

DRAFT ORDINANCE - VACANT PROPERTY REGISTRATION - DRAFT ORDINANCE

6/5/2018

ORDINANCE A-

ORDINANCE ESTABLISHING SECTION ##### “VACANT PROPERTY/BUILDING REGISTRATION” OF THE CITY OF SIDNEY CODIFIED ORDINANCES TO PROVIDE FOR THEIR REGISTRATION, SECURITY, MAINTENANCE AND ABATEMENT.

WHEREAS, safe and properly maintained properties and buildings are essential to the general welfare, quality of life and the promotion of economic development opportunities; and

WHEREAS, the presence of vacant or abandoned buildings and properties can lead to neighborhood decline, create public nuisance, contribute to lower property values, and discourage investment in the community; and

WHEREAS, City Council is desirous of establishing standards for the registration of vacant property and buildings within the City of Sidney to minimize neighborhood blight and promote the general welfare of the community;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SIDNEY, OHIO THAT:

SECTION 1. That the City of Sidney hereby establishes Section ##### to read and be enforced as follows:

CHAPTER #####

- #####.01 PURPOSE**
- #####.02 DEFINITIONS**
- #####.03 VACANT PROPERTY/BUILDING REGISTRATION AND MAINTENANCE**
- #####.04 NOTICE TO REGISTER; NONCOMPLIANCE; REMEDY OF CITY; NON-EXCLUSIVE REMEDY**
- #####.05 INSPECTIONS**
- #####.06 DEVELOPMENT PLAN**
- #####.07 FEES**
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- #####.09 DEMOLITIONS**
- #####.10 APPEALS**
- #####.11 NUISANCE ABATEMENT**
- #####.12 SEVERABILITY**
- #####.99 PENALTY**

#####.01 PURPOSE

The purpose of this chapter is to establish a program for identifying and registering vacant residential, commercial and industrial buildings; to determine the responsibilities of owners of vacant buildings and structures; and to protect neighborhoods from becoming blighted through the lack of adequate maintenance and security of vacant or abandoned properties.

####.02 DEFINITIONS

Unless otherwise expressly stated, the following terms shall, for the purpose of this chapter, have the meanings indicated in this section. For the purpose of clarification of this chapter, the words “property” and “building” shall be used interchangeably.

(a) “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; or statement(s) by governmental employee(s) that the property is vacant.

(b) “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.

(c) “Owner-Agent” A person that resides within fifty (50) miles of Sidney, Ohio who shall be authorized in writing by the owner of a vacant property to be responsible for the security and maintenance of the property, who shall have access to the property and who shall be available at all times during business and non-business hours in the case that an emergency occurs requiring immediate response and/ or to make immediate repairs.

(d) “Secured by other than normal means.” A building secured by means other than those used in the design of the building.

(e) “Unoccupied.” A building which is not being used for an occupancy authorized by the owner.

(f) “Unsecured.” A building, or portion of a building, which is open to entry by unauthorized persons without the use of tools.

(g) “Vacant building.” A commercial, industrial, or residential detached building; or a semi-detached building, or attached building with ownership separated by a common wall 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 building inspector or fire inspector; or
- (4) Unoccupied and having utilities disconnected; or
- (5) Unoccupied and has property maintenance 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; or
- (8) Unoccupied with a mortgage status of abandonment (i.e. deceased or foreclosed); or
- (9) Unoccupied and has taxes in arrears for a period of time exceeding three hundred and sixty five (365) days; or
- (10) Unoccupied and has one (1) or more broken or boarded windows; or
- (11) Used for other than a permitted use of the zoning district in which it is located, unless owner provides documentation of legal non-conforming use.

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(i) "Occupied." To be lived in or be used by someone such as a home or office; or a building containing multiple units or suites with common ownership, and at least one unit being occupied.

(j) "Residential" A one-family, two-family, or three-family dwelling, and any accessory structure incidental to that dwelling.

####.03 VACANT PROPERTY/BUILDING REGISTRATION AND MAINTENANCE

(a) The owner shall register with the Community Development Department not later than ninety (90) consecutive days after any building becomes a vacant building or not later than thirty (30) consecutive days after being notified by the Community Development Department of the requirement to register based on evidence of vacancy, whichever event first occurs.

(b) The owner shall appoint an owner-agent whenever the owner resides over fifty (50) miles from the address of the vacant property.

(c) 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, excluding P.O. boxes;

(2) The name and address of any third party with whom the owner has entered into a contract or agreement for property management. By designating an owner-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 direct telephone number where a responsible party can be reached at all times during business and non-business hours.

(c) The owner shall notify the Community Development Department of any changes in information of their vacant building registration within 30 days of the change.

(d) The owner and subsequent owners shall keep the building secured and safe and the building and grounds properly maintained in accordance with all applicable Codified Ordinances of the City of Sidney and Ohio Administrative Code Chapter 1301:7-7 Section 311. Including, but not limited to:

(1) Property shall be kept free from weeds, grass more than eight (8) inches high, dry brush, dead vegetation, trash, junk, debris, building material, any accumulation of newspapers, circulars, flyers, notices, except those required by federal, state or local law, discarded items, including, but not limited to, furniture, clothing, large and small appliances, printed material, signage, containers, equipment, or any other items that give the appearance that the property is abandoned.

