

ORDINANCE NO.

AN ORDINANCE AMENDING PART 13 FIRE PREVENTION
CODE OF THE LORAIN CODIFIED ORDINANCES BY THE
**ADDITION OF CHAPTER 1302 REGISTRATION OF VACANT
COMMERCIAL BUILDINGS AND DECLARING AN EMERGENCY**

WHEREAS, vacant and abandoned structures are unsightly, attract criminal activity and are a threat to the public safety. The National Fire Protection Association (NFPA) statistics indicate that more than 10 civilians die and 6000 firefighters are injured each year operating in nearly 31,000 fires in vacant and abandoned buildings; and

WHEREAS, the purpose of this new Chapter is to establish a program to identify, register and inspect vacant commercial buildings within the City of Lorain that may present a fire hazard, that may provide temporary occupancy for transients, that may detract from private or public efforts to rehabilitate or maintain surrounding buildings, and that may present a hazard to the health, safety and welfare of the public; and

WHEREAS, through an effective registration, inspection, identification and monitoring program, buildings can be kept secure from trespassers and provide safe entry for police and firefighters in the event of an emergency; and

WHEREAS, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health and safety of the City of Lorain and its citizens, and to provide for the efficient daily operations of Municipal Departments of the City of Lorain; and

WHEREAS, all fees and penalties imposed by this Chapter shall be deposited into the treasury of the City of Lorain and shall in turn be certified by the City Auditor and appropriated into an accumulative account (#101.S500.6400.4300) to be used exclusively for the benefit of the Lorain Fire Department. Such fees and penalties may be recovered in a civil action in the name of the City in the Court of Common Pleas of Lorain County.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LORAIN, STATE OF OHIO:

SECTION I. That PART 13 FIRE PREVENTION CODE of the Codified Ordinances of the City of Lorain be amended by the addition of **new CHAPTER 1302 REGISTRATION OF VACANT COMMERCIAL BUILDINGS** as follows:

**CHAPTER 1302
REGISTRATION OF VACANT COMMERCIAL BUILDINGS**

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1302.01 PURPOSE

This Chapter is adopted to establish a program for identifying and registering vacant commercial buildings within the City of Lorain that may present a fire hazard, that may provide temporary occupancy by transients, that may detract from private and/or public efforts to rehabilitate or maintain surrounding buildings, and that may present a hazard to the health, safety and welfare of the public. Through a registration, inspection, and monitoring process, vacant commercial buildings will be kept weather-tight and secure from trespassers, will provide safe entry to police officers and firefighters in times of emergency, will not impede private and/or public efforts to rehabilitate or maintain surrounding buildings, and will not otherwise present a public hazard so that the health, safety and welfare of the public is served by these regulations.

1302.02 DEFINITIONS

Unless otherwise expressly stated, the following terms shall, for the purpose of this Chapter, have the following meanings:

- (a) “Authorized Agent” means a person that resides within Lorain County, Ohio who shall be authorized in writing by the owner or person in control of a vacant commercial building to be responsible for the security and maintenance of the building and property, who shall have access to the building and 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.
- (b) “Commercial Buildings” means any structure or part thereof, that is used or designed to be used for any private or public manufacturing, commercial business purposes whether or not legally zoned for such use.
- (c) “Evidence of Vacancy” means any condition that on its own or combined with other conditions present, would lead a reasonable person to believe the building is vacant. Such conditions include but are not limited to, none or significantly below standard utility usage, overgrown and/or dead vegetation, accumulation of newspapers, circulars, flyers and/or mail, accumulation of trash, junk, debris, broken or boarded up windows, abandoned vehicles, automobile parts or materials, the absence of window coverings i.e.

curtains, blinds and/or shutters, the absence of furnishing and/or personal items consistent with habitation or occupation, statements by neighboring property owners, delivery persons, U.S. Postal Service employees and/or governmental employees that the building is vacant.

(d) “Fire Chief” means the Fire Chief of the City of Lorain or his designee.

(e) “Fire Code” means Part 13 of the City of Lorain’s Codified Ordinances.

(f) “Fire Department” means the Fire Department of the City of Lorain.

