

# Ypsilanti Courier

## City's vacant building ordinance 'unfair' to property owners

### Other Voices

I have been carefully studying the city of Ypsilanti's new vacant building ordinance for over a month and there are significant and troubling flaws that will hurt more people than are helped by this law.

When originally passed, Ypsilanti City Council did not consider the fact that the original ordinance would catch anyone who went south for the winter, took a six-week vacation, or went on an EMU sabbatical. Going on a six-week vacation would trip the vacancy clause and require reporting your home to the city. The city has tried to rewrite the law but it still punishes far too many good people and contains far too many loopholes for the bad guys to slip through. Check out the flow chart used to determine if you are in violation of the law. [www.notvacant.com/Vacant-Bldg-Flow-Chart.jpg](http://www.notvacant.com/Vacant-Bldg-Flow-Chart.jpg)

There are IRS regulations that are easier to follow.

To view the complete ordinance, visit [www.notvacant.com](http://www.notvacant.com).

Here is what I have learned as I have studied the ordinance:

As it turns out, even I was in violation of this law. I owned a house on Douglas on the west side, which was not a homestead. My wife, Maggie, and I moved into our new home in the Historic Southside and had intended to put the Douglas house up for sale or, possibly, make it a rental. Then Maggie got called to active duty in the Army and went to Afghanistan. I didn't want to deal with trying to sell it or make it a rental, especially since we didn't know if her tour would be extended. The house was well maintained, the grass was mowed, lights were on timers, and cars parked in the driveway to make it look occupied. Many neighbors didn't even know it was vacant.

The current and newly proposed amendments to the vacant buildings ordinance require me to register the house with the city if it is empty for more than 30 days. After registration and an initial inspection by the city, if there is a "triggering event" (as defined in the ordinance) I am subject to monthly escrow fees of \$50 to \$300 per month, plus \$65 for each city inspection. That's right; the total fee could be as much as \$365 a month. A building that is vacant for 18 months, even if secured and well maintained, would be subject to a \$300 a month escrow fee plus \$65 a month inspection fee. It depends entirely on how the city classifies your building.

Moreover, if you sell your property, you cannot get the escrow fees back, which could total thousands of dollars. The money is only returned to you once the building is no longer vacant. So, if you sell it to someone who defaults on the payment or circumstances change and the building remains vacant, you can't get your money back from the city escrow fund until the building is no longer vacant.

I ask you, why does the city need to collect a \$50 or \$300 a month escrow fee if I properly maintain the building? That fund, which in three to five years could top a half-million dollars, will be very difficult for the City or the Building Department to resist tapping into as they try to balance budgets or pay other inspection costs.

If you are subject to the \$300 escrow fee, or the building has been vacant for 18 months, you now get hauled in front of a hearing officer, who is an unpaid citizen appointed by city council (not a professional or city employee), for a "determination of status". If you disagree with the hearing officer, you must then request a hearing in front of the full city council, where council will vote on your building status. This situation is just ripe for manipulation. If a councilor or the mayor has received a campaign contribution from the property owner, they should recuse themselves from the decision-making process. A smart or disingenuous person would make sure they donate to every campaign to force the entire council to recuse themselves from the hearing.

But wait, it gets worse. To keep from grabbing "snow birds" who go south or professors on leave, the city increased the time period to 12 months before fees begin. However, even if the building is properly secured and well maintained, there is a huge "gotcha clause". If you receive a single trash or weed violation, snow removal fine, even a police or fire call—just some in a long list of "triggering events"—the building can be immediately inspected by the city and then the inspection and monthly escrow fees start to rack up.

So, if your neighbor doesn't like you and dumps his trash on your lawn while you are out of town and then calls the city to pick it up, or you get hit with graffiti while on vacation and the city has to clean it up, you will now be subject to the inspections and fee clauses in the vacant buildings ordinance in as little as 30 days after registering the building. Worse, if you had a triggering violation 60 days before your building was declared vacant, that too is a triggering violation and you would be immediately subject to inspection fees and escrow.

At a recent public meeting, the mayor said this ordinance was intended to encourage building owners like Jim Pate at the old Smith Furniture on South Washington to do something with their properties. But the old Smith Furniture building would not be subject to this ordinance because the owner's wife regularly uses the building as an office, thereby disqualifying it as a vacant building.

Many remember the endless litigation between the city and the Presbyterian Church over the Towner House on North Huron. If this vacant building

ordinance is enforced consistently, 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. At the end of 10 years, the church could have paid as much as \$5,000 in escrow fees plus any fees for periodic inspections. As long as the Towner House is vacant, the church will be required to pay the monthly escrow and inspection fees to the city.

