

ORDINANCE O-25-06

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF BISBEE, COUNTY OF COCHISE, STATE OF ARIZONA, DECLARING THE DOCUMENT ENTITLED "VACANT BUILDING CODE 2025" AS A PUBLIC RECORD; AMENDING THE CODE OF THE CITY BISBEE, CHAPTER 7 - BUILDING, BY ESTABLISHING A NEW ARTICLE, ARTICLE 7.15 - VACANT BUILDING AND PROPERTY REGULATIONS; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR PENALTIES AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Mayor and City Council have the authority to adopt and to amend, by ordinance, the City Code of the City of Bisbee; and,

WHEREAS, there are many vacant buildings and properties located throughout the city; and,

WHEREAS, vacant buildings and properties are subject to a greater likelihood of deterioration, abuse, overcrowding, and other conditions that can adversely impact the safety of occupants, neighbors, structures, and property values; and,

WHEREAS, the City finds that this Ordinance is intended to protect the public health, safety and welfare by enacting these regulations; and,

WHEREAS, it is in the best interests of the City of Bisbee and its citizens to establish Vacant Building and Property Regulations in Chapter 7 of the City Code.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF BISBEE, COUNTY OF COCHISE, STATE OF ARIZONA, THAT:

Section 1. Declaration of Public Record.

That certain document entitled "Vacant Building Code 2025," attached hereto as Exhibit "A," three copies of which are to remain on file in the office of the City Clerk, is hereby declared to be a public record and said copies are to remain on file with the City Clerk.

Section 2. In General.

The Code of the City of Bisbee, Chapter 7 - Building is hereby amended by establishing a new Article 7.15 - Vacant Building and Property Regulations, as set forth in that certain document entitled "Vacant Building Code 2025," attached hereto as Exhibit "A."

Section 3. Providing for Repeal of Conflicting Ordinances.

All ordinances and parts of ordinances in conflict with this Ordinance or any part of the Code adopted herein by reference are hereby repealed.

Section 4. Providing for Severability.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of the Code adopted herein by reference, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

Section 5. Providing for Penalties.

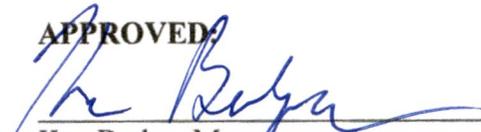
A violation of this Ordinance is subject to the following penalties:

In addition to any other statutory remedy, any person, firm, corporation or entity found guilty of violating the terms of this Ordinance shall be subject to a civil penalty and fined not more than \$750.00 nor less than \$100.00 per each day the violation(s) continues. Each day the violation(s) continues shall be a separate offense. In addition to the fine, the Owner, or his or her agent shall be ordered to bring the structure or Building into compliance with the requirements of this article within thirty (30) days.

Section 6. Effective Date.

This Ordinance shall become effective as of January 1, 2026.

PASSED, APPROVED AND ADOPTED by the Mayor and Council of the City of Bisbee on this 4th day of November, 2025.

APPROVED:

Ken Budge, Mayor

ATTEST:


Ashlee Coronado, City Clerk

APPROVED AS TO FORM:


Joseph D. Estes, City Attorney
Pierce Coleman, PLLC

VACANT BUILDING CODE 2025

CHAPTER 7 BUILDING

ARTICLE 7.15 VACANT BUILDING AND PROPERTY REGULATIONS

7.15.1: DECLARATION OF POLICY:

This article protects the public health, safety, and welfare by enacting regulations that:

- (a) Establish a program for identification, registration, and regulation of vacant buildings;
- (b) Determine the responsibilities of owners of vacant buildings; and
- (c) Provide for administration, enforcement, including the prevention and abatement of public nuisances, and imposition of penalties.

This article shall be construed liberally to affect its purposes.

7.15.2: OTHER ORDINANCES:

This article shall not be construed to prevent the enforcement of other applicable ordinances, codes, legislation, and regulations that prescribe standards other than those provided herein, and in the event of conflict, the most restrictive shall apply.

7.15.3: DEFINITIONS:

Unless otherwise expressly stated or clearly indicated by the context, the following terms as used in this section shall have the meanings indicated in this section:

Boarded Building means a building that has, in a manner intended to be temporary or permanent, any openings, including, but not limited to, windows or doors, secured by wood, plastic, or any other material, whether opaque, solid or transparent, affixed to such openings, from the interior or exterior of the building, for the purpose of securing or preventing access or damage to the building or its components.

Building means any structure occupied or intended for supporting or sheltering any occupancy or any commercial activity.

Dangerous Building or *Dangerous Structure* means any Building or structure that poses a danger to the life, health, property or safety of the public by failing to provide minimum safeguards to protect or warn the public in the event of a fire, or because such structure is in a state of dilapidation, deterioration or decay, is structurally unsafe, is in a state of partial or complete collapse, caused by fire or other means, or is in such a state where structural failures are possible.

