

ORDINANCE NO. 2013-44

AN ORDINANCE ENACTING CHAPTER 1369 OF THE CODIFIED ORDINANCES OF THE CITY OF ASHTABULA, ENTITLED VACANT BUILDING ENFORCEMENT PROGRAM

WHEREAS, the daily operations of the City require the enactment of this ordinance; and,

WHEREAS, the health, safety, welfare and comfort 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 property security or maintenance, leading to conditions of increased crime and blight; and,

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

WHEREAS, it is appropriate and necessary for this City Council to enact legislation which provides for a registration and monitoring program for vacant structures, as well as giving incentives for their return to service or demolition, and in all events 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 Ashtabula, Ohio:

SECTION 1. That new Chapter 1369 of the Codified Ordinances of the City of Ashtabula, entitled Vacant Building Enforcement Program, a complete copy of which is attached hereto, shall be, and the same is hereby, enacted, to become effective June 1, 2013.

SECTION 2. It is hereby found and determined that all formal actions of this Council concerning and related to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its Committees that resulted in such formal action were in meetings open to the public in compliance with the requirements of Section 10 of the Municipal Charter of the City of Ashtabula, Ohio, and of Section 121.22 of the Revised Code of Ohio.

SECTION 3. For the reasons stated in the preamble, this ordinance, if approved by the votes of five (5) or more members of Council, shall take effect immediately, otherwise 30 days thereafter.

PASSED: March 18, 2013

Vote:

	Yea	Nay
Ducro:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
McClure:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Balog:	absent	
Pugliese:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Stranman:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Lattimer:	absent	
Trisket:	<input checked="" type="checkbox"/>	<input type="checkbox"/>

J.P. Ducro IV
President of Council

ATTEST:

LaVette E. Hennigan
Clerk of Council

APPROVED:

James M. Timonere
City Manager

Approved as to form and correctness this 18th day of March, 2013.

Michael Franklin, City Solicitor

CHAPTER 1369
Vacant Building Enforcement Program

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Registration**

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1369.01 PURPOSE. Structures which are left vacant for extended period 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. 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 provide incentives for the rehabilitation and productive use of vacant buildings. Shifting the cost or burden of the existence of vacant residential and commercial structures from the general citizenry to the owners of the buildings is an intended result of this chapter.

1369.02 DEFINITIONS.

Unless otherwise expressly stated, the following terms shall, for the purposes of this chapter, 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 occupancy authorized by the owner. The term "unoccupied" shall only be applicable to multi-unit structures when more than half (1/2) of the units and more than half (1/2) of the available space are not currently occupied by a tenant or tenants.

(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 structure (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 Planning and Community Development Division; or

(4) Unoccupied and having utilities disconnected; or

(5) Unoccupied and has housing or building code violations; or

(6) Illegally occupied, other than during a pending dispute between landlord and tenant, but including loitering and vagrancy; or

(7) Unoccupied for a period of time over 90 days and having an existing code violation issued by a City or State housing, building, health or fire official; or

(8) Unoccupied with a mortgage status of abandonment (i.e. deceased or foreclosed); or

(9) Unoccupied and abandoned by the property owner.

(e) "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.

(f) "Division." The City of Ashtabula Division of Planning and Community Development.

1369.03 VACANT BUILDING REGISTRATION.

(a) In all areas zoned for residential or commercial use, an owner of a structure which meets the definition of a "vacant building" as set forth in this Chapter shall register such structure with the Division of Planning and Community Development not later than 90 days after it becomes a vacant building as defined herein, or not later than 30 days of being notified by the Division 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 Division 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 a location in the State of Ohio within 25 miles of the Ashtabula City corporate limits, a property agent, manager or caretaker residing or doing business within the State and within said 25-mile-radius shall be designated and identified by name, address and telephone number. 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 Chapter upon said agent;

(3) 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;

(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 Director of Planning and Community Development. The plan, at a minimum, must contain one of the following:

(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 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

(3) 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 12 months from the time they 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.

(d) All applicable laws and codes shall be complied with by the owner. The owner shall notify the Director of Planning and Community Development 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 Director.

(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 health codes, property maintenance codes and fire codes.

