

ORDINANCE CREATING CHAPTER _____ OF THE MARION CITY CODE

WHEREAS, the Council has found that vacant and foreclosed properties and buildings are a nuisance and contribute to blight within the city, necessitate additional governmental services and costs, and significantly interfere with the use and enjoyment of neighboring properties.

WHEREAS, the Council finds it in the best interest of the citizens of Marion to create Chapter _____ Vacant Building Registration.

THEREFORE, BE IT ORDAINED by the Council of Marion, Marion County, Ohio:

Section 1.

CHAPTER _____. - VACANT BUILDING REGISTRATION

Sec. ____01. - Purpose.

The purpose of this chapter is to establish a program for identifying and registering vacant buildings. This regulation is to be used as a tool to protect and preserve our neighborhoods from becoming blighted through the lack of adequate maintenance and security concerns at vacant structures. The City of Marion believes the presence of vacant buildings can lead to neighborhood decline, create public nuisances, contribute to lower property values, and discourage potential buyers from purchasing a home or business in neighborhoods with vacant properties.

Sec. ____02. - Definitions.

For the purpose of this chapter, certain words and phrases used in this chapter are defined as follows:

- (A) **Accessible property** means a property that is accessible through a compromised or breached gate, fence, wall, or other opening providing access.
- (B) **Accessible structure** means a house, building or other structure that is unsecured or breached in such a way as to allow access to the interior space by unauthorized persons.
- (C) **Buyer** means any person, partnership, co-partnership, association and corporation, fiduciary or other entity that agrees to transfer anything of value in consideration for property.
- (D) **Deed in lieu of foreclosure** means a recorded document that transfers ownership from a property from the mortgagor to the mortgagee.
- (E) **Default** means the failure to fulfill a contractual obligation, whether monetary or conditional.
- (F) **Distressed** means a property that is the subject of a pending foreclosure suit, has been foreclosed upon by the foreclosing entity, is set for sheriff's sale, has been sold at sheriff's sale or has been conveyed to the mortgagee via a deed in lieu of foreclosure.
- (G) **Foreclosing entity** means an entity holding a note secured by a mortgage, an entity holding a lien recorded with Marion County Recorder's Office a non-government entity that holds an interest in delinquent property taxes, an entity that takes property via a deed in lieu of foreclosure, an entity that has purchased a property from a sheriff's sale, a government entity that accepts property as a result of a government insured mortgage or loan.

- (H) **Foreclosure** means the process by which a foreclosing entity seeks a decree of foreclosure from the Marion County Common Pleas Court.
- (I) **Mortgage** means an agreement between a mortgagor and a mortgagee by which a mortgagee retains an interest in real estate title as collateral for a loan. This definition applies to any and all subsequent mortgages, (i.e., second mortgage, third mortgage, etc.)
- (J) **Mortgagee** means the person, partnership, co-partnership, association, corporation, lender, fiduciary or any other entity holding a mortgage on a property.
- (K) **Mortgagor** means a borrower under a mortgage.
- (L) **Owner** means any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, 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 real property by a court.
- (M) **Property** means any unimproved or improved real property or portion thereof, situated in the City including any house, building or other structures that may be located on the property regardless of condition.
- (N) **Securing** means such measures as may be directed by the Code Enforcement Officer that assist in rendering the property inaccessible to unauthorized persons, including but not limited to the repairing of fences and walls, chaining or padlocking of gates, the repair or replacement of doors, windows or other openings.
- (O) **Vacant** means a house, building or other structure shall be deemed to be vacant if no person or persons actually or currently conducts a lawfully licensed business, or lawfully resides or lives in any part of the building as the legal or equitable owner(s) or tenant-occupant(s), or owner-occupant(s) or tenant(s).
- (1) A building shall be deemed vacant if it is:
- (a) Unoccupied and unsecured;
 - (b) Unoccupied and secured by other than normal means;
 - (c) Unoccupied and an unsafe building as determined by the Code Enforcement Officer;
 - (d) Unoccupied and having utilities disconnected;
 - (e) Unoccupied and has property maintenance violations;
 - (f) Illegally occupied which shall include loitering and vagrancy;
 - (g) Unoccupied for a period of time over ninety (90) days and having an existing code violation issued by the Code Enforcement Officer;
 - (h) Unoccupied with a mortgage status of abandonment (i.e., deceased or foreclosed);
 - (i) Unoccupied and abandoned by the property owner; or
- (P) **Secured by other than normal means.** A building secured by means other than those used in the design of a building.
- (Q) **Unoccupied.** A building which is not being used for the occupancy authorized by the owner. The term **unoccupied** shall only be applicable to multi-unit structures when more than half (½) of the units and/or more than half (½) of the available space are not currently occupied by a tenant or tenants.
- (R) **Unsecured.** A building or portion of a building which is open to entry by unauthorized persons without the use of tools or ladders.

