

SECTION XXX - REGISTRATION AND MAINTENANCE OF VACANT BUILDINGS

30.1 Intent

The purpose of this by-law is to help protect the health, safety and welfare of the residents of Plainville by preventing blight, protecting property values and neighborhood integrity, protecting Town resources and ensuring the safe and sanitary maintenance of vacant buildings. Vacant buildings create an increased risk for fire damage, encourage vandalism and unlawful entry, and give rise to other public health and safety hazards. This by-law is intended to promote the Town's public welfare by requiring all property owners to register and properly maintain vacant buildings.

30.2 Definitions

- a. **Building**: A structure enclosed within exterior walls or firewalls, built, erected, or framed of any materials, and fixed to the ground, having a roof, to form a structure for the shelter of persons, animals or property, or the storage of commercial or industrial personal property.
- b. **Building Commissioner**: The Building Inspector of the Town of Plainville or his designee
- c. **Owner**: A person or entity who, alone or severally with others:
 - i. has legal or equitable title to any building or has care, charge or control of any building in any capacity including but not limited to agent, executor, executrix, administrator, administratrix, trustee, or guardian of the estate of the holder of legal title; or
 - ii. is a tenant a legal right to possess an entire building; or
 - iii. is a mortgagee in possession of any building; or
 - iv. is an agent, trustee, receiver or other person appointed by the courts and vested with possession or control of a building; or
 - v. is an officer or trustee of an association of unit owners of a condominium or cooperative which contains a vacant building.
- d. **Vacant Building**: Any building which is not legally occupied, is abandoned, or is not used for a period of at least forty-five (45) consecutive days, and also shows visible signs of substantial physical distress, including, but not limited to, boarded-up or broken windows or doors, fire damage, exposure to the elements, susceptibility to unauthorized entry, disconnected utilities, accumulation of trash, junk and/or debris, or that appears to pose a risk to public safety, as determined by the Building Commissioner.
- e. **Board of Survey**: A board consisting of the head of the Fire Department, a surveyor, and one disinterested person to be appointed by the Building Commissioner, in accordance with the provisions of G.L. c.143, §8.

f. Legally Occupied: Occupied in accordance with the provisions of the Massachusetts Building Code.

30.3 Registration

- a. Prior to or not more than seven (7) days after a building becomes a vacant building, as defined herein, the owner(s) must register the vacant building with the Building Commissioner on forms provided by the Building Commissioner. All registrations must state the owner's name, phone number, and mailing address as well as an emergency contact, if not the same. This registration must state if the property is vacant at the time of filing, and if so for how long the building shall remain vacant. None of the required addresses shall be a Post Office Box. Once the building is no longer vacant or is sold, the owner must provide proof of sale or written notice and proof of lawful occupancy to the Building Commissioner. The Building Commissioner will notify Police, Fire, Water and Sewer, and Health Departments of the submitted registration of vacant building as well as the re-occupancy of the building.
- b. The Building Commissioner may exempt a property owner from the provisions of this by-law upon the presentation of evidence, in such form as may be convincing to the Building Commissioner, that the failure to use or occupy a building for a period in excess of forty (45) days does not violate the purpose or intent of this by-law. Examples of such exemptible circumstances may include, but not be limited to, temporary residence in a medical or rehabilitation facility, temporary residence in an alternate seasonal home or resort, or other such circumstances provided they do not exceed one hundred-eighty (180) days. However, mere storage of goods in the vacant building shall not, in and of itself, qualify as an exemption.

30.4 Annual Registration Fee, Failure to Pay

On or before October 15th of each calendar year, the Town shall send a billing statement, setting forth the annual registration fee, to the owner of the Vacant Building. The annual registration fee shall be set by the Board of Selectmen pursuant to G.L. c.40, §22F.