Sadly, there are many law-abiding people that will be caught by this ordinance because their property is non-homestead. One is the Brown Chapel, an African American AME Church. The church owns a house on Woodward that is nicely maintained and lighted at night. But it is vacant, so they would be required to register the building after 30 days and would be subject to monthly fees and inspections after 12 months. However, if the police were called to the building, even if it were just for a prowler who ran through the yard (which would be a "triggering event"), the property would immediately be subject to monthly escrow fees and inspections.

Brown Chapel has been a wonderful neighbor and it would be a real loss to our neighborhood if they left because of these new fees imposed by the vacant buildings ordinance.

It is wrong for the City to take the attitude that a little rain must sometimes fall on everyone and that it is somehow OK to sweep up law-abiding citizens with this ordinance in its the zeal to get some truly bad folks.

I also worry about are the unintended consequences of this ordinance. In my opinion, there are a lot worse things than having a secure, well maintained, and merely vacant building in my neighborhood. For example, to avoid the fees and inspections, the church could decide to convert the building to a non-profit halfway house, or hastily rent the building without properly screening tenants, or sell it to an out of town property speculator, or worse, they could decide to demolish the building and make it a parking lot. All of these choices are worse then leaving the building vacant.

Don't think this hasn't happened! In 2004, another church in my neighborhood demolished three houses. One of those houses had a current Certificate of Occupancy (CofO) and was a very nice house when it was boarded up and eventually demolished.

This vacant building ordinance creates incentives to tear down houses to avoid fees and taxes rather than encourage folks to fix them up. It won't do anything to 'encourage' Mr. Pate to do something with the old Smith Furniture building because his building is neither vacant nor empty.

If you are selling your property and it is registered with the city as a vacant or dangerous building, must you now declare that fact on your seller's disclosure statement? The answer is likely yes. Since the property is registered with the city and subject to monthly inspection and escrow fees that will continue with the new buyer, that fact must be disclosed to the potential buyer.

If the city excludes a property that is for sale or lease from inspection, what keeps owners from setting an unreasonable price on the property simply so they can claim the property is for sale or lease to avoid the vacant building ordinance?

In a report sent to city council, staff has estimated that about 100 of the total number of buildings in the city would be subject to this ordinance.

A recent search of the Multiple Listing Service (MLS) used by Realtors showed there were 117 residential, income, and commercial properties for sale in the city. About half of these properties would require registration with the city under this new ordinance, yet most of those properties do not appear on the city's list.

The MLS does not include vacant properties that are for rent, commercial property for lease, or properties for sale by owner. The city also did not count the tens if not hundreds of new buildings under construction or vacant buildings undergoing renovation that are also subject to the vacant buildings ordinance.

When you add up all these properties, it is easy to see that there are over 300 buildings that would be classified as vacant in the city and probably 50 of those properties are just like the AME church house and the old Smith Furniture Building that are well maintained and secure. City staff confirmed that there are likely many more vacant buildings they do not know about that would be subject to this ordinance.

We already have a city law that says all rental units must be inspected every 24 months. The City only has one ordinance enforcement officer and two housing inspectors. When we are facing another \$1,000,000. budget shortfall from the state, how can we afford to hire new inspectors to inspect upwards of 300 additional vacant properties on a monthly basis? We can't.

We cannot afford an ordinance that will require more city inspectors and will cost tens of thousands of dollars per year to enforce, while at the same time we are making cuts in our police and fire departments.

We simply do not need, nor can we afford, a vacant building ordinance with so many loopholes and exceptions that it ends up unduly penalizing law-abiding citizens and will cost the taxpayers of Ypsilanti tens of thousands of dollars per year in costs not covered by the inspection fees.

What we need is targeted enforcement of laws that go after the owners of dangerous and blighted buildings. We already have strong dangerous and blighted building laws on the books. A well-crafted and strong dangerous buildings ordinance was passed in 2002 and amended in 2003 but has never been enforced by the city.

We have all the ordinances we need to go after folks who don't properly maintain and secure their properties if we would simply enforce our existing

ordinances.

This new ordinance doesn't make sense, yet the mayor is so convinced that we need this vacant buildings law to force someone like Mr. Pate to do something with the old Smith Furniture building that she is pushing this through while ignoring or even considering the unintended consequences and impacts this ordinance will have on the rest of the community.

A properly maintained and secured vacant building is not a blight or danger to our community. On the other hand, a blighted and dangerous building is clearly a drain on our community and a hazard to the safety of our firefighters. Instead of passing a vacant buildings ordinance with limited effectiveness that traps good people in a morass of government red-tape, let's work together and focus our energies and limited resources on enforcing the ordinances we already have and target those people who own dangerous and blighted buildings in our community.

Click here to return to story:

[http://ypsilanticourier.com/stories/021705/opi\\_20050217008.shtml](http://ypsilanticourier.com/stories/021705/opi_20050217008.shtml)