(2) Property shall be maintained free of graffiti, tagging or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior of the structure.

(3) All visible front and side yards shall be landscaped and properly maintained. Landscaping includes, but is not limited to, grass, ground covers, bushes, trees, shrubs, hedges or similar plantings. Maintenance includes, but is not limited to, regular watering, irrigation, cutting, pruning and mowing of required landscaping and removal of all trimmings.

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- (4) Pools, spas and other water features shall be winterized, kept in working order so that the water remains clear and free of pollutants and debris, or drained and kept dry and free of debris.
- (5) Property shall be maintained in a secure manner so as not to be accessible to unauthorized persons. Secure manner includes, but is not limited to, the closure and locking of windows, doors, gates and any other opening of such size that may allow a child to access the interior of the property and/ or structures. Broken windows must be repaired or replaced within fifteen (15) days. Boarding up of open or broken windows is prohibited except as a temporary measure.
- (6) Property shall have all plumbing, and plumbing fixtures winterized as to prevent freeze damage to the structure.
 - (e) A new owner(s) shall register or re-register the vacant building with the Community Development Department within thirty (30) days of any transfer of an ownership interest in the vacant building if the building continues to remain vacant after transfer.
 - (f) 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.
 - (g) Failure of the owner or any subsequent owners to maintain the building and premises shall be subject to any applicable penalties provided by the law.
 - (h) The Community Development Department shall include in the file any property specific written statements from community organizations, other interested parties, or citizens regarding the history, problems, maintenance status, or blighting influence of the vacant property.
 - (i) The registration, maintenance, and exterior inspection must be completed in its entirety annually for as long the property remains vacant.

####.04 NOTICE TO REGISTER; NONCOMPLIANCE; REMEDY OF CITY

- (a) Issuance of Notice: When the Vacant Property Inspector determines that a building is vacant or shows evidence of vacancy and requires registration, the Vacant Property Inspector shall cause a written notice to be served upon the owner or person in charge of the premises, notifying such person that registration and inspection is required within the time specified in the notice.
- (b) Compliance Required: No person shall fail to comply with a notice to register a vacant building in a reasonable amount of time as determined by the City Manager or his or her designee.
- (c) Remedy of City: If the owner or any other person, firm or corporation, having the care of the lands mentioned in subsection (a) hereof, fails to comply with the notice provided for in subsection (b) hereof, notice of such assessment of registration fee shall be given to the owner of the lot or land charged therewith, or his agent, either in person or left at the usual place of residence or sent by mail, and all assessments not paid within ten days after the giving of such notice shall, after approval by Council, be certified by the Clerk of Council to the County Auditor to be placed on the tax duplicate and collected as other taxes are collected.
- (d) Non-Exclusive Remedy: Action undertaken pursuant to this Section shall not prevent the City from initiating criminal proceedings to enforce compliance, pursuant to Section ####.99 of this Chapter.

####.05 INSPECTIONS

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The Community Development Department, accompanied by other City officials as deemed necessary, shall inspect any premises in the City for the purpose of enforcing and assuring compliance with the provisions of this chapter. Upon request, 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 eliminate the need to obtain a valid warrant when legally required from a court of competent jurisdiction by the Community Development Director or his or her designee in order to enable such inspection. Said Official shall be required to obtain a search warrant whenever an owner refuses to permit a warrantless inspection of the premises.

The following inspection schedule shall apply:

(a) Vacant buildings will be both internally and externally inspected at the start of the first registration period, and every thirty six (36) months thereafter, and when the registration is terminated by the property owner;

(b) Vacant buildings will be externally inspected by the Vacant Property Inspector and/or Fire Inspector a minimum of twice per year to ensure the compliance with property maintenance codes;

(c) All commercial and industrial vacant buildings will be inspected annually by the Vacant Property Inspector and/or Fire Inspector.

(d) Vacant buildings will be both internally and externally inspected upon acquisition of the property by a new owner and prior to an issuance of a permit by the Community Development Department;

(e) 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 Community Development Department and/or Fire Department.

####.06 DEVELOPMENT PLAN

The owner or owner-agent of the vacant building may submit a development plan that shall be reviewed by the Community Development Department. The development plan shall include at a minimum the following:

- (1) Anticipated period of vacancy
- (2) A timetable for the anticipated re-occupancy of the property
- (3) Rehabilitation plan for the property

####.07 FEES

The fees shall be reasonably related to the administrative costs for registering and processing the vacant building registration 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 administrative costs stated above.

(a) But for a valid arms-length transaction, the annual registration fee for a vacant residential, commercial, or industrial building shall be based on the duration of time the building has been vacant regardless of a change in ownership.

In the event of a valid arms-length transaction, the new purchaser will start at the first year registration fee and proceed as described above, regardless of the status of the seller.

A valid "arms-length transaction" is one between a buyer and seller in which the buyer and seller are independent of each other, ensuring that all parties in the deal are acting in their own self-interest, are not subject to any pressure or duress from the other parties, and are dealing from equal bargaining positions. A valid written contract with legally sufficient consideration as determined in the sole discretion of owner, or designee must be provided.