(g) “Key Box” means a secure device with a lock operable only by the Fire Department master key and containing building entry keys and other keys that may be required for access in an emergency.

(h) “Owner” means any person who, alone or jointly or severally with others, shall have the legal or equitable title to a property, and shall include executors, administrators, trustees or guardians of the estate of the owner, and any purchaser or assignee under a certificate of sale pursuant to a mortgage foreclosure as evidenced by the signature of the judge upon the confirmation of sale, whether or not the deed has been filed with the Lorain County Recorder’s Office. The term “owner” shall also include partnerships, corporations, and other unincorporated associations. Any individual owner, regardless of whether they share ownership responsibility with any other person, any general partner or a partnership, and any officer of a corporation or unincorporated association, shall have direct and personal responsibility and liability for compliance with the provisions of this Chapter.

(i) “Person” means an individual, partnership, association, syndicate, company, firm, trust, corporation, governmental corporation, department, bureau, agency or any entity recognized by law.

(j) “Person in Control” means the owner of the property; a mortgagee or vendee in possession; a receiver; an executor; a trustee; and any person, public or private entity, lessee or holder of a lessee estate in the property, and/or its duly authorized agents, with the authority to bring a building or property into compliance with the provisions of this Chapter, including but not limited to any mortgagee that has filed an action in foreclosure on the particular property at issue, based on breach or default of a mortgage agreement, until title to the property is transferred to a third party.

(k) “Police Chief” means the Police Chief of the City of Lorain or his designee.

(l) “Police Department” means the Police Department of the City of Lorain.

(m) “Property” means not only the vacant commercial building and any other structures of any kind or nature located on the lot, but also the entire parcel of land surrounding the vacant commercial building, including, but not limited to, fences, walkways, walls and appurtenances.

(n) “Vacant Commercial Building” means a commercial building that is not occupied by its owner, lessee or other person in lawful possession, or at which substantially all lawful manufacturing, or commercial business operations and/or occupancy has ceased, or which is substantially devoid of content. Vacant commercial building shall not include those that are owned and operated by a state, local or federal governmental entity, or public school system.

1302.03 OBLIGATIONS OF OWNERS AND PERSONS IN CONTROL

(a) No owner or person in control of a vacant commercial building shall fail to do any of the following:

(1) Register the vacant commercial building with the Fire Department in accordance with the requirements of this Chapter.

(2) Designate an authorized agent if the owner or person in control of the vacant commercial building does not reside within Lorain County, Ohio or a contiguous county.

(3) Submit a Vacant Building Plan which shall be approved by the Fire Chief in accordance with Section 1302.07 of this Chapter.

(4) At all times maintain the property in accordance with the Vacant Building Maintenance Standards set forth in Section 1302.08 of this Chapter.

(5) Acquire or otherwise maintain general liability insurance covering the vacant commercial building and property in an amount of not less than One Million Dollars (\$1,000,000.00). The insurance policy shall provide for written notice to the Fire Chief within thirty (30) days of any lapse, cancellation or change in coverage.

1302.04 REGISTRATION

(a) All buildings located within the City that are vacant commercial buildings shall be registered by the owner or person in control thereof with the Fire Department within ninety (90) days after the effective date of this Chapter and no later than December 31st of every year thereafter. Every commercial building that subsequently becomes vacant shall be registered by the owner or person in control thereof with the Fire Department within thirty (30) days from the date of the last occupancy or within thirty (30) days of being notified by the Fire Department of the requirement to register based on evidence of vacancy.

(b) Registration shall be made on forms provided by the Fire Chief and verified by the owner or person in control of the vacant commercial building and shall contain all of the following:

