

# **Ypsilanti's Vacant Building Ordinance Frequently Unanswered Questions**

The following information is intended to address some of the numerous questions that the City of Ypsilanti has failed to answer about the 2005 Vacant Buildings Ordinance.

## **Question #1: Who is subject to the Vacant Building Ordinance?**

Any residential property that is declared as a "homestead exception" and is registered as a homestead with the assessor is exempt from this ordinance.

However, any property that is empty and not a homestead must be registered with the city and is subject to inspection and escrow fees if there is a "triggering event". Any property not a homestead undergoing "significant construction progress on a continuing basis" is exempt from any fees. If a property is exempt from fees, you are still required to register the building with the city within 30 days from the time the building qualifies as empty under the ordinance.

All other property in the City including all non-homestead residential, commercial, retail, office, warehouse, manufacturing, apartments, all leased property, all church, and non-profit owned property is subject to the ordinance and the assessment of inspection fee of \$65 and monthly escrow fees which run from \$50 to \$300 per month.

## **Question #2: Are secure and well maintained vacant buildings a threat to public safety?**

No. According to Fire Chief Magazine, November 2001, in an article about abandoned structures which advocates that communities need to strengthen their abandoned buildings ordinances they write, "Unoccupied properties that are secure and well maintained don't pose the threat to public safety that properties which are unoccupied and open to unauthorized access do." They also write later in the article, "... buildings that are properly secured should have a very low potential of life hazard." A secure and well maintained building, even when vacant, is not a threat to public safety.

## **Question #3: I take frequent trips or only spend part of the year in Ypsilanti. Am I subject to this ordinance?**

If your property is a residence and not a homestead and you do not sleep in your house on a daily basis, according to the Assistant City Attorney, you are subject to the ordinance including all inspection and escrow fees. The Assistant City Attorney was very clear in his testimony before city council that you must occupy the home legally and that you must sleep in the residence on a daily basis to be excluded from this ordinance.

## **Question #4: Is it really true that the Towner House on North Huron would be subject to this ordinance?**

Yes. Towner House and many other properties in the community are subject to this ordinance. As many know the city was in litigation for years with the Presbyterian Church, owners of the Towner House on North Huron. If the Vacant Building Ordinance is enforced equitably, 12 months after the law takes effect, the Church that owns the Towner House would be required to pay \$50 a month escrow fee plus \$65 for each inspection. Six months later, the church would

then be required to appear before a hearing of determination in front of a volunteer citizen appointed by the mayor to decide if the building is vacant or dangerous. If the building is determined to be vacant and not dangerous, the church must continue to pay \$50 a month in escrow fees. If the building is declared dangerous, the church must pay \$300 a month plus inspection fees. Even if the building receives the designation of vacant, at the end of 10 years, the church will have paid upwards of \$5,000 in escrow fees to the city plus any fees for periodic inspections. As long as Towner House is vacant, the church will have to pay the monthly escrow and inspection fees to the city and the church cannot get the escrow fees back.

### **Question #5: How will the city know if my property is vacant?**

The ordinance requires you to register your property if it is empty more than 30 days. City staff testified that neighbors can also report properties that they suspect are vacant and the staff will investigate the report. City inspectors said they already know the problem properties and will be searching for vacant properties that have not been reported. City staff said they had ways to determine if a property was vacant using state databases like driver's licenses, voter registrations, and other public records. City staff also testified that they can check to see if utilities like gas, electricity, and water have been disconnected or if there has been a recent name change that would indicate that the use has changed. One example the city staff gave is they could look at the electric meter to see if it is moving or has changed since the last visit by staff. If the City believes your property is vacant, they will send you a notice of vacancy. It is not clear what the city will do if you fail to return the notice or lie about the vacancy status.

### **Question #6: I have a current building permit and I am actively working on my building, do I still need to register the building as Vacant?**

Yes. If your building is not a homestead and you are renovating a building and it is empty for more than 30 days, you must register your building. You don't have to pay fees, but you must register with the city and then schedule to have your building inspected by the city within 30 days of when the building is empty. There is no fee for this first inspection by the city. Having a building permit does not exempt you from registration for the Vacant Buildings Ordinance; the city only waives the fees.

If you get hit with just one "triggering event" while you are working on your project, you are immediately subject to the \$50 a month escrow fee and subsequently monthly or periodic inspections. Even if the city forgoes the inspections you must still pay the monthly escrow fee. The escrow fee cannot be waived once you have had a "triggering event". An ambulance call to your site for a construction worker is technically a "triggering event". A police call because someone stole a saw off the site is a "triggering event". At that point you are immediately subject to the \$50 a month escrow fee plus \$65 for each inspection conducted by the city. It clearly says this in the Vacant Buildings Ordinance.