On or before November 15th of each calendar year the Owner of any Vacant Building shall pay to the Town an annual registration fee to cover the administrative cost of monitoring and ensuring the security and proper maintenance of such building, as identified in said billing statement. Failure to pay the annual registration fee shall be a violation of this by-law, and the full fee shall be deemed an assessment resulting from a violation of this by-law. Such fee, and any fines issued for violations of this by-law, shall constitute a "municipal charges lien" on the property on which the Vacant Building is located, to be collected in accordance with G.L. c.40, §58.

30.5 Maintenance Requirements

- a. The owner of a vacant building must maintain the vacant building in accordance with all applicable local and state Sanitary Codes, Building Codes and Fire Codes, pertaining to the external/visible maintenance of the building and major system maintenance of the property.
- b. The owner of a vacant building must promptly repair all broken windows, doors, other openings and any unsafe conditions at a vacant building. Boarding up of open or broken windows and doors is prohibited except as a temporary measure for no longer than forty-five (45) consecutive days, unless the Commissioner determines that, due to vandalism or security reasons and due to circumstances out of the owner's control, the proper boarding of windows and doors is necessary for a period of time longer than forty-five (45) consecutive days. Boards or coverings must be fitted to the opening size and colored to blend with the existing building color scheme.
- c. The owner must maintain the building and property for the duration of the vacancy or abandonment. The owner shall maintain the condition of the building and property so as to appear not to be vacant. Upon notice by the Building Commissioner, any accumulated trash and/or graffiti shall be removed from the property by the owner within (7) days. The Building Commissioner and/or his designee will document violations. The owner of any building vacant for a period exceeding six (6) months, whose utilities have been shut off, shall have those utilities removed or cut and capped to prevent accidents.
- d. If deemed necessary by the Building Commissioner and the Board of Survey, the owner must erect and maintain, at his/her own expense, a six (6)-foot privacy fence within thirty (30) feet of the entire building. The Building Commissioner shall notify the owner in writing of the basis for requiring any such fencing.
- e. Compliance with this by-law shall not relieve the owner of any obligations set forth in any other applicable by-law, regulation, codes, covenant conditions or restrictions and/or association rules and regulations. In case of a conflict with these rules and regulations, the stricter of the rules and regulations shall apply.

30.6 Inspections

The Building Commissioner, Police Chief, Fire Chief and the Health Agent, or their designees shall have the authority to periodically inspect the exterior and interior of any building subject to this by-law for compliance, as authorized under the terms of registration form filed with the Building Commissioner. The Building Commissioner shall have the discretionary authority to disconnect utilities immediately if a potential hazard that may be dangerous to life and limb is present.

30.7 Penalties and Enforcement

Violations of any portions of this by-law shall be punishable by a fine of \$100.00 a day in total. However, the Building Commissioner may waive the fine in total or in part upon the abatement of the violation(s).

The Building Commissioner or his designee shall enforce all provisions of this by-law and shall institute all necessary administrative or legal action to assure compliance. Any owner found to be in violation of this by-law shall receive a written warning and a minimum of seven (7) days to remedy all violations prior to the institution of any enforcement action by the Commissioner. The Building Commissioner, acting on behalf of the Town of Plainville, may also bring a civil action in a court of competent jurisdiction seeking equitable relief to enforce this by-law. This by-law may also be enforced through noncriminal disposition in accordance with the provisions of Section XXII of the Town's By-laws.

30.8 Unsafe Buildings

If the Building Commissioner determines the building to be unsafe, the Commissioner may act immediately in accordance with the Massachusetts State Building Code to protect public safety. Furthermore, nothing in this by-law shall abrogate the powers and/or duties of municipal officials to act pursuant to any general statutory authority including, without limitation, M.G.L. c. 139, § 1 *et seq.* and M.G.L. c. 143, § 6 *et seq.*

30.9 Severability

If any provision of this by-law is held to be invalid by a court of competent jurisdiction, such provision shall be considered separate and apart from the remaining provisions, which shall remain in full force and effect.