

ORDINANCE OF THE TOWN OF COTTAGE GROVE, WISCONSIN  
 Adopted pursuant to Sec. 25.01 of the Town of Cottage Grove Code

Title: Unoccupied Property Maintenance Ordinance

Code Section(s) created, <del>amended, or repealed</del>	<u>11.07</u>
Presented to Board by	<u>Town Chairperson and Town Clerk</u>
Committee Review by	<u>Ordinance Committee</u>
Date(s) Public Hearing(s) held (if required)	<u>05-07-2012</u>
Date adopted	<u>05-07-2012</u>
Vote	<u>5-0</u>
Date of posting of adoption of ordinance	<u>05-25-2012</u>
Date of publication of adoption of ordinance	<u>05-25-2012 (Summary)</u>

The Town Board of the Town of Cottage Grove does ordain as follows: TCG Ord. Section 11.07 entitled "Unoccupied Property Maintenance Ordinance" is hereby created to read as follows:

**11.07 UNOCCUPIED PROPERTY MAINTENANCE**

(1) PURPOSE.

(a) The general purpose of this Ordinance is to protect and enhance the public health, safety, and general welfare of the residents of the Town by establishing minimum standards for maintenance of premises.

(b) To further its general purpose, this Ordinance has the following objective: To provide a means to declare that certain land, buildings and structures are detrimental to the health, safety and general welfare of the residents of this community, and require that the community standards set forth in this Ordinance be enforced.

(2) APPLICABILITY.

This Ordinance shall apply to all land, buildings, and structures (sometimes referred to collectively herein as "premises") in the Town, without regard to its class or its date of construction, alteration, or repair. The Owner of same shall be responsible for insuring that the Premises conform to the requirements of this Ordinance.

(3) INTERPRETATION.

This Ordinance is not intended to replace or modify standards otherwise established for the construction, replacement or repair of buildings and structures. However, in the event there is any inconsistency or conflict between the provisions of this Ordinance and any other existing Town Ordinance, the more restrictive provisions shall apply.

(4) DEFINITIONS.

(a) Owner. Any person who alone, jointly, or severally with others, shall hold title to premises, or who shall be in actual possession of, or have charge, care or control of premises as an employee or agent of the title holder, or who shall be trustee or guardian of the estate or person of the title holder. For purposes of providing notice under this Ordinance, the Town may rely on the presumption that the owner is the person or persons designated on the tax roll with respect to the premises.

(b) Occupant. Any person occupying or having use of premises or any part thereof.

(c) Operator. Operators shall mean any person who has apparent authority for charge, care or control of premises or any part thereof.

(5) COMPLIANCE IS RESPONSIBILITY OF OWNERS.

Each owner of the premises shall have an independent responsibility for compliance. All owners shall be jointly and severally responsible for performance of the duties and obligations prescribed in this Ordinance. No owner shall be relieved from any such duty or obligation because another person is also responsible for performance of such duty or obligation. No owner shall be relieved from liability under this Ordinance because said person has contracted said responsibility to an operator or other person.

(6) MAINTENANCE AND APPEARANCE OF EXTERIOR OF BUILDINGS AND STRUCTURES.

(a) The exterior appearance of all buildings and structures shall reflect a level of maintenance in keeping with the standards of the neighborhood, and shall not constitute a blighting factor or an element leading to the progressive deterioration of the neighborhood.

(b) Buildings and structures shall be maintained free of broken glass, loose shingles, crumbling stone or brick, excessive peeling paint or other conditions reflective of deterioration or inadequate maintenance.

(7) MAINTENANCE AND APPEARANCE OF LAND.

Lawn, hedges, bushes and plantings shall be kept trimmed and shall not be allowed to become overgrown and unsightly or allowed to obstruct pedestrians' or vehicles' view.

(8) ADMINISTRATIVE PROVISIONS.

(a) The Town Board or its designated representative is hereby made responsible for the enforcement of this Ordinance. All inspections, enforcement, orders or matters relating to violations of this Ordinance shall be under their direction and supervision. They may request other public officials or employees of the Town to perform duties as they deem necessary to the enforcement.

(b) The Town Building Inspector is authorized to make inspections of the exterior of any premises for the sole purpose of determining whether the premises conform to the requirements of this Ordinance. Town residents may register complaints of violations of this Ordinance to the Town Clerk, in writing, in person, by email or by telephone.

(c) The Building Inspector shall be supplied with official identification and shall exhibit such identification to the owner, operator or occupant upon request.

(9) INITIAL INSPECTION BY BUILDING INSPECTOR.

(a) Prior to an inspection, the Town Board or their designated representative shall give written notice to the owner. Notice may be given in person and shall be deemed to have been given within 10 days of the date notice has been deposited, postage-paid, in the U.S. mail and addressed to the name and address of the owner, as listed on the tax rolls for the premises.