It doesn't matter that some elected officials said they won't inspect or fine good owners. The ordinance says they can and must. Do you want to depend on the discretion and good will of the city? Many in the community still remember the last building inspector who was a nightmare. How many years did the community put up with that guy before the city finally realized there was a problem? The enforcement of the law should not be based on whether or not the city thinks you are a good person.

**Question #7: I check my building every day, is the building still considered vacant by the city?**

Yes, your building is still vacant. The ordinance states, Persons solely in the building for the purpose of maintenance, repair, or cleaning of the building do (sic) not make it “regularly occupied.” So your building is considered vacant.

**Question #8: My property is for sale or rent, do I still need to register my vacant building with the city?**

Yes! If you property is empty and has been for sale or lease for more than 30 days, then you MUST register your building with the city and be subjected to an initial inspection of your property. If you have moved out of your house, even if it was a homestead, the homestead exclusion in the Vacant Buildings Ordinance would not apply as this property is no longer your primary residence. Thus after 30 days, you must register your house with the city.

**Question #9: What information does the city require when I register my building?**

You must provide the following information: Name, address, telephone number and the address of all such structures owned including number and types of units in each structure, and whether such structures is (sic) vacant or “regularly occupied.” Later in the ordinance it states that you or the registered agent must provide: Name (including Jr., III, etc, and middle name if the individuals driver’s license or state identification contains such information), address, driver’s license number or state identification number, date of birth, sex, height, weight, hair color, and eye color. Any changes to the above information must be provide to the city within 14 days of the change

**Question #10: I am already registered with the city for Rental inspections; do I register again for Vacant Buildings?**

Yes. Registering for the city’s Rental Inspection Program does not exempt you from the Vacant Building registration. You must re-register for the Vacant Buildings program even though both programs required the same information.

**Question #11: I am out of town on an extended trip and city inspectors have requested a second inspection of the property, what do I do?**

You or a designated representative with keys and access to the entire property must meet the city inspector on the date they pick. If you or your representatives miss an appointment, you lose the money paid for the first appointment and you must pay for a new inspection. If you refuse to allow the inspector on the property the city may request a warrant to enter your property. If the city believes there is a fire, health or safety concern, according to testimony given before city council, they city may enter your property without your permission or warrant.

**Question #12: The city inspector missed the appointment now what?**

You do not need to pay for a new inspection fee, but there is no refund or credit from the city if the city misses an inspection. So if you miss the appointment, you must pay a new inspection fee, but if the city misses the appointment, no credit is issued. Upon receiving a new inspection date, you then must again take time off from work, return from out of town, or have a designated representative meet the inspector for the new appointment.

### **Question #13: What is the Vacant Building Escrow fund?**

If your building is classified as vacant or dangerous by the city, you must pay a \$50 or \$300 monthly escrow fee depending on how the city classifies your building. If the city finds fault with your building and the city must perform remediation such as pickup trash, mow weeds, board up the building, or even something as simple as remove graffiti; the city will then deduct from your escrow account all costs, including any administrative costs from your escrow fund. There is no process defined in the ordinance to dispute any charges or fees that the city may charge and the city is not obligated to use the lowest bidder for any remediation work. It is also possible that the city could seek a judgment against your escrow fund for any other actions they take against you administratively or in court. Any remaining balance will then be returned to you once the building is no longer vacant.

If your building is designated as dangerous by the city, the city may apply the funds in the escrow account towards the repair or demolition of your building or may apply it towards any other actions the law allows.

### **Question #14: I paid money into the Vacant Building Escrow Fund. I just sold my building, how do I get my money back?**

If your building is vacant when it is sold, you cannot get your money from the escrow fund when you sell or transfer the property to a new owner. Only when the new owner has successfully navigated all of the city permits, rules, and regulations and has obtained a valid Certificate of Occupancy, and the city has deducted any outstanding balances from the escrow, will any remaining escrow money be returned to you. Moreover, if the new owner is subject to any fines or fees by the city related to this property, the city may be able to deduct those fines and fees incurred by the new owner from your escrow balance.