- (1) The name, address and telephone number of the owner and/or person in control;
 - (2) The name, address and telephone number of the authorized agent. The authorized agent shall be a person that is twenty one (21) years of age or older and resides within Lorain County, Ohio ;
 - (3) The name, address and telephone number of all known lien holders and all other parties with any legal interest in the vacant commercial building and property;
 - (4) If the vacant commercial building is for sale, the name, address and telephone number of the company and the realtor or agent responsible for marketing the property;
 - (5) The address of the vacant commercial building and the permanent parcel tax identification number of the land on which the vacant commercial building is located;
 - (6) The date on which the building became vacant or will become vacant;
 - (7) The reason for the vacancy and the estimated length of time the building is expected to remain vacant;
 - (8) A certificate of general liability insurance in the amount required by Section 1302.03; and
 - (9) A Vacant Building Plan in accordance with Section 1302.07.
- (c) No person shall furnish false information to the Fire Department in the Registration Form.
- (d) Registration shall be valid until December 31st of each year, unless a transfer of title to the vacant commercial building has been completed.
- (e) No person, including but not limited to, an owner, person in control, purchaser, escrow agent, real estate agent or realtor, shall participate in a transfer of title to, or disburse proceeds from a transfer of title to, a vacant commercial building without having in escrow with the agent handling the transfer of title to the property, a copy of a registration form completed by the purchaser of the property and the annual registration fee in a amount based on the duration of time the building has been vacant. The escrow documents and the annual registration fee shall be forwarded to the Fire Chief upon the transfer of title. The annual registration fee shall not be prorated. In the event that the transfer of title is completed within ninety (90) days from the end of the calendar year, the annual registration fee shall be applied to the following calendar year.
- (f) No owner or person in control of a vacant commercial building shall fail to notify the Fire Department and file an amended registration form within seven (7) days of any change in the registration information required by this section.

1302.05 REGISTRATION FEES

(a) Vacant commercial building registration fees shall be reasonably related to the administrative costs of the vacant commercial building registration process and for the costs incurred by the City in monitoring the vacant commercial building site. The annual increase in registration fee amounts shall be reasonably related to the costs incurred by the City for hazard abatement, repair and/or demolition of vacant commercial buildings in addition to the continued administrative costs. Money collected under this section shall be used exclusively for the administration and enforcement of this Chapter.

(b) The Safety/Service Director shall have the authority to adjust fees annually to coincide with the cost of the enforcement of this section.

(c) The annual registration fee for a vacant commercial building shall be based on the duration of time the building has been vacant regardless of a change in ownership. The owner of a vacant commercial building shall pay an annual registration 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 registration fee shall be assessed at double the previous year's registration fee amount for a maximum annual registration fee equaling the five (5) year registration of six thousand four hundred dollars (\$6,400.00), which shall be the registration for the fifth and all consecutive, subsequent years of vacancy.

(d) The registration fee shall be paid in full prior to the issuance of any building permits. The Fire Chief shall refund the vacant commercial building registration fee if the subject building is brought into compliance with standards of the Ohio Building Code, and reoccupied within one (1) 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 shall not be refunded.

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

(f) All delinquent registration fees shall be paid by the owner prior to any transfer of an ownership interest in the vacant commercial building.

(g) The Fire Chief shall notify the Lorain County Auditor if an owner or person in control, or a purchaser of a vacant commercial building fails to, neglects or refuses to pay a registration fee within the time ordered pursuant to this section. In addition to the registration fee, an interest rate equal to the current rate of interest charged by the City on special assessments shall be imposed by the City for the life of the registration fee, added to the registration fee, and collected as provided in this section. The City Auditor shall then certify the amount of the registration fee, including interest, to the County Auditor. The County Auditor shall enter the amount on the tax duplicate of the County as a special assessment against the real estate that is subject to the registration fee.

1302.06 INSPECTION

- (a) At the time of registration the owner or person in control shall arrange for an inspection of the property by the Fire Chief or his designee, in the presence of the owner, person in control, or authorized agent of the owner having responsibility for security and maintenance of the property, for the purpose of determining the structural integrity of the building, that it will be safe for entry by fire fighters and police officers in times of emergency, and that it complies with the requirements of this Chapter.
- (b) If the owner or person in control fails or refuses to consent to and arrange for an inspection, the Fire Chief shall obtain a search warrant from a court of competent jurisdiction to authorize inspection of the property.

