

RESOLUTION OF ORDINANCES

Ordinance No. 11-56- 2017 Passed 11-7- , 20 17

AN ORDINANCE ESTABLISHING A VACANT BUILDING ENFORCEMENT PROGRAM AND PROVIDING RULES AND REGULATIONS FOR THE REGISTRATION OF VACANT PROPERTY WITHIN THE CITY OF CIRCLEVILLE.

WHEREAS, the health, safety and welfare of the residents of the City is negatively affected by commercial and residential structures which become and remain vacant for long periods of time, without proper security or maintenance, leading to conditions of increased crime and blight; and

WHEREAS, the health, safety and welfare of the residents of the City can be threatened by increasing blight directly related to the failure of owners of vacant structures to properly maintain them, use sufficient efforts to obtain occupants, or to safely demolish such structures at the end of their useful life; and

WHEREAS, to protect the health, safety and welfare of the residents of the City, Council deems it appropriate to enact legislation to provide for a registration and monitoring program for vacant structures, as well as giving incentives for the re-occupancy or demolition of the structures and to transfer the economic burden of such structures from the public to the owners of such structures;

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CIRCLEVILLE, PICKAWAY COUNTY, OHIO, AS FOLLOWS:

SECTION I. That there is hereby established a Vacant Building Enforcement Program which shall be operated in accordance with the following provisions:

A. Purpose: The purpose of the establishment of a Vacant Building Enforcement Program is to regulate the maintenance of properties which are in the foreclosure process, abandoned or vacant as it has been established that structures which are left vacant for extended periods of time have been shown to breed crime, pose public safety risks, and reduce property values and the economic viability of the community in which they are found. This program is intended to reduce and prevent neighborhood blight, to avoid the creation and maintenance of public nuisances, to ameliorate conditions that threaten the public, safety and welfare, to promote neighborhood safety and occupancy by preserving the condition and appearance of residential properties and the worth and activity of commercial and industrial properties, and to maintain property values and assessments. This program further establishes a means of identifying the owner and/or responsible entities of vacant and/or abandoned properties within the corporate limits of the City of Circleville; to determine the responsibilities of owners of vacant buildings and structures; to provide incentives for the rehabilitation and productive use of vacant buildings; to provide for the registration and certain maintenance requirements for vacant and/or abandon properties; and to otherwise shift the cost or burden of the existence of vacant residential and commercial structures from the general citizenry to the owners of the buildings.

Nothing in this Ordinance shall be construed to waive, relieve, or otherwise excuse an owner of property from compliance with all applicable codes, ordinances, statutes or laws and the owner shall at all times remain responsible and liable therefore. Further, nothing herein shall be construed to prevent the enforcement of other provisions of the Codified Ordinances of the City of Circleville or the Ohio Revised Code and nothing herein shall be construed to relieve an owner or interested party from duties imposed pursuant to any regulatory code, ordinance, statute, or law of the City of Circleville or the State of Ohio.

B. Applicability: This Vacant Building Enforcement Program shall be applicable to all residential, commercial and industrial structures located within the municipality of the City of Circleville.

C. Definitions: Unless otherwise expressly stated, the following terms shall, for purposes of this ordinance, have the meanings indicated herein.

1. "Abandoned" means a structure that is unoccupied as the result of the relinquishment of possession or control by an owner or other person with the right of possession or control of the structure, a mortgagor or the mortgagor's assigns

ORDINANCES

Ordinance No.

2017

Passed

11-7

, 2017

whether or not the mortgagor or mortgagor's assigns have relinquished equity and title. A structure may be deemed abandoned when there is evidence of conditions, taken separately or as a whole, that would lead a reasonable person to conclude that the property was abandoned, including, but not limited to, evidence of overgrown or dead vegetation, accumulation of newspapers, circulars, flyers, mail, past due utility notices, or other means of notice by publication, the accumulation of junk, litter, trash, or debris, absence of windows or window treatments, absence of furnishings and personal items, statements of neighbors, delivery agents or similarly situated persons that the property is abandoned.

2. "Inspector" means a person employed by or under contract to the City of Circleville to perform inspections, to determine compliance with codes and to order corrective measures and/or initiate administrative, civil or criminal proceedings.