- (S) **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; graffiti or other defacement of buildings or structures, accumulation of newspapers, circulars, flyers and/or mail, accumulation of trash, junk, and/or debris, broken or boarded up windows, abandoned vehicles, auto parts, the absence of furnishings and/or personal items consistent with habitation or occupation, statement(s) by governmental employee(s) that the property is vacant.

Sec. ____03. - Registration requirements.

- (A) The owner shall register with the City of Marion Zoning/Compliance Department not later than ninety (90) days after any building is 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 thirty (30) days of being notified by the Code Enforcement Officer of the requirement to register based on evidence of vacancy, whichever event first occurs. The registration shall be submitted on forms provided by the Zoning/Compliance 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 Marion County or any contiguous county, the name and address of any third party with whom 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 with 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 subsection (C).
 - (6) A signed affidavit verifying insurance on registered building
- (B) For any abandoned real property located within the City of Marion, any foreclosing entity that files a foreclosure action, accepts a deed in lieu of foreclosure, buys real property at a Sheriff's Sale, or accepts property as a result of a government insured mortgage or loan, within thirty (30) days after the property becoming vacant, the foreclosing entity shall register the abandoned property with the City of Marion Zoning/Compliance Department.
- (1) It is the responsibility of the foreclosing entity making the initial application for registration and any subsequent applications for registration to provide the following required information:
 - (a) The contact information of foreclosing entity including; company name, address, telephone number and e-mail address.
 - (b) The contact information of property preservation company including; name, address, telephone number and e-mail address.
 - (2) Registration shall remain valid for twelve months from approved registration date. Should the property remain vacant upon expiration of the initial registration, the foreclosing entity shall complete another application to re-register the property and pay an escalating fee schedule as outlined in Section ____07.
 - (3) Any person, firm, partnership, co-partnership, association, fiduciary, beneficiary, lender, corporation or any legal entity that has registered a property under this chapter must report any change in registration information required by this chapter.
 - (4) If an abandoned property is identified and found not to be registered with the City of Marion, a notice will be issued to the foreclosing entity or the property preservation company posted as responsible to register the property within thirty (30) days of notice date.

- (5) Once a registered property is sold and the deed is transferred into the new owner's name, the foreclosing entity or property preservation company must submit in writing to have the property removed from the registry.
- (C) Upon registration of a vacant building, the owner, pursuant to Section _____.03(A)(5), shall also file a vacant building plan which must be approved by the Zoning/Compliance Department and which must comply with the following:
- (1) If the building is to be demolished, a demolition plan that complies with Chapter 1381 as well as the Ohio Building Code.
 - (2) If the building is to remain vacant, an explanation detailing how the building will remain secure, along with the procedure that will be used to maintain the property, and 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 the appropriate occupancy or use, a rehabilitation plan for the building and grounds. The rehabilitation shall be completed not longer than twelve months from the time permits are obtained, unless the City Safety Director or designee grants an extension upon receipt of a written request from the owner detailing the reasons for the extension. Any repairs, improvements or alteration 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) The owner shall comply with all laws and codes. The owner shall notify the Zoning/Compliance Department of any changes in the information of the vacant building registration within thirty (30) days of the change. If the plan or timetable for the vacant building is revised in any way, it is the duty of the registrant to update in writing to the Zoning/Compliance Department registration information as well as its vacant building plan immediately upon any changes being made. The revision(s) must meet the approval of the City Safety Director or designee.
- (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 set forth in Chapter 1360 of the Codified Ordinances.
- (F) Any subsequent owner shall register or re-register the vacant building with the Zoning/Compliance Department within thirty (30) days of any transfer of an ownership interest in the vacant building if the building continues to remain vacant after the 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 Safety Director or designee.
- (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 owner(s) 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 Zoning/Compliance Department 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 associate processes must be completed in its entirety annually for as long as the property remains vacant.