Building Official means the City of Bisbee Building Inspector or their designee.

Owner means any person, agent, operator, firm, corporation or entity having a legal or equitable interest in a Vacant Building; or recorded in the official records of the state, county, or municipality as holding title to the same; or otherwise having control of the same, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of the same by a court.

Person includes an individual, corporation, partnership or any other group acting as a unit.

Premises means a lot, plot, or parcel of land, including any structure thereon.

Public Nuisance includes the following:

- (a) The physical condition, or uses of any Building, structure or Premises regarded as a public nuisance under this Code;
- (b) any physical condition, use or occupancy of any Premises, structure, Building or appurtenances considered an attractive nuisance to children, including, but not limited to, abandoned wells, shafts, basements, excavations, and unsafe fences or structures;
- (c) any Building which has unsanitary sewerage or plumbing facilities;
- (d) any Building designated by the Building Official as unsafe for human habitation or use;
- (e) any Building which is manifestly capable of being a fire hazard, or manifestly unsafe or insecure so as to endanger life, limb or property;
- (f) any Building or Premises which is unsanitary, or which is littered with rubbish or garbage, or which has an uncontrolled growth of weeds;
- (g) any Dangerous Building; or
- (h) any Vacant Building exhibiting any condition described in subsections (a) through (g).

Unoccupied Building means a Building or portion thereof which lacks the habitual presence of human beings who have a legal right to be on the Premises, including Buildings ordered vacated by the Building Official. In determining whether a Building is "unoccupied," the Building Official may consider these factors, among others:

- (a) A Building at which substantially all lawful residential or business activity has ceased.
- (b) The percentage of the overall square footage of occupied to unoccupied space/structure or the overall number of occupied and unoccupied units shall be considered.
- (c) The Building is substantially devoid of contents. The condition and value of fixtures or personal property in the Building are relevant to this determination.
- (d) The Building lacks utility services, *i.e.*, water, sewer, electric or natural gas.
- (e) The presence or recurrence of uncorrected code violations.

Vacant Building means a Building or portion of a Building which is:

- (a) Unoccupied (*i.e.*, an “Unoccupied Building”) and the subject of a mortgage foreclosure action; or
- (b) Unoccupied and unsecured; or
- (c) Unoccupied and meeting the Boarded Building definition of this article; or
- (d) Unoccupied and a Dangerous Building or Dangerous Structure; or
- (e) Unoccupied and has multiple code violations; or
- (f) Unoccupied and the Building or the Premises have been the site of unlawful activity within the previous ninety (90) days; or
- (g) Unoccupied for over ninety (90) days and during which time the Building Official has issued an order to correct Public Nuisance conditions and same have not been corrected in a code compliant manner; or
- (h) Unoccupied for over two (2) years.

A Vacant Building does not include Unoccupied Buildings which are actively undergoing construction, renovation, or rehabilitation and which are in compliance with all applicable ordinances, codes, legislation, and regulations, and for which construction, renovation or rehabilitation is proceeding diligently to completion.

7.15.4: VACANT BUILDING DETERMINATION:

- (a) General: Within sixty (60) days after the effective date of this Article, the Building Official shall evaluate all Buildings in the City reasonably suspected of being Unoccupied Buildings. The Building Official shall make a determination for each as to whether the Building is a Vacant Building. At any point after the effective date of this article, the Building Official may evaluate Buildings reasonably suspected to be Unoccupied and make a determination as to whether it is a Vacant Building.
- (b) For Buildings the Building Official determines are Vacant Buildings, they shall, within seven (7) days of making such determination, send a written Notice of Determination with the factual findings to the last taxpayer of record listed on the most recent Cochise County tax roll. Said Notice of Determination shall be sent via certified mail or may be personally served on the taxpayer of record. Failure of delivery shall not excuse a person from complying with this article.
- (c) The Notice of Determination shall contain a statement of the obligations of the Owner of a Building determined to be a Vacant Building, a copy of the registration form the Owner is required to file pursuant to Section 7.15.6, and a notice of the Owner’s right to appeal the Building Official’s determination.
- (d) The Notice of Determination shall identify a date and time on which the Owner may voluntarily allow for a code compliance inspection of the interior and exterior of the Vacant Building to identify what steps the Owner must take to bring the Vacant Building into compliance with the City’s codes, regulations and policies. The City shall provide the report from the code compliance inspection to the Owner within thirty (30) days of the inspection.