3. "Vacant" means a structure that is not lawfully occupied or that otherwise qualifies as "abandoned" under this Ordinance. Multi family residential structures shall be considered vacant when more than one-half of the units and more than one half of the available space are not currently lawfully occupied by a tenant or tenants or that otherwise qualifies as "abandoned" under this Ordinance. Commercial structures shall be considered vacant when all commercial activity has ceased at the site or that otherwise qualifies as "abandoned" herein. Multi tenant commercial structures shall be considered vacant when substantially all of the units are not lawfully occupied or engaged in commercial activity, or that otherwise qualifies as "abandoned" herein. Industrial structures shall be considered abandoned when all industrial manufacturing activity has ceased at the site or that otherwise qualifies as "abandoned" as herein defined. Multi tenant industrial structures shall be considered vacant when substantially all of the units are not lawfully occupied or engaged in industrial or manufacturing activity, or that otherwise qualifies as "abandoned" herein. In determining whether a structure is vacant, it is also relevant to consider, among other factors, the percentage of the overall square footage of the building or floor not in use to the occupied space; the condition and value of any items in the structure and the presence of rental or for sale signs on the property. A property that is temporarily unoccupied and is in the process of being renovated under proper and unexpired permit shall not be considered vacant. Further, a property that is listed for sale with a licensed relator under a fully executed listing agreement shall not be considered vacant for the first six months of the listing agreement under which the property was first listed for sale. Such property shall be considered vacant for purposes of this ordinance upon the expiration of the first six month period for which it is first listed for sale or upon a subsequent re-listing with the same or a different licensed relator. Unoccupied property listed as "for sale by owner" shall be considered vacant for purposes of this ordinance.

4. "Owner" means the registered owner of a property, any person that holds legal or equitable title to the property, is a mortgagee, a vendee-in-possession, assignee of rents, executor, trustee, lessee, agent or any other person, firm or corporation that is directly or indirectly in control of a property. The owner of a property in default or for which a foreclosure action is pending or for which a judgment in foreclosure has been issued shall include the mortgagee, the successor and interest to the mortgagee, the lender or servicing agent and any agent acting for the mortgagee, its successors, or a lender or servicing company. Under this definition, there may be more than one "owner" of a property for purposes of this ordinance.

5. "Secure" means a covering shall be placed over all doors and windows which are within fifteen feet of the exterior grade, consisting of one-half inch thick plywood attached to the framing of all such doors and windows by wood screws of a minimum length of one and half inches, placed twelve inches on center. Such plywood shall be painted with a minimum of two coats of oil-based exterior paint. In order to be considered secure, a property must also be in compliance with all requirements of the codified ordinances of the City of Circleville and the City Building Code.

RECORD OF ORDINANCES

Ordinance No. 2017 Passed 11-7, 2017

D. Duties of Owner:

1. The owner of any structure that has become vacant as defined above shall, within ninety (90) days after the structure first becomes vacant, within ninety (90) days of receiving notice that a structure is vacant, or within ninety (90) days after the effective date of this ordinance, whichever is later, file a registration statement for each such structure with the Director of Public Services or his designee on forms provided for such purposes. Any owner of a property which files a foreclosure action against such property, or for which a foreclosure action is pending, or a Judgment of Foreclosure has been issued shall, in addition to all other requirements of this section, provide a cash bond acceptable to the Service Director or his designee, in the sum of not less than \$10,000, to secure the continued maintenance of the property throughout its vacancy and remunerate the City for any expenses incurred in inspecting, securing, repairing, and/or making such buildings safe by any legal means including, but not limited to, demolition. A portion of said bond in an amount to be determined by the Service Director shall be retained by the City as an administrative fee to fund an account for expenses incurred in inspecting, securing, repairing and/or making said building and other buildings which are involved in the foreclosure process or vacant safe.

2. The owner, agent, lessee, party in control, or mortgagee in foreclosure of any vacant building shall agree to grant unrestricted access to the vacant building after receiving forty-eight hours notice from the City of Circleville for inspections and appraisals as necessary.

E. Vacant Building Registration:

1. The owner, agent, lessee, or party in control of any vacant building, or a mortgagee that has filed a foreclosure action that is currently pending regarding any vacant building shall register the building with the office of the Director of Public Service and maintain the registration up to date. Further, upon registration, a general interior and exterior inspection of the building shall then be made by the Director or his designee.

2. An application for registration of a vacant building shall include all of the following information on forms provided by the office of the City Service Director:

a. The name of the owner, agent, lessee or party in control of the property and/or foreclosing entity submitting the registration application;

b. Physical and mailing address of the applicant as well as the address of the vacant property;

c. The contact name, telephone number, and e-mail address for the applicant;

d. In the case of an applicant who does not reside in a location, within twenty-five miles of the City of Circleville corporate limits, the applicant shall provide the name and mailing address of a property agent, manager or care taker residing or doing business within the state and within a twenty-five mile radius of the City of Circleville as well as the contact name, telephone number and e-mail address of the person responsible for the security, maintenance and marketing of the property. By designating an authorized agent under the provisions of this section, the owner is consenting to the service of any and all notices required or allowed under this ordinance upon said agent;

e. The names and addresses of all known lien holders and all other parties known or believed upon information to have a claim of an ownership interest in the building.