Sec. _____.04. - Inspection requirements.

Following the registration of the vacant property, the Zoning/Compliance Department shall conduct a complete exterior property inspection of the property and premises.

- (A) A status report will be provided with the findings and current condition of the property. It will include any found violations.

- (B) The responsible party for a property subject to this section shall perform periodic inspections of the property per the approved vacant building plan.

Sec. _____.05. - Maintenance requirements.

Properties subject to this section shall be, in comparison to the neighborhood standard, kept free of weeds, dry brush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspapers, circulars, flyers, notices (except those required by federal, state, or local law), discarded personal items, including to but not limited to furniture, clothing, appliances or any other items that give the appearance that the property is vacant.

- (1) The property shall remain free of graffiti, tagging or similar markings by removal or painting over with an exterior grade paint that matches the exterior color.
- (2) Visible front and side yards shall be landscaped and maintained to the neighborhood standard. Landscaping does not include weeds, gravel, plastic sheeting, indoor/outdoor carpeting or similar material. Maintenance of yards includes cutting pruning, mowing and removal of all trimmings.
- (3) Pools and spas shall be kept in working order so that water remains free of pollutants and debris or drained or kept dry, in any case, properties with pools or spas must comply with the minimum-security fencing requirements of the State of Ohio.

Sec. _____.06. - Security requirements.

Any structure on the premises of a registered vacant property is required to be maintained in a secure manner, so as not to be accessible to any unauthorized persons. Secure manner includes, but is not limited to:

- (A) Closure and locking of all windows, doors and other openings that may allow access to the interior of a structure.
- (B) In the case of damaged or broken doors, windows or other openings, they must be repaired properly within thirty (30) days of notification.
- (C) Any property found to be unsecure must be secured within forty-eight (48) hours of notification.
- (D) Placard required. The property subject to this section shall be placarded in accordance with the Ohio Fire Code.

Sec. _____.07. - Vacant building fees.

The fees described in this section are established in order to defray the cost to the City related to the health, safety and the economic impact 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 annually increased fee amounts are reasonably related to the costs incurred by the City and, in coordination with the Marion City Engineer, for demolition and hazard abatement of or repairs to vacant buildings, as well as the continued administrative costs stated above.

- (A) The owner of a vacant 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 registration fee shall be increased by two hundred dollars (\$200.00) over the previous year to a five (5) year maximum of one thousand dollars (\$1,000.00) to be used for the fifth and for all consecutive, subsequent years of vacancy.

- (B) The first annual fee shall be paid at the time the building is registered. If the fee is not paid, the amount owed shall be assessed against the owner and certified to the Marion County Auditor as a lien against the property.
- (C) 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.
- (D) 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.

Sec. _____.08. - Exemptions.

- (A) A building under active construction/renovation shall be exempt from the registration for a period not to exceed twelve (12) months.
- (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 Zoning/Compliance 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 Zoning/Compliance Department of such listing and for sale status.
- (D) Any owner of a vacant building may request an exemption from the provisions of this Chapter by filing a written application with the City who shall timely consider same. In determining whether a request for exemption should be granted, the City Safety Director or designee shall consider the following: the applicant's prior record as it pertains to 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 exemption is sought has been vacant. The City Safety Director or designee shall approve, approve with conditions or reject the completed application for exemption within thirty (30) days of receiving it.

Sec. _____.09. - Appeals.

Any owner who is served a notice of vacant property registration may, within thirty (30) calendar days of receipt of such notice, apply for an exemption, in accordance with Section _____.02(D), or file an appeal to the City Planning Commission. Said appeal shall be made in writing to the Clerk of Council.

Sec. _____.10. - Penalty.

Whoever violates any of the provisions of this section is guilty of a misdemeanor of the fourth degree (M - 4) on a first offense which is punishable by a fee of not more than \$250 and/or jail sentence of up to thirty (30) days.

On a second offense within one year after the first offense, such person is guilty of a misdemeanor of the second degree (M -2) which is punishable by not more than 90 days in jail and/or \$750 fee.

On each subsequent offense within one yera aftreer the firstoffense, such persom is guilly of a misdemeanor of the first degree (M - 1) which is punishable by not more than 180 days in jail and/or a fee of \$1000.

Section 2. This ordinance shall take effect and be in force from and after the earliest date allowed by law.