7.15.5: APPEAL OF DETERMINATION

- (a) An Owner of a Building determined by the Building Official to be a Vacant Building may appeal that determination to the Building Advisory Board of Appeals. Such appeal shall be in writing and shall be filed with the City Clerk within twenty (20) days of the date of mailing of the Notice of Determination. The filing of an appeal stays the Owner's obligation to register a Building as required by this article. The appeal shall contain a complete statement of the reasons the Owner disputes the Building Official's determination, set forth specific facts in support thereof, and include all evidence the Owner relies upon to support the appeal. The Building Advisory Board of Appeals shall decide the appeal on the basis of facts presented by the Owner in the written appeal and the Building Official's written determination.
- (b) The burden is on the Owner to present clear and convincing evidence demonstrating that the Building does not qualify as a Vacant Building.
- (c) The Building Advisory Board of Appeals shall send written notice of its decision to the Owner within thirty (30) days of its receipt of the appeal. The Building Advisory Board of Appeals may, but is not required to, seek additional information from the Owner before making a decision.
- (d) An Owner who wishes to challenge the applicability of this article to a Vacant Building without the Building Official's determination having been made shall set forth specific facts to support non-applicability in writing to the Building Official. In the event the Building Official determines that the subject Building is a Vacant Building, the Owner shall have the right to appeal the Building Official's determination to the Building Advisory Board of Appeals provided for herein.

7.15.6: REGISTRATION OF VACANT BUILDINGS

- (a) General: The Owner of a Vacant Building shall register the Vacant Building with the Building Official, on a form provided by the Building Official and pay the Vacant Building registration fee. The form shall include, as a minimum, the name, street address, and telephone number of the Owner; the case name and number of any litigation pending concerning or affecting the Vacant Building, including bankruptcy cases; and the name, street address, email address, and telephone number of all persons with any legal interest in the Vacant Building or the Premises. The form shall require the Owner to identify a natural person twenty-one (21) years of age or older who maintains a permanent address in Cochise County, Arizona to accept service on behalf of the Owner with respect to any notices the Building Official sends pursuant to this article or service of process in any proceeding commenced to enforce any provision of this article, and file with the City Clerk on the registration form, the name, street address, email address, telephone number, of said person. A street address is required. A post office box is not an acceptable address.
- (b) The form shall require the Owner to indicate his or her "Acceptance of Notice by Posting," consenting to service of notices sent or required to be sent, pursuant to this article, by posting on the Building if the Owner fails to renew the registration,

- if required, or maintain as current with the Building Official the information required regarding the person designated to accept notice and service of process.
- (c) All Boarded Buildings must be registered with the City of Bisbee. Failure to register within thirty 30 days of the vacancy and/or board-up will result in the city automatically registering the property and invoicing the responsible party. Structures that the City of Bisbee has boarded-up will automatically be registered and a lien placed on the property to recover the registration fee and cost of board-up service in compliance with all applicable state and local law.
 - (d) Registration does not exonerate the Owner from compliance with all applicable codes and ordinances, policies or regulations, including this article, nor does it preclude any of the actions the City is authorized to take pursuant to this article or elsewhere in the City Code.
 - (e) Renewal and Amended Registration Requirements: The Owner of a Vacant Building shall renew the Vacant Building registration annually no later than the anniversary of their first Vacant Building registration filing. The Owner of a Vacant Building shall also file an amended registration within twenty-one (21) days of any change in the information contained in the initial or annual registration. An amended registration is required for any change in ownership whatsoever.

7.15.7: FEES

- (a) The initial Vacant Building registration fee for residential shall be \$175.00. The annual renewal registration fee for residential shall be \$175.00. There is no charge to amend the Owner's registration information.
- (b) The initial vacant Building Registration fee for Commercial shall be as follows:
 - 1. Buildings 5,000 square feet and under shall be \$225.00 and the annual renewal registration fee shall be \$225.00
 - 2. Buildings 5,001 square feet and up shall be \$350.00 and the annual renewal registration fee shall be \$350.00
- (c) There is no charge to amend the Owner's registration information.

7.15.8: VACANT BUILDING PLAN

- (a) General: At the time a Building is registered as required herein, the Owner shall submit a Vacant Building Plan. The Vacant Building Plan shall, at a minimum, contain the following, as applicable:
 - 1. A compliance plan to repair any doors, windows, or other openings which are boarded up or otherwise secured or covered by any means other than conventional methods used in the design of the Building or permitted for new construction or similar type. The proposed repair shall result in openings being secured by conventional methods used in the design of the Building or by methods permitted for new construction of similar type with board removed. The Owner shall maintain the Building in an enclosed and secure state until the Building is reoccupied or made

available for immediate occupancy.