3. The registration shall remain valid for twelve months from the date of issuance. The owner, agent, lessee or party in control, or mortgagee in foreclosure, shall renew the registration upon expiration for as long as the property remains vacant and shall pay an annual registration fee to the City.

RECORD OF ORDINANCES

Ordinance No. 11-56-2017

Passed 11-7, 2017

4. An owner who fails to register a vacant structure under the provisions of this ordinance shall further be deemed to consent to receive, by posting at this structure, any and all notices of code violations and all process in an administrative proceeding brought to enforce code provisions concerning the structure and premises.

F. Vacant Building Plan:

1. The owner, agent, lessee or party in control of any vacant building, or a mortgagee that has filed a foreclosure action that is currently pending regarding any vacant building shall submit a vacant building plan which must meet the approval of the Director of Public Service or his designee. The plan, at a minimum, must contain one of the following:

a. If the building is to be demolished, a demolition plan indicating the proposed time frame for demolition which includes starting within thirty days of acceptance of the proposed demolition time line and does not exceed one year in accordance with the City and Ohio Building Codes; or

b. If the building is to remain vacant, a plan for ensuring the building is secured in accordance with all applicable building and fire codes along with the procedure that will be used to maintain the property, and a statement of the reasons why the building will be left vacant (e.g., building is for sale, etc.); or

c. If the building is to be returned to appropriate occupancy or use, rehabilitation plans for the building and grounds. The rehabilitation plan shall not exceed twelve months from the time the owner obtain permits, unless the Director grants an extension upon receipt of a written statement from the owner detailing the reasons for the extension. Any repairs, improvements or alterations to the property must comply with any applicable zoning, housing, historic preservation, or building codes, and the property must be secured during the rehabilitation.

2. If the plan or time table for the vacant building is revised in any way, the revision(s) must be in writing and must meet the approval of the Director of Public Service or his designee.

3. Failure of the owner or any subsequent owner to maintain the building and premises that result in remedial action taken by the City shall be grounds for revocation of the approved plan and shall be subject to any applicable penalties provided by the law or this Ordinance.

G. New Owner:

A new owner shall register or re-register a vacant building with the Director of Public Service within thirty days of any transfer of an ownership interest in a vacant building, unless the building is to become occupied upon transfer. The new owner shall comply with the approved plan and time table submitted by the previous owner until any proposed changes are submitted and meet the approval of the Director of Public Service or his designee.

H. Exemptions:

1. Waivers exempting compliance with the provisions of this ordinance may be obtained in writing on a form provided by the City under the following circumstances as long as the property is kept in safe, secure and habitable condition in the owner's absence:

a. Buildings substantially damaged by fire, vandalism, natural disaster, or act of God; provided clean up, repair or demolition is initiated within ninety days from the date of the fire or other damaging event.

RD OF ORDINANCES

Ordinance No. 2017 Passed 11-7, 2017

b. An owner or the estate of a deceased owner who is actively attempting to sell the property; provided, however, the sale price must be at or below the fair market value of the property according to a Certified General Appraiser meeting the education and licensure requirements of the State of Ohio. This exemption shall be good for a period of 12 months from the start of vacancy, provided that the owner or the estate of a deceased owner submits proof to the office of the Director of such listing and for sale status.

c. An owner or the estate of a deceased owner who is actively attempting to rent or lease the property at fair market value provided the advertisement for rental/lease is published in a newspaper of general circulation or other commonly used media outlet for such listings.

d. A building under active construction, reconstruction or renovation and having a valid building permit(s) at the time of initial inspection shall be exempt from registration until the expiration of the longest running, currently active building permit.

l. **Fees:** The fees described in this section are established in order to defray the cost to the city government and community as a whole related to the health, safety and economic impacts of structures which remain vacant for long periods of time, including but not limited to, administrative costs for registering and processing the vacant building owner registration form and for the costs incurred by the City in monitoring the vacant building site. The fees are also structured in order to provide appropriate incentives for owners of vacant buildings to care for them properly, seek to fill them, and in appropriate cases, demolish them. The annually increased fee amounts are intended to absorb the costs incurred by the City for demolition and hazard abatement of or repairs to vacant buildings, as well as the continued normal administrative costs stated above.