### **Question #15: What is a “triggering event”?**

This is the ‘gotcha’ clause and is the most troubling aspect of this ordinance. With all of the exceptions outlined in the ordinance that exempt you from inspections or fees, none of those exceptions, except homestead, apply if you have had a “triggering event”. Even if you are making “significant construction progress on a continuing basis” if you have a “triggering event” during construction, you are then subject to regular inspections and all fees and escrows due under the ordinance and there can be no waiving of the fees or escrow.

### **Question #16: What things can cause a “triggering event”?**

Any remediation work that the city does on your property is considered a “triggering event”. This includes, picking or removing trash; grass, weeds, or brush violations; graffiti removal; animal complaints; vehicle or zoning vehicle violations; unsecured or non-weather tight structure, repair and stabilization work, replacing or boarding up of windows or doors; securing the building from outside access; issuance of a citation or complaint to correct exterior violations, apparent or existing, of the Property Maintenance Code as adopted by the city; law enforcement response; or fire or emergency personnel response. Any of these are considered a “triggering event” and upon occurrence your property is immediately subject to all inspection and escrow fees defined under the law.

Moreover, a property that is vacant for twelve (12) months is itself considered a “triggering event”. So even if you have done everything right, after twelve months, they still ‘gotcha’ because of the simple fact that after 12 months have passed, that too is a “triggering event”.

If it couldn’t get any worse, if you neighbor doesn’t like you and dumps trash on your lawn while you are out of town and then calls the city, if the city hauls it away before you do, that is a “triggering event”. If there is a prowler call and the police respond to your property, even if you property is secure, that is a law enforcement response and as such it is a “triggering event” and you are now subject to the full force of this ordinance. If someone collapses on your sidewalk of a heart attack and Huron Valley Ambulance (HVA) is called, that is an emergency personnel response and you have thus tripped the “triggering event”. You are no longer exempt from any of the rules and regulations and must now pay all inspection fees and escrow funds demanded under this ordinance. Now you know why this is called the “gotcha” clause.

### **Question #17: What can I do?**

You can tell your elected representative that you want this law stopped before it goes any further. The mayor said that there has only been a small vocal minority opposed to the ordinance and that the council must act in the best interests of the community.

What the mayor fails to mention is that not one person spoke up at any of the three public hearings over the past three years in favor of the Vacant Buildings Ordinance. A number of people have offered their support for the Dangerous Buildings Ordinance, which is a very good law. But no one has ever spoken at any public hearing in favor of the Vacant Building Ordinance. Moreover, over 100 people attended a special public meeting at the senior center in 2003, and again not one person spoke in favor of the Vacant Building Ordinance.

At the special meeting in 2003, it was universally agreed that everyone was in favor of the Dangerous Building Ordinance. This bears repeating, there has been overwhelming support for the cities Dangerous Buildings Ordinance which is a model law and should be adopted by communities through out the state. But NO ONE has ever spoken in favor of the Vacant Buildings Ordinance at a public hearing.

Read the ordinance and judge for your self. If you think this is a bad ordinance tell the Mayor. Here is her address:

Mayor Cheryl C. Farmer, M.D.  
City of Ypsilanti  
One South Huron Street  
Ypsilanti, MI 48197  
Email: [mayorsis@provide.net](mailto:mayorsis@provide.net)

And send us a copy too.

NotVacant.com  
115 South Adams St. Apartment 1  
Ypsilanti, MI 48197  
Email: [Mail@NotVacant.com](mailto:Mail@NotVacant.com)

You could also write letters to the editor.

Ypsilanti Courier – [letters@ypsilanticourier.com](mailto:letters@ypsilanticourier.com)

Ann Arbor News – [letters@annarbornews.com](mailto:letters@annarbornews.com)

Then come to the next City Council Meeting and voice your opinion. There are three minutes at the beginning of each meeting for the public to speak. The next meeting is Tuesday, February 15, 2005 at 7:30pm at City Hall. There are no more public hearings on this ordinance. The final reading of the ordinance will be March 1, 2005 at 7:30p at City Hall. You will have three minutes to speak at the beginning of the meeting during audience participation and it is acceptable to speak during audience participation about matters coming before council, even if there is no public hearing.

You can simply stand up and say “I do not support this ordinance” and then sit down. If two people speak up, it will make a difference. If 20 show up, it puts council on notice, and if 100 come to city council, it will force council to move the meeting to the Senior Center and it will send a clear message that the citizens of this community want to be heard and it is time for the council to listen.

If city council passes the final reading on March 1<sup>st</sup>, the Vacant Buildings Ordinance will become law and we then have no one to blame but ourselves. It is your right to be heard, but no one will hear you if you don't speak up. One voice can make a difference. So stand up and be counted.