1302.07 VACANT BUILDING PLAN

(a) The owner or person in control of the vacant commercial building shall submit a Vacant Building Plan that shall be approved by the Fire Chief or his designee. The Vacant Building Plan shall be selected from and include the minimum requirements from one of the three categories:

(1) Demolition. If the vacant commercial building is to be demolished, the Vacant Building Plan shall include a proposed time frame for demolition which shall include a commencement date within ninety (90) days of approval of the proposed demolition time frame and shall not exceed six (6) months in duration. The Fire Chief may grant an extension of time upon receipt of a written statement from the owner detailing the reasons for the extension.

(2) Secured Structure. If the vacant commercial building is to remain vacant, the Vacant Building Plan shall contain all of the following:

- A. A typewritten plan for fire alarm and fire protection as required by the Fire Chief;
- B. A typewritten plan of action to remedy any public nuisance existing in the building or on the property;
- C. A typewritten lighting plan for the exterior of the building and property, walk ways adjacent thereto, parking or loading areas, and nighttime illumination of areas and walkways of the building and property which may be vulnerable to vandalism and vagrancy as determined by the Chief of Police;
- D. A typewritten regular maintenance plan for all exterior lighting and illumination fixtures;
- E. A typewritten plan for the maintenance of all structural openings, such as windows, doors, areaways and other openings to avoid the necessity of boarding up. Windows, doors, areaways and other openings that are located on the first floor and facing the street shall not be papered, soaped, blacked-out or boarded up, and to avoid the

appearance of being vacant, a form of display shall be set that shall be approved by the Fire Chief or designee.

F. A typewritten plan of action to maintain the vacant commercial building and property in compliance with the Vacant Building Maintenance Standards as set forth in Section 1302.08 of this Chapter.

(3) Rehabilitation. If the vacant commercial building is to be returned to lawful occupancy or use, the Vacant Building Plan shall include a rehabilitation time frame for the building and property. The rehabilitation time frame shall not exceed twelve (12) months. The Fire Chief may grant an extension of time upon receipt of a written statement from the owner detailing the reasons for the extension. All applicable laws shall be complied with and all required permits shall be obtained. The building shall be kept secured and in compliance with the Vacant Building Maintenance Standards as provided in Section 1302.08 of this Chapter at all times during rehabilitation.

1302.08 VACANT BUILDING MAINTENANCE STANDARDS

All vacant commercial and industrial buildings and property within the City shall be maintained in accordance with the following Vacant Building Maintenance Standards:

(a) Exterior openings, except those prohibited by Section 1302.07(a)(2)E which cannot be secured by locking an existing door or window shall be boarded secured and protected from intrusion by birds, vermin and trespassers in accordance with the United States Fire Administration's National Arson Prevention Initiative Board Up Procedures, hereby incorporated by reference as if fully set forth herein. A copy of the United States Fire Administration's National Arson Prevention Initiative Board Up Procedures shall be kept on file with the Fire Department.

(b) A vacant commercial building shall be protected from deterioration and maintained in accordance with the Commercial Property Maintenance Code set forth in Chapter 13 of the Codified Ordinances of the City of Lorain.

(c) A vacant commercial building and the property on which it is located shall be kept clean, safe, sanitary and free from public nuisance in accordance with Chapter 13 of the Codified Ordinances of the City of Lorain.

(d) A vacant commercial building shall display a hazardous identification placard that is readily visible from normal access points of the building pursuant to the Lorain Fire Department.

(e) A key box shall be installed on each vacant commercial building in the City in case immediate access to the interior of the building by fire department personnel is necessary for life-saving or firefighting purposes. Each key box shall be of a type that is approved by the Fire Chief. The key box shall be installed in accordance with manufacturer's recommendations and shall be installed to a location approved by the Fire Chief. The cost of purchase and installation of each key box shall be paid by the owner. Each key box shall contain keys to gain access to all areas of the building including the

roof and basement, with each key being clearly labeled as to its access point. The person in control of the building shall immediately notify the Fire Chief and provide the new key when a lock is changed or re-keyed. The key to such lock shall be secured in the key box.