2. For Buildings and/or Premises which are determined by the Building Official as being or containing Public Nuisances, as defined in Section 7.15.3, then the Vacant Building Plan shall contain a compliance plan to remedy such Public Nuisance(s).
 3. A time schedule identifying a date of commencement of repair and date of completion of repair for each improperly secured opening identified by the Building Official.
 4. When the Owner proposes to demolish the Vacant Building, the Owner shall submit a permit, plan, time schedule for demolition, Design Review Board Application if located in the Bisbee Historic District and all other information requested by the Building Official.
 5. A compliance plan to maintain the Building and/or Premises thereof in conformance with this article.
 6. A compliance plan, with a time schedule, identifying the date the Building will be habitable and occupied or offered for occupancy or sale. The time schedule shall include date(s) of commencement and completion of all actions required to achieve habitability. No plan which fails to provide for compliance with this article or, which will not, as determined by the Building Official, achieve such compliance, within six (6) months, in the case of a vacant Boarded Building, and six (6) months, in the case of a vacant, unboarded, and code-compliant Building will be approved, except that the Building Official may approve an extension of the time during which the Building will be unoccupied beyond six (6) months to a date certain, but then only based upon clear and documented evidence of good cause shown by the Owner as determined by the Building Official.
- (b) All Premises upon which Vacant Buildings are located, and the Building exteriors, shall at all times be maintained in compliance with the City Code.
 - (c) All ground floor windows facing street frontage, including, but not limited to, all display windows in commercial buildings that are Unoccupied Buildings or Vacant Buildings shall be kept in a well maintained and clean condition. All ground floor windows facing street frontage, except display windows in commercial buildings that are Unoccupied Buildings or Vacant Buildings, shall be covered on the interior side in a professionally finished manner with an opaque window covering material manufactured for that purpose and approved by the Building Official.
 - (d) Commercial Vacant Buildings must maintain all fire alarm and fire sprinkler systems if they are equipped with them, keep current all Building access keys in a programmable key box.
 - (e) Commercial Buildings must maintain in working order all fire alarm and fire sprinkler systems, keep current all Building access keys in the Knox Box.
 - (f) Review and Approval of Plan: The Building Official shall review and approve the proposed Vacant Building Plan if it satisfies the standards below. The Building Official shall send notice to the Owner of the Vacant Building of his or her approval or denial of the proposed Vacant Building Plan. In considering the

appropriateness of a Vacant Building Plan, the Building Official shall include the following in his or her consideration and shall make written findings as to each:

1. The purposes of this article and intent of the city is to minimize the time a Building is boarded or otherwise vacant.
 2. The effect of the Building and the proposed plan on adjoining property.
 3. The length of time the Building has been vacant.
 4. The presence of any Public Nuisance(s) on the property.
 5. The likelihood that the plan or portion(s) thereof will prevent or ameliorate the condition it is designed to address.
- (g) Failure to Obtain or Comply with Approved Vacant Building Plan: Failure to register within twenty-one (21) days of a Building becoming a Vacant Building, failure to obtain the Building Official's approval of a Vacant Building Plan within thirty (30) days of filing the registration form, failure to submit a revised plan within twenty-one (21) days of the date of the Building Official's written denial of a proposed plan, or failure to comply with the approved plan shall constitute a violation of this article subjecting the Owner of the Building to penalties as provided in this article and to any remedies the City may avail itself of as provided for herein and elsewhere in the City Code, at law, or in equity, including, but not limited to, an action to compel correction of health or fire code violations and or an action to seek demolition.

7.15.9: CERTIFICATION OF OCCUPANCY

A Certificate of Occupancy will be required before occupancy will be granted by the Building Official and payment in full of all fees imposed pursuant to this article are required prior to any occupancy of a Vacant Building.

7.15.10: TIME RESTRICTIONS – VACANT AND/OR BOARDED BUILDINGS

- (a) It is the policy of the City that boarding is a temporary solution to prevent unauthorized entry into a Building and that Vacant Buildings are a Public Nuisance. A Vacant Building may not remain boarded or vacant longer than six (6) months unless an extension of that time is part of a plan approved by the Building Official. At the end of the six (6) month period, the Owner must have taken one or more of the following steps:
1. The boards shall be removed and windows, doors, and penetrations shall be in good repair; or
 2. A demolition permit must be obtained and work scheduled to begin within ten days; or
 3. A Building permit must be obtained to repair the structure with the work having been started.
- (b) This does not excuse the Owner from following all other provisions of the City Code regarding the care and upkeep of any property, including, but not limited to,

maintaining the yard and keeping it junk and litter free.

7.15.11: ENFORCEMENT AND PENALTIES

Failure to comply. In addition to any other statutory remedy, any person, firm, corporation or entity found guilty of violating the terms of this article shall be subject to a civil penalty and fined not more than \$750.00 nor less than \$100.00 per each day the violation(s) continues. Each day the violation(s) continues shall be a separate offense. In addition to the fine, the Owner, or his or her agent shall be ordered to bring the structure or Building into compliance with the requirements of this article within thirty (30) days.

7.15.12: OTHER ENFORCEMENT

The registration of a Vacant Building shall not preclude action by the City to demolish or to take other action against the Building pursuant to other provisions of this article, the City Code, or other applicable legislation.