

ORDINANCE NO. 15-17

**AN ORDINANCE AMENDING CHAPTER 1375 OF THE PAINESVILLE
CODE OF 1998, RELATING TO VACANT PROPERTY AND BUILDING
REGISTRATION.**

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

SECTION I. That Chapter 1375 of the Painesville Code of 1998 is hereby amended to read as follows:

1375.01 PURPOSE.

The purpose of this chapter 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 chapter.

1375.02 DEFINITIONS.

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

(a) "Owner." Any person, in whose name the property is titled, and any person, agent, servicing company, firm, third party, financial institution or bank that has an interest in the property as a result of an assignment, sale, mortgage, transfer of a mortgage, or similar instrument or having an agreement with any one of the above for the purpose of securing and/or managing the property.

(b) "Secured by other than normal means." A building secured by means other than those used in the design of the building.

(c) "Unoccupied". A building which is not being used for the occupancy authorized by the owner.

(d) "Unsecured." A building or portion of a building which is open to entry by unauthorized persons without the use of tools or ladders.

(e) "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 Department; 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 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); or
- (9) Unoccupied and abandoned by the property owner.

(f) "Evidence of vacancy." 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.

1375.03 VACANT PROPERTY/BUILDING REGISTRATION.

(a) The owner shall register with the Community Development Department not later than 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 an adjacent county, Summit County or Portage County ~~within ten miles of Painesville City limits~~, the name and address of any third party who the owner has entered into a contract or agreement 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 division (c) of this section.~~

~~(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 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 12 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 30 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 or banks/agents 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 ~~30~~ 90 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. If fees were paid upon or prior to the transfer of an ownership interest, the new owner(s) will not be required to pay for re-registering the property until such time that the registration fee is due based on the original date of vacancy. This does not mean they do not have to register within 30-90 days as specified above.~~

(gf) 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.

(hg) 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.~~

(ih) 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.

(ji) The registration and all associated processes must be completed in its entirety annually for as long the property remains vacant.

1375.04 ESCROW.

Each demolition of a vacant building requires that the owner hold in escrow with the City a deposit of ten thousand dollars (\$10,000) for a residential building and seventy-five thousand dollars (\$75,000) 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~~ demolish the building/dwelling if it is not completed by the property owner. 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.

1375.05 INSPECTIONS.

The Community Development Department shall ~~shall~~ may inspect any premises in the City for the purpose of enforcing and assuring compliance with the provisions of this chapter. 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 30 days of a previous inspection may or may not be conducted at the discretion of the Property Maintenance Officer or Chief Building Official.

1375.06 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 dollars (\$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 three thousand two hundred dollars (\$3,200) 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 dollars (\$400.00) 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-year fee of six thousand four hundred dollars (\$6,400) 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 chapter within 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.~~ A hold may be placed on the transfer or activation of utilities (water and electric) until all delinquent fees have been paid.

(f) Late fees shall be paid in addition to the annual registration fee and will be equal to one-fourth of the annual fee or one thousand dollars (\$1,000), whichever is less. Fees incurred prior to the modification above will be assessed under the ordinance at the time they were reviewed.

1375.07 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 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 12 months from the start of vacancy, provided that the owner or owner's representative 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.

(e) Any building or structure acquired by the Lake County Land Reutilization Corporation for the purpose of demolition or rehabilitation shall be exempt from registration and any fees set forth in Section 1375.06 of this chapter.

(f) Any commercial building or structure determined to be vital for the purpose of economic development by the City Manager may be exempt from registration and any fees set forth in Section 1375.06 of this Chapter.

1375.08 APPEALS.

Any owner who is served a notice of vacant property registration may, within ten 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.

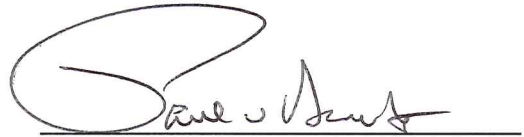
1375.99 PENALTY.

Any owner 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 and adopted for the protection and preservation of the peace, health, safety and general welfare of the inhabitants of the City of Painesville, the proposed changes are necessary to clarify the registration of rental properties in a timely manner and to protect the residents and therefore, this Ordinance shall be effective at the earliest date allowed by law.

PASSED: June 19, 2017

EFFECTIVE: July 19, 2017



PAUL W. HACH, II
President of Council

ATTEST:



VALERIE VARGO
Clerk of Council