1302.09 NOTICE OF VIOLATION

(a) Content. Whenever the Fire Chief determines that there is a violation of the provisions of this Chapter, he shall give notice of such violation to the person or persons responsible therefore and order compliance, as herein provided. Such notice and order shall:

- (1) Be in writing;
- (2) Include a description of the real estate sufficient for identification which includes but is not limited to permanent parcel number or address;
- (3) Include a statement of the violation or violations, refer to the sections and divisions violated, and order remedial action which will effect compliance with the provisions of this Chapter;
- (4) Include a correction order allowing a reasonable time to bring the property into compliance with the provisions of this Chapter;
- (5) State the right of the violator to file an appeal of the notice and order with the Fire Prevention Board of Appeal in the manner and within the time limitations provided for in Chapter 1301 Ohio Fire Code;
- (6) Include a statement that any action taken by the City on such property shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

(b) Service. A notice of violation shall be deemed to be properly served if one or more of the following methods are used:

- (1) By personal delivery to the owner or occupant or person in control of the property or by leaving the notice at the property with a person of suitable age and discretion; or
- (2) By certified mail, return receipt requested, to the person or persons responsible at their last known address. If the certified mail is returned unclaimed, the service shall be sent by ordinary U.S. mail and the mailing shall be evidenced by a certificate of mailing. If the certified mail is returned undeliverable, a copy shall be posted in a conspicuous place in or on the property found in violation.

1302.10 EFFECTING COMPLIANCE

Upon failure of the owner or person in control of the property in violation to comply with the notice within the period of time stipulated, the Fire Chief shall give notice to the Chief Building Official if the building or structure is open and unsecure, to proceed with any requirements of Section 1302.08. Upon the completion of such labor, the Chief Building Official shall determine all costs associated thereof, including registration fees, with labor charges incurred at one hundred fifty dollars (\$150.00) per hour, provided however there shall be a minimum fee of not less than one hundred dollars (\$100.00). In the event the City is required to employ outside services for the abatement work, the fee shall be the actual costs of the contract plus fifteen percent (15%) for administration charges. The total labor costs, materials and registration fee, shall be forwarded by the Fire Chief to the City Auditor who shall make a return in writing to the Lorain County Auditor of such total charge which shall be entered upon the tax duplicate of the County and be allocated onto the taxes in accordance with Ohio Revised Code Section 731.54.

1302.11 APPEALS

Any person aggrieved by an order of the Fire Chief, or whenever the Fire Chief fails to approve a Vacant Building Plan as required in Section 1302.07 of this Chapter, may file an appeal with the Ohio Building Board of Appeals in the manner and within the time limitations provided for in Section 1302.07 of the Fire Code. The decision of the Ohio Building Board of Appeals shall be final.

1302.12 INTERPRETATION OF CHAPTER

This Chapter shall not, in any manner, abrogate any of the other provisions of the Codified Ordinances of the City of Lorain pertaining to the abatement of public nuisances or unsafe buildings.

1302.99 PENALTY

Whoever violates any of the provisions of this Chapter shall be guilty of a misdemeanor of the fourth degree punishable by thirty days in jail and a fine of no more than two hundred fifty dollars (\$250). A second violation of the same or similar offense shall be a misdemeanor of the first degree punishable by one hundred eighty days jail and a maximum fine of one thousand dollars (\$1,000). A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

SECTION II. All fees and civil penalties imposed by this Chapter shall be deposited in an accumulative account (#1010.S500.6400.4300) to be used to purchase equipment, supplies, and other apparatus necessary to protect the citizens of the City of Lorain.

SECTION III. If any section, phrase, sentence or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION IV. That it is found and determined that all formal actions of this Council concerning and relating 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 and in compliance with all legal requirements, including Section 121.22, Ohio Revised Code.

SECTION V. That this ordinance is hereby declared an emergency the nature of such emergency being the need to enact Chapter 1302 Registration of Vacant Commercial Buildings to cause the effective registration, inspection, identification and monitoring program for vacant buildings to provide for the immediate preservation of the public health, welfare and safety in the City of Lorain. Therefore, this ordinance shall take effect immediately upon its passage and approval by the Mayor providing it receives the statutory requirements for passage otherwise it shall take effect and be in force from and after the earliest period allowed by law.

PASSED: _____, 2016

PRESIDENT OF COUNCIL

ATTEST: _____, CLERK

APPROVED: _____, 2016

MAYOR