(b) Following such notice, the owner shall give the Building Inspector full access to the land and the exterior of the buildings and structures so that the Building Inspector is able to conduct an exterior inspection of the premises. Failure of an owner to permit such access shall constitute a violation of this Ordinance, and may also result in the Building Inspector obtaining a special inspection warrant from Dane County Circuit Court.

(10) NOTICE OF VIOLATION.

If, following the initial inspection, the Building Inspector determines that there are grounds to believe that there has been a violation of any provisions of this Ordinance, notice of the violation(s) shall be given to the owner(s). The notice of violation shall:

- (a) Be in writing;
- (b) Indicate the nature of the alleged violation(s);
- (c) Indicate the time for the correction or abatement of the alleged violation(s) and/or submission of a plan to correct the alleged violation(s), which time shall not be less than 20 days nor more than 40 days;
- (d) Be served upon the owner in the following manner:
  - 1. Given to the owner by a Police Officer; or
  - 2. Sent by U.S. mail or by a commercial delivery service to the owner's last known address, as said address appears on the tax rolls. A tracking mail receipt and an affidavit of mailing shall be sufficient evidence of service, which service shall be deemed effective within 5 business days of the date of mailing.
- (e) Advise the owner of the owner's right to request a hearing before the Town Board and further advise the owner that the owner's failure to make such a request shall result in the notice of violation being deemed an order of violation.

(11) PLACARD ON BUILDING.

(a) A Police Officer shall cause to be placed upon a building, structure or premises a "red tag" placard, which shall provide notice of the violation(s), whenever all of the following occur:

- 1. Any building, structure or premise does not substantially comply with the requirements of this Ordinance; and
- 2. Notice of the violation(s) involved has been served upon the owner as provided for in section (8) above; and
- 3. The owner has failed to timely correct, or timely provide a satisfactory plan to correct, the violation(s) set forth in said notice; and
- 4. The Building Inspector has determined that the building, structure, or premises are so damaged, decayed, dilapidated, unsafe or vermin-infested that it creates a serious hazard to the health or safety of the occupants or of the public, and is therefore unfit for use of occupancy.

(b) The form of the "red tag" placard shall be determined by the Building Inspector and shall substantially state the specific violation(s) of this Ordinance.

(c) No person shall deface or remove the "red tag" placard from any building, structure or premise until removal of such placard is authorized by the Building Inspector.

(12) NONCOMPLIANCE - REMEDY OF DEFECTS; ABATEMENT

(a) The owner of the premises shall have the time specified in the notice of violation to remedy the violation(s).

(b) The Town Board or their designated representative shall have the ability to extend the time for corrections if the circumstances warrant an extension and the owner is making a good faith effort to correct the violation(s).

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(c) If the owner of the premises, after notice of violation and order, fails or refuses to timely remedy the violation(s), then the Town Board, at its sole option, may cause such work to be done. Prior to commencing such work, the Town Clerk shall provide notice to the owner that the Town will abate the violation(s). This notice shall include:

1. An estimate of the approximate dates and times during which abatement will occur.
2. The approximate cost for any such work done, including reasonable costs for administration, inspection and legal fees (collectively, "costs of abatement").

(d) Following such notice, the owner shall give the persons designated by the Town full access to the land and the exterior of the buildings and structures to abate the violation(s). Failure of an owner to permit such access shall constitute a violation of this Ordinance, and may also result in the Town obtaining an injunction from Dane County Circuit Court. Reasonable costs of obtaining the injunction (including legal fees) shall be added to the costs of abatement and notice of the additional costs shall be provided to the owner.

(e) If the owner fails to pay the costs of abatement within 30 days of the notice from the Town Clerk, interest shall accrue against the balance due at the rate of 1% per month and the total balance due shall become a lien against real estate on the next tax roll in accordance with law.

(13) PENALTIES.

(a) A violation of any section or subsection of this Ordinance shall be punishable as a Class D forfeiture under Town Ordinance section 25.04, plus reasonable costs of inspection and prosecution.

(b) Each day a violation exists after the notice of violation shall constitute a separate violation of this Ordinance.

(c) Penalties set forth in this section shall be in addition to all other remedies of injunction, abatement or costs whether existing under this Ordinance or otherwise.

(d) SEVERABILITY

If any section, subsection, paragraph, clause, sentence, phrase or word contained in this Ordinance is declared invalid, the remaining portions of the Ordinance shall remain in full force and effect.

(14) EFFECTIVE DATE

(a) The original ordinance was adopted on May 7, 2012.

(b) This section shall take effect upon passage and publication.

Adopted this 7<sup>th</sup> day of May, 2012, by a vote of 5 for, 0 against, and 0 abstain.

**TOWN OF COTTAGE GROVE**



Kris Hampton, Town Chair

**ATTEST:**



Kim Banigan, Town Clerk