant Building Code in conjunction with other inspectors of the Village, including police officers, firefighters, or inspectors from other governmental bodies.

3. Types of Inspections.

- a. Code Official Directed.

- i. Implied Consent. Any owner of a building, which is either the subject of a Vacant Building Permit or an application filed by a responsible person, for a Vacant Building Permit, is deemed to have given consent to inspections of the building.
- ii. Reinspections. At any time subsequent to the issuance of an Order to Repair, the Code Official may conduct reinspections to determine compliance with the Order to Repair. Such reinspections will be conducted only after a reasonable time has been afforded to a responsible party to comply with portions of the Order. Reinspections are subject to reinspection fees under **Section 15.10.100.**
- iii. Emergency Inspections/Emergency Repairs. If, at any time, the Code Official has reason to believe that an emergency situation exists with respect to the building, which tends to create an imminent hazard to health, welfare or safety of the general public, the Code Official may enter the building to inspect the premises, without notifying the responsible party or obtaining a warrant. If the Code Official finds an emergency situation exists in fact, which presents an imminent hazard to the health, welfare or safety of the general public, the maintenance of which, until such time as the responsible party could conduct the repairs, would be unreasonable, the Code Official may cause any reasonable action, including the employment of necessary labor and materials, to perform emergency repairs. Costs incurred in the performance of emergency repairs, shall be paid by the Village and the Code Official shall recover the costs through special assessments levied against the benefited property. A One Hundred (\$100.00) Dollar administrative fee for processing and administering the special assessment shall be added to the special assessment against the benefited property.

- iv. Inspections Made Pursuant To A Special Inspection Warrant. If any responsible party takes any action contrary to the Implied Consent given by the owner in **Section 15.10.080 3 a. i.** above, the owner hereby consents to the issuance of a Special Inspection Warrant by a judge of a court of competent jurisdiction, pursuant to Section 66.0119, Wisconsin Statutes, or any successor thereof. Any interior inspection made pursuant to a Special Inspection Warrant shall be deemed a reinspection for the purpose of imposition of fees pursuant to **Section 15.10.100.**
  
- b. Responsible Party Requests for Inspection. Requests from responsible parties for inspections of buildings which are both subject to a Vacant Building Permit and are under the control of the requesting responsible party.
  
- c. Issuance of Orders to Repair. The Code Official, upon inspection, shall issue orders to repair for work needed to:
  - i. Adequately protect the building from intrusion by trespassers and from deterioration by the weather in accordance with the Vacant Building Maintenance Standards set forth in this Code; and,
  - ii. Ensure that allowing the building to remain will not be detrimental to the public health, safety and welfare, will not unreasonably interfere with the reasonable and lawful use and enjoyment of other premises within the neighborhood, and will not pose an extraordinary hazard to police officer or firefighters entering the premises in times of emergency.

When issuing such orders, the Code Official shall specify the time for completion of the work. All work done pursuant to this Section shall be done in compliance with the applicable Building, Fire, Property Maintenance and Zoning Codes and Ordinances.

- 4. Issuance of Vacant Building Permit. The Code Official shall issue a Vacant Building Permit upon being satisfied that the building has been inspected and is in compliance with the Vacant Building Maintenance Standards set forth in this Vacant Building Code, and is adequately protected from intrusion by trespassers and from deterioration by the weather. This Permit shall be effective for a period of three hundred sixty (360) days.
  
- 5. Vacant Building Maintenance Standards. A vacant building or structure shall be deemed adequately protected from intrusion by trespassers and from deterioration by the weather if it satisfies the following Vacant Building Maintenance Standards:
  - a. Building Openings. Doors, windows, areaways, and other openings shall be weathertight and secured against entry by birds, vermin and trespassers. Missing or broken glass in doors, windows and other such openings shall be repaired/replaced with glass. No building opening shall be boarded.

All first floor or ground level windows, doors and openings shall be free of any posters, paper or fabric coverings.

- b. Roofs. The roof and flashings shall be sound and tight, not admit moisture, or have defects which might admit moisture, rain or roof draining; and allow for drainage to prevent dampness or deterioration in the interior walls or interior of the building.
- c. Drainage. The building storm drainage system shall be functional and installed in an approved manner, and allow discharge in an approved manner.
- d. Building Structure. The building shall be maintained in good repair, structurally sound, and free from debris, rubbish and garbage. The building shall be maintained in a sanitary manner and in a manner that does not pose a threat to the public health, safety and welfare.
- e. Structural Members. The structural members shall be free of deterioration and capable of safely bearing imposed dead and live loads.
- f. Foundation Walls. The foundation walls shall be maintained structurally sound and in a sanitary condition so as not to pose a threat to the public health, safety and welfare, shall be capable of supporting the load which normal use may cause to be placed thereon, and shall be free from open cracks and breaks, free from leaks, and be animal and rat-proof.
- g. Exterior Walls. The exterior walls shall be free of holes, breaks, and loose or rotting materials. Exposed metal, wood, or other surfaces shall be protected from the elements and against decay or rust by periodic applications of weather-coating materials, such as paint or similar surface treatment.
- h. Decorative Features. The belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be safe, anchored and in good repair. Exposed metal, wood or other surfaces shall be protected from the elements and against decay or rust by periodic applications of weather-coating materials, such as paint or similar surface treatment.
- i. Overhanging Extensions. All balconies, canopies, marquees, signs, metal awnings, stairways, fire escapes, standpipes, exhaust ducts and similar features shall be in good repair, anchored, safe and sound. Exposed metal and wood surfaces shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.
- j. Chimneys and Towers. Chimneys, cooling towers, smokestacks and similar appurtenances shall be structurally safe and in good repair. Exposed metal and wood surfaces shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.
- k. Walkways. Public walkways shall be in good repair, shall be safe for pedestrian travel, and shall be free of snow and ice. Snow and ice removal shall be completed within twenty-four (24) hours of a snowfall.



Dollar administrative charge added to the charge and special assessment to cover the administrative costs of charging and specially assessing the property.

**15.10.110 Penalties**

1. Violation Penalties. Any person who shall violate a provision of this Code shall, upon conviction, be subject to a forfeiture of not more than One Thousand (\$1,000) Dollars; and, in addition, shall pay the costs and expenses of prosecution. Each day such violation continues shall be considered a separate offense. Failure to promptly pay said forfeiture shall subject the violator to be sentenced to the County Jail for a period not to exceed (60) days.
2. Abatement of Violation. The imposition of the penalties herein prescribed shall not preclude the Village Attorney from instituting appropriate action to restrain, correct, or abate a violation, or to prevent illegal occupancy of a structure or premises, or to stop an illegal act, conduct business, or utilization of the structure or premises.

**Section 3.** This ordinance shall take effect upon passage, posting, or publication as provided by law.

Enacted by the Village Board of the Village of Darien, Walworth County, Wisconsin, this 19<sup>th</sup> day of June, 2023.

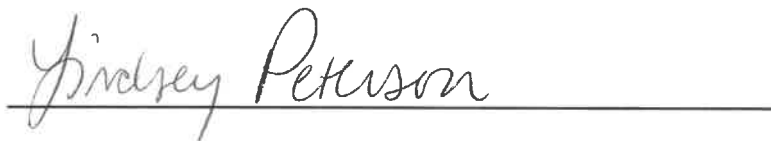
**VILLAGE OF DARIEN**



**Jane Stiles, Village President**



ATTEST:



**Lindsey Peterson, Administrator/Clerk-Treasurer**