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(b) 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 (\$3,200.00) to be used for the fifth and for all consecutive, subsequent years of vacancy.

(c) The owner of a vacant commercial, four or more residential dwelling unit building, industrial building and/or mixed use building shall pay an annual fee of four hundred dollars (\$400.00) 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 six thousand four hundred dollars (\$6,400.00) to be used for the fifth and for all consecutive, subsequent years of vacancy.

(d) Vacant buildings without an approved Development Plan:
The registration fee shall be paid in full prior to the issuance of any building or development-related permits. The Community Development Department shall refund the vacant property registration fee paid if the subject building is brought into compliance with standards of federal, state, and local codes and reoccupied within one year of payment of the annual registration fee. The refund shall be for the amount of the registration fee paid during the year in which the building was approved for re-occupancy. Registration fees paid in previous years and/ or any arrearages of registration fees which are paid in the same year in which the building was approved for re-occupancy shall not be refunded.

(e) Vacant buildings with an approved Development Plan:
The registration fee shall be paid in full prior to the issuance of any building or development-related permits. The Community Development Department shall refund the vacant property registration fees paid if the subject building is brought into compliance with standards of federal, state, and local codes and reoccupied within the time frame specified in the approved Development Plan. The refund shall be for the full amount of all registration fees (less any funds used by the City to maintain the safety and security of the subject building) paid in the time period after the approval of the Development Plan in accordance with section #####.##.

(f) The fee shall be paid in full prior to the issuance of any City of Sidney 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.

(g) All late 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 unpaid fees. A hold may be placed on the transfer or activation of utilities (water and sewer) until all unpaid fees are paid.

(h) If a registration form is filed late, an additional late fee shall be paid in addition to the annual registration and will be equal to the annual fee or one thousand dollars (\$1,000.00), whichever is less.

(i) All liens and late fees shall be assessed and collected in accordance with Section ##### of the Codified Ordinances of the City of Sidney and ORC 715.261.

#####.08 EXEMPTIONS

In the following circumstances, registration shall not be required. Exemption from registration does not relieve the owner from property and building maintenance requirements. Failure to adequately maintain the building and grounds may result in exemption being withdrawn.

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- (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 for a period of one hundred eighty (180) consecutive 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, Hazard Insurance information, 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 seasonally vacant shall be exempt, only after the owner has designated a local owner-agent that assumes responsibility of the property while it is vacant. Contact information of both the owner, and owner-agent must be provided.
- (d) A property that is under pending action such as bankruptcy, probate, or other court or administrative action that would prohibit the owner from taking any action as required by this ordinance may be exempt, at the discretion of the Community Development Department, only after the owner or owner-agent has provided all supporting documentation of the pending action.
- (e) A property under ownership of the City of Sidney, a government entity, or the Shelby County Land Reutilization Corporation shall be exempt.
- (f) A building that is for sale or lease and listed with a Real Estate Agent 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.
- (g) Any owner of a vacant building may request an exemption for reasons other than those listed in Section ##### by filing a written application with the Community Development Director 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 Zoning Code, Building Code, or Property Maintenance Code violations; the amount of vacant properties the applicant currently has within the City; and the length of time that the building for which the exception is sought has been vacant.

#####.09 DEMOLITION

Each demolition of a vacant building will be in accordance with Chapter 1327 of the Codified Ordinances of the City of Sidney. Vacant property registration fees shall be waived only if the owner/ owner-agent of a vacant building is issued a permit of demolition within thirty (30) consecutive days of the date of the vacant property registration notice.

#####.10 APPEALS

(a) Any owner who is served a notice of requirement to register a vacant property may, within fifteen (15) consecutive days of receipt of such notice, apply for an exemption or may appeal the findings. Request for exemption shall be submitted on forms provided by the Community Development Department and with additional documentation attached as required in Sections #####.08(a-g) to establish the exemption.

Request for appeal shall be made to the Vacant Property Board of Review. The Board of Review, consisting of the City of Sidney Law Director, Deputy Fire Chief/ Fire Marshal and City Manager or designee, is created.

- (1) A majority of the members of the Board shall constitute a quorum.
- (2) The Board shall adopt its own procedural rules and keep a record of its proceedings.

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(3) The Board shall have those powers conferred upon it by this chapter.

####.11 NUISANCE ABATEMENT

Any building and/or property deemed vacant pursuant to the terms of this chapter and not maintained pursuant to the terms of this chapter, or any part of the Codified Ordinances of the City of Sidney is hereby declared a dangerous building, and shall have the dangerous building conditions abated pursuant to the terms of Chapter 1315 of the Codified Ordinances of the City of Sidney.

####. 12 SEVERABILITY

Should any section or provision of these regulations be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the regulations as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

####.99 PENALTY

(a) Whoever violates any provision of this ordinance is guilty of a minor misdemeanor on a first offense; a misdemeanor of the fourth degree on a second offense; and, a misdemeanor of the third degree on each subsequent offense. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

(b) Punishment shall be in accordance with Codified Ordinance Section 501.99.