

ORDINANCE NO. 11-11

AN ORDINANCE ENACTING SECTION 1377
"VACANT PROPERTY/BUILDING REGISTRATION"
OF THE PAINESVILLE CODE OF 1998,
AND DECLARING AN EMERGENCY

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PAINESVILLE, LAKE COUNTY, OHIO:

SECTION I. That Section 1377 of the Painesville Code of 1998 is hereby enacted to read as follows:

1377.01 PURPOSE.

The purpose of this ordinance is to establish a program for identifying and registering vacant residential and commercial buildings; to determine the responsibilities of owners of vacant buildings and structures; and to speed the rehabilitation of the vacant buildings. Shifting the cost of burden from the general citizenry to the owners of the blighted buildings will be the result of this ordinance.

1377.02 DEFINITIONS.

Unless otherwise expressly stated, the following terms shall for the purpose of this article, have the meanings indicated in this section.

- A. Secured by other than normal means - A building secured by means other than those used in the design of the building.
- B. Unoccupied - A building which is not being used for the occupancy authorized by the owner.
- C. Unsecured - A building or portion of a building which is open to entry by unauthorized persons without the use of tools or ladders.
- D. Vacant building - A building (excluding government owned buildings) which is:
 - 1) Unoccupied and unsecured; or
 - 2) Unoccupied and secured by other than normal means; or
 - 3) Unoccupied and an unsafe building as determined by the Community Development; or
 - 4) Unoccupied and having utilities disconnected; or
 - 5) Unoccupied and has housing or building code violations; or
 - 6) Illegally occupied which shall include loitering and vagrancy; or
 - 7) Unoccupied for a period of time over ninety (90) days and having an existing code violation issued by a Property Maintenance Officer; or
 - 8) Unoccupied with a mortgage status of abandonment (i.e. deceased or foreclosed).
 - 9) Unoccupied and abandoned by the property owner.
- E. Evidence of vacancy - means any condition that on its own or combined with other conditions present would lead a reasonable person to believe the property is vacant. Such conditions include, but are not limited to: significantly below standard utility usage, overgrown and/or dead vegetation, accumulation of newspapers, circulars, flyers and/or mail, accumulation of trash, junk, and/or debris, broken or boarded up windows, abandoned vehicles, auto parts or materials, the absence of window coverings, such as curtains, blinds, and/or shutters, the absence of furnishings and/or personal items consistent with habitation or occupation, statement(s) by governmental employee(s) that the property is vacant.

1377.03 VACANT PROPERTY / BUILDING REGISTRATION

- A. The owner shall register with the Community Development Department not later than ninety (90) days after any building located in an area zoned for, or abutting an area zoned for, residential or commercial use in the City becomes a vacant building or not later than 30 days of being notified by the Community Development Department of the requirement to register based on evidence of vacancy, whichever event first occurs.
- B. The registration shall be submitted on forms provided by the Community Development Department and shall include the following information supplied by the owner:
 - 1. The name(s) and address(es) of the owner or owners;
 - 2. If the owner does not reside in Lake County or within 10 miles of Painesville City limits, the name and address of any third party who the owner has entered into a contract or agreement with for property management. By designating an authorized agent under the provisions of this section, the owner is consenting that the third party is

authorized to receive any and all notices relating to the property and conformance of any and all ordinances;

3. The names and addresses of all known lien holders and all other parties with an ownership interest in the building;
 4. A telephone number where a responsible party can be reached at all times during business and non-business hours; and
 5. A vacant building plan as described in Section C.
- C. The owner shall submit a vacant building plan which must meet the approval of the Chief Building Official or the Property Maintenance Officer. The plan, at a minimum, must contain information from one of the following three choices:
1. If the building is to be demolished, a demolition plan indicating the proposed time frame for demolition which includes starting within thirty (30) days of acceptance of the proposed demolition timeline and does not exceed one year in accordance with the Ohio Building Code; or
 2. If the building is to remain vacant, a plan for the ensuring the building is secured in accordance with Section 1349.33 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
 3. If the building is to be returned to appropriate occupancy or use, a rehabilitation plan for the building and grounds. The rehabilitation plan shall not exceed twelve months from the time they obtain permits, unless the Chief Building Official 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.
- D. All applicable laws and codes shall be complied with by the owner. The owner shall notify the Property Maintenance Officer of any changes in information of their vacant building registration within thirty days of the change. If the plan or timetable for the vacant building is revised in any way, the revision(s) must be in writing and must meet the approval of the Property Maintenance Officer and/or Chief Building Official.
- E. The owner and subsequent owners shall keep the building secured and safe and the building and grounds properly maintained in accordance with all applicable Property Maintenance Codes.
- F. A new owner(s) shall register or re-register the vacant building with the Property Maintenance Officer within thirty days of any transfer of an ownership interest in the vacant building if the building continues to remain vacant after transfer. The new owner(s) shall comply with the approved plan and timetable submitted by the previous owner until any proposed changes are submitted and meet the approval of the Property Maintenance Officer and/or Chief Building Official.
- G. The failure of the owner of the vacant building to obtain a deed for the property or to file the deed with the County Recorder shall not excuse the property owner from registering the property.
- H. Failure of the owner or any subsequent owners 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.
- I. The Property Maintenance Officer shall include in the file any property specific written statements from community organizations, other interested parties, or citizens regarding the history, problems, status, or blighting influence of a vacant building.
- J. The registration and all associated processes must be completed in its entirety annually for as long the property remains vacant.