(f) A new owner(s) shall register or re-register a vacant building with the Division within 30 days of any transfer of an ownership interest in the vacant building, unless the building is to become occupied upon 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 Director.

(g) 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.

(h) The provisions of this Chapter apply to all owners of record and both the vendor and vendee under any actual or alleged land contract or lease-purchase agreement, whether recorded or unrecorded.

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

(j) The Director shall maintain a record of 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. Such written statements shall become part of the permanent record pertaining to such property.

1369.04 DEMOLITION ESCROW.

The owner of a vacant building to be demolished shall place in escrow with the City a deposit of \$10,000 for a residential building, \$25,000 for a commercial building under 5000 square feet in size, or \$75,000 for a commercial building of 5000 square feet or more, unless a fire escrow is being administered by the City Fire Division, in which case the owner shall comply with all requirements and orders of that Division. If the amount to be placed in escrow under this Section cannot be paid in full, the City shall place a lien on the property for the amount specified. The City shall use escrowed funds to complete the plans submitted by the owner in the event that the owner does not comply with the vacant building plan. Escrowed funds may, by prior arrangement, be withdrawn during construction as follows: 20% upon commencement of work; 20% upon completion of half of all work, and the balance (60%) upon completion of all work including debris disposal, backfill and seeding. Unused escrowed 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 the vacant building plan and accept responsibility in writing for completing the demolition.

1369.05 INSPECTIONS. The Division shall 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 Director of Planning and Community Development, an owner shall provide access to all interior and exterior portions of a vacant building in order to permit a complete inspection of the premises. A refusal to permit access shall subject the owner to a civil penalty of \$150 for each day the refusal continues. Civil penalties under this Section which remain unpaid for more than 10 days may be collected in an action at law by any method permitted for collection of an unpaid account. Nothing in this Section shall limit the right of the Director to seek a search warrant for the vacant building from a court of competent jurisdiction.

(a) Vacant buildings will be subject to an exterior inspection at least twice per year to ensure the compliance with property maintenance codes;

(b) Vacant buildings will be subject to both an interior and an exterior inspection at the start of each registration period (new and renewal) and when a registration under this Chapter is terminated by the property owner;

(c) Vacant buildings will be subject to both an interior and an exterior inspection upon acquisition of the property by a new owner and/or prior to an issuance of an Occupancy Permit;

(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 Director.

1369.06 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.

(a) The owner of a vacant residential building shall pay an annual fee of two hundred dollars (\$200) 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 owner successfully restores the building to occupancy or demolishes it in accordance with applicable law during the first year following registration, the fee shall be refunded, less an administrative charge equal to 5% of the amount refunded. In each subsequent year, if the registration is renewed in timely fashion, there have been no violations associated with the property in the previous year, and re-inspection 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 5% of the amount refunded.

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

(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) Absent a showing of good cause, if a building is not registered within the time frame required in Section 1369.02, or the registration is not renewed within 30 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 one thousand dollars (\$1,000), whichever is less.

1369.07 EXEMPTIONS.

(a) 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.

(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 Division of Planning and Community Development. 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. One extension of not more than 90 days' duration may be granted for good cause shown.

(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 submits proof to the Division 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 voluntarily register the same and request an exemption from the remaining provisions of this chapter by filing a written application with the Director of Planning and Community Development, 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; the length of time that the building for which the exception is sought has been vacant; the reason or reasons for the vacancy; and the difficulty or expense involved in any necessary remediation or demolition. No exemption from registration shall be granted unless the owner or representative first completes a vacant building plan under Section 1369.02(c) and addresses any and all existing code violations. An owner who believes he or she is being denied an exemption for arbitrary or capricious reasons may file an appeal of such denial within ten days with the Housing Appeals Board, which may sustain, overturn or modify the action of the Director.

1369.08 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 as set forth in Section 1361.11 of the Codified Ordinances of the City of Ashtabula.

1369.09 EFFECTIVE DATE.

The provisions of this Chapter shall become and be effective on and after June 1, 2013.

1369.99 PENALTY.

Any person violating any provision of the Vacant Building Registry shall be subject to the penalties provided by Section 1361.99 of the Codified Ordinances of the City of Ashtabula.