1. The owner of a vacant residential or multi residential building shall pay an annual fee of \$200.00 for the first year the building remains vacant. For every consecutive year that the building remains vacant, the annual fee will be assessed at double the previous year's fee amount for a maximum annual fee equaling the five year fee of \$3,200.00 to be used for the fifth and for all consecutive, subsequent years of vacancy.

2. The owner of a vacant commercial or industrial building (including multi tenant buildings) shall pay an annual fee of \$400.00 for the first year that the building remains vacant. For every consecutive year that the building remains vacant, the annual fee will be assessed at double the previous year's fee amount for a maximum annual fee equaling the five year fee of \$6,400.00 to be used for the fifth and for all consecutive, subsequent years of vacancy.

3. The first annual fee shall be paid at the time the building is registered. If the owner successfully restores the building to occupancy or demolishes it in accordance with the applicable law during the first year following registration, the fee shall be refunded, less an administrative charge equal to five percent of the amount refunded. In each subsequent year, if the registration is renewed in a timely fashion, there have been no violations associated with the property in the previous year, and the reinspection reveals no significant housing, building or fire code violations, one half of the previous year's registration fee shall be refunded to the owner, less an administrative charge equal to five percent of the amount refunded.

4. The fee shall be paid in full prior to the issuance of any building permits unless the property is granted an exemption.

RECORD OF ORDINANCES

Ordinance No. 2017 Passed 11-7, 2017

5. All delinquent fees shall be paid by the owner prior to any transfer of an ownership interest in the vacant building. A lien may be placed on the property to collect delinquent fees.

6. Absent a showing of good cause, if a building is not registered within the time frame required, or the registration is not renewed within thirty days after the expiration of one year from the date of the previous registration, a penalty shall be paid in addition to the annual registration fee. The penalty shall be equal to one half of the current annual fee or \$1,000, whichever is less.

J. Correction of Violations:

Any violations found upon inspection of the premises shall be corrected prior to issuance of the certificate of occupancy. Violations that cannot be corrected due to seasonal conditions shall not preclude the issuance of a certificate of occupancy, provided that issuance of such certificate shall be upon written acknowledgment of all violations and an agreement to correct all violations within six months of the inspection date. In addition, written notice must be received by the City that the funds are being held in an escrow account in a sufficient amount to correct all violations, but in no case less than \$1,000. Such account shall be held by an independent escrow agent and shall be closed only upon written notice by the City Service Director or his designee.

K. Certificate of Occupancy:

At the request of the owner of property or his/her agent, the City shall issue a letter or other written document signed and dated by the Director of Public Service or his designee stating that all violations listed on a Certificate of Inspection have been completed to the City's satisfaction, and the property eligible for occupancy. No vacant building can be occupied until this Certificate of Occupancy is obtained.

L. Penalties:

1. Notwithstanding any other language in this Ordinance and unless otherwise specified, any person who violates any provision of this ordinance or of the rules and regulations issued herein and fails to maintain the property according to the codes shall be guilty of a fourth degree misdemeanor and upon conviction, shall be fined not less than \$200.00 for each offense. Every day that a violation continues shall constitute a separate and distinct offense.

2. Unpaid registration fees and fines shall be an assessment on the property enforceable in the same manner as assessments for delinquent property taxes.

3. The owner of any vacant structure that fails to file a registration statement for each such structure within the time frames established herein or who fails to update a change in registration information within the time frames established shall be subject to a \$50.00 per day administrative penalty with a maximum penalty of \$1,000.

M. Appeals:

Any owner who is served a notice of vacant property registration may come within ten calendar days of receipt of such notice, apply for an exemption or appeal the findings and process an appeal in accordance with Ohio Revised Code §2506.01 et. seq.

RECORD OF ORDINANCES

Ordinance No. 11-56- 2017 Passed 11-7, 20 17

SECTION II. This Ordinance shall take effect and be enforced from and after the earliest period permitted by law.

PASSED: 11-7-2017
DATE

David M. Casper
PRESIDENT OF COUNCIL

ATTEST: Laura N. Gray
CLERK OF COUNCIL

APPROVED: 11-7-17
DATE

Richard R. Maly
MAYOR

APPROVED AS TO FORM:

Gary D. Kenworthy
GARY D. KENWORTHY, LAW DIRECTOR

REVIEWED BY LAW DIRECTOR
AND APPROVED AS TO FORM