1377.04 ESCROW

Each demolition of a vacant building requires that the owner hold in escrow with the City a deposit of ten thousand (\$10,000) dollars for a residential building and seventy-five thousand (\$75,000) dollars for a commercial building. If the amount to be set up in escrow cannot be paid in full, the City will place a lien on the property for the amount previously specified. The City will use these funds to complete the plans submitted by the owner in the event that the owner does not comply with the deadlines as previously submitted in the owner's vacant building plan. Escrow funds will be released upon completion of the work or transfer of ownership, provided that all fees have been paid in full. New owners must sign a form accepting responsibility for completing the demolition.

1377.05 INSPECTIONS.

The Community Development Department shall inspect any premises in the City for the purpose of enforcing and assuring compliance with the provisions of this Ordinance. Upon the request of the Property Maintenance Officer or Chief Building Official, an owner may provide access to all interior portions of an unoccupied building in order to permit a complete inspection. Nothing contained herein, however, shall diminish the owner's right to insist upon the procurement of a search warrant from a court of competent jurisdiction by a Property Maintenance Officer, Chief Building Official or his or her designee in order to enable such inspection. The Property Maintenance Officer or Chief Building Official shall be required to obtain a search warrant

whenever an owner refuses to permit a warrantless inspection of the premises. The following shall apply:

- A. Vacant properties will be externally inspected by the Property Maintenance Officer a minimum of twice per year to ensure the compliance of property maintenance codes;
- B. Vacant properties will be both internally and externally inspected at the start of each registration period (new and renewal) and when the registration is terminated by the property owner;
- C. Vacant properties will be both internally and externally inspected upon acquisition of the property by a new owner and prior to an issuance of an Occupancy Permit as outlined in Section 1145.05 of the Planning and Zoning Code;
- D. Any inspection that is to take place within thirty (30) days of a previous inspection may or may not be conducted at the discretion of the Property Maintenance Officer or Chief Building Official.

1377.06 VACANT BUILDING FEES.

The fees shall be reasonably related to the 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 annually increased fee amounts shall be reasonably related to 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.

- A. The owner of a vacant residential building shall pay an annual fee of two hundred (\$200) dollars 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 (5) year fee of three thousand two hundred (\$3,200) dollars to be used for the fifth and for all consecutive, subsequent years of vacancy.
- B. The owner of a vacant commercial building shall pay an annual fee of four hundred (\$400) dollars for the first year the building remain 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 (5) year fee of six thousand four hundred (\$6,400) dollars to be used for the fifth and for all consecutive, subsequent years of vacancy.
- C. The first annual fee shall be paid at the time the building is registered. If the fee is not paid, the owner shall be subject to prosecution as prescribed in Section 1349.31 of the Building Code.
- D. The fee shall be paid in full prior to the issuance of any building permits unless the property is granted an exemption. The fee shall be prorated and a refund may be issued if the building is no longer deemed vacant under the provisions of this article within one hundred eighty (180) days of its registry.
- E. 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.
- F. Late fees shall be paid in addition to the annual registration and will be equal to the annual fee or one thousand (\$1,000) dollars, whichever is less.

1377.07 EXEMPTIONS.

- A. A building under active construction/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.
- B. A building which has suffered fire damage or damage caused by extreme weather conditions shall be exempt from the registration requirement for a period of ninety (90) days after the date of the fire or extreme weather event if the property owner submits a request for exemption in writing to the Community Development Department. This request shall include the names and addresses of the owner or owners, and a statement of intent to repair and reoccupy the building in an expedient manner, or the intent to demolish the building.
- C. A building that is for sale and listed with a licensed State of Ohio realtor shall be exempted for a period of twelve (12) months from the start of vacancy, provided that the owner submits proof to the Community Development Department of such listing and for sale status.
- D. A building that has been granted an exemption pursuant to the following. Any owner of a vacant building may request an exemption from the provisions of this Chapter by filing a written application with the Director of the Community Development Department who shall timely consider same. In determining whether a request for exemption should be granted, the Director shall consider the following: the applicant's prior record as it pertains to City Housing Code, Building Code, or Property Maintenance Code violations; the amount of vacant property the applicant currently has within the City; and the length of time that the building for which the exception is sought has been vacant.

1377.08 APPEALS.

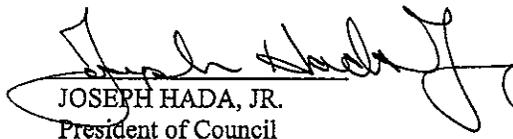
Any owner who is served a notice of vacant property registration may, within 10 calendar days of receipt of such notice, apply for an exemption or appeal the findings of the Property Maintenance Officer as set forth in Section 1349.32 of the Building Code.

1377.99 PENALTY.

Any person violating any provision of the Vacant Building Registry shall be punished as provided by Section 1349.99 of the Property Maintenance Code.

SECTION II. That this ordinance is passed as an emergency measure for the protection and preservation of the peace, health, safety and general welfare of the inhabitants of the City of Painesville, the emergency being the necessity to adopt additional regulations to help insure compliance with the City's Building and Zoning Codes, and therefore this Ordinance shall become effective immediately upon its passage.

PASSED: February 22, 2011


JOSEPH HADA, JR.
President of Council

ATTEST:


JENNIFER BELL, CMC
Clerk of Council