

ORDINANCE NO.: 65-2022
INTRODUCED BY: Nelson

**AN ORDINANCE AMENDING TITLE SEVEN, BUSINESS
MAINTENANCE CODE, OF THE CODIFIED ORDINANCES TO
ADOPT NEW CHAPTER 1380, REGISTRATION AND
MAINTENANCE OF VACANT NONRESIDENTIAL PROPERTIES.**

WHEREAS, in order to more effectively enforce the safety and appearance of vacant nonresidential properties in the City of Richmond Heights, to improve property values in the City and to protect the health, safety and general welfare of the public, this Council finds it necessary to adopt the within Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Richmond Heights, State of Ohio, that:

Section 1: Codified Ordinance Title Seven, "Business Maintenance Code", is hereby amended to add new Chapter 1380, "Registration and Maintenance of Vacant Nonresidential Properties", to provide as follows:

"CHAPTER 1380

Registration and Maintenance of Vacant Nonresidential Properties

- 1380.01 Purpose.
- 1380.02 Definitions.
- 1380.03 Duties of owner.
- 1380.04 Vacant building inspection required.
- 1380.05 Vacant building inspection.
- 1380.06 Fees.
- 1380.07 Correction of violations.
- 1380.08 Certificate of compliance.
- 1380.09 Liability.
- 1380.99 Penalty.

1380.01 PURPOSE.

This chapter shall apply to any nonresidential property, as defined below, or a unit of nonresidential property in the Municipality which meets the definition of vacant and unoccupied.

1380.02 DEFINITIONS.

(a) "Nonresidential property" shall be defined as a property with an assigned use classification of commercial, institutional, industrial, or office.

(b) "Vacant, vacant building, vacancy, and vacant unit of a building" shall be defined for the purposes of this chapter, as a building, or unit of a building, which is not occupied by its owner, lessee or other person in lawful possession, or at which substantially all lawful business operations have ceased.

(c) "Unoccupied" shall be defined for the purposes of this chapter as a building or unit of a building in which all lawful business operations have ceased.

(d) "Open foreclosure action" shall be defined for purposes of this chapter as an active legal proceeding in a court of law that bars or extinguishes a mortgagor's right of redeeming a mortgaged estate in real property but does not include a foreclosure for tax delinquency purposes that is brought by the county government.

(e) "Building Commissioner" shall be defined for purposes of this chapter as the Commissioner of the Municipality's Division of Building, Zoning and Housing.

(f) "Municipality" shall be defined for purposes of this chapter as the City of Richmond Heights, Ohio.

1380.03 DUTIES OF OWNER.

(a) The owner, lessee, or party in control of any vacant building and/or vacant unit of a building, or a party that has filed and is currently maintaining an open foreclosure action regarding a vacant building shall maintain the vacant building and/or vacant unit of a building in compliance with Municipal codes with particular attention to the following:

(1) Grass and weeds shall be kept at a maximum height of six inches. Shrubbery must be kept trimmed and neat and kept from encroaching on or touching the building.

(2) All building exteriors shall have adequate weather-tight protection, including paint, siding, and or similar finishes maintained in good condition.

(3) All buildings and grounds must be secured against trespassers and rodents. This includes maintaining all exterior doors, windows and yard fencing in a good and secured condition. No boards, plywood or similar means or materials may be used to secure windows and doors. Doors, and/or windows that are found to be defective shall be replaced with similar, new doors or window units equipped with locking hardware.

(4) Property must be properly winterized.

(5) Roofs on all buildings shall be in good, weather tight condition with no leakage.

(6) Any accumulated trash or debris must be removed from the interior and exterior of the property immediately.

(7) Graffiti, tagging or similar markings must be immediately removed or painted over with an exterior grade paint that matches the exterior color of the structure.

(8) Property shall be maintained free of nuisance conditions.

(9) Compliance with this section does not relieve the owner or agent in control of the property of any obligations set forth in any covenants, conditions, restrictions, homeowners' association rules and regulations and/or codified ordinances or building codes which may apply to the property.

(b) Registration Required.

(1) The owner, agent, lessee, or party in control of any vacant building and/or vacant unit of a building, or a party that has filed a foreclosure action that is currently pending regarding any vacant building, shall register the building, property and/or vacant unit of a building with the Building Commissioner, and maintain the registration up to date.

(2) An application for registration of a vacant building and/or vacant unit of a building shall include all of the following information on forms provided by the Municipality:

A. The name of the owner, agent lessee or party in control of the property and/or foreclosing entity submitting the registration application;

B. The direct mailing address of the applicant; Post Office boxes are not an acceptable address;

C. A contact name, telephone number and e-mail address for the applicant;

D. In the case of an applicant whose home or business address is located outside Cuyahoga County, the applicant shall provide the name and mailing address as well as the contact name, telephone number and e-mail address of the person responsible for the security, maintenance, and marketing of the property.

E. The fee required by paragraph (b)(5) hereof.

(3) Registration shall remain valid for twelve months from the date of issuance. The owner, agent, lessee or party in control, or party mortgagee in an open foreclosure action, shall renew the registration upon expiration for as long as the building, property, and/or unit of a building remains vacant.

(4) The owner, agent, lessee, party in control, or party in an open foreclosure action of any vacant building property, and/or vacant unit of a building, shall inspect the building, property and/or unit at least one time each month on the interior and exterior of the property to verify that the requirements of this chapter, the Codified Ordinances of the Municipality, and any other applicable laws are being met. A written report of such inspections shall be provided to the Municipality upon request.

(5) Fees: The annual fee for registering a vacant building, property and/or vacant unit of a building shall be fifteen cents (\$0.15) per square foot of vacant space for the first year the property is vacant, twenty cents (\$0.20) per square foot of vacant space for the second consecutive year the property is vacant, and twenty-five cents (\$0.25) per square foot of vacant space for every consecutive year beyond the second year that the property remains vacant.

Revenue collected each year from this fee shall be distributed annually as follows: the first one-third of the fee collected shall be appropriated to a proper Municipal account for use by the Division of Building, Zoning and Housing for nuisance abatement purposes.

(c) Exemptions: Waivers exempting compliance with the provisions of this chapter shall be obtained in writing on a form provided by the Municipality under the following circumstances, as long as the property is kept in safe, secure, and habitable condition, including continual compliance with this section:

(1) Fire damaged buildings: so long as clean up, repair or demolition is initiated within ninety days from the date of the fire.

(2) The owner, lessee, or party in control of any vacant building and/or vacant unit of a building can produce evidence the vacant building or vacant unit will be reoccupied within ninety days of becoming vacant. Such evidence shall include an application for occupancy filed with the Division of Building, Zoning and Housing by the new user intending to occupy the space.

(3) The owner, lessee, or party in control of any vacant building and/or vacant unit of a building can submit a vacant building plan which meets the approval of the Building Commissioner. The plan, at a minimum, must contain information from one of the following two choices:

A. If the building is to be demolished, a demolition plan indicating the proposed timeline for demolition which includes starting within thirty days of receiving approval for demolishing the building and reaching completion within one year of submitting said plan.

B. If the building is to undergo extensive renovation and/or rehabilitation before being made available to be returned to appropriate occupancy or use. The rehabilitation and/or renovation plan

must receive approval from the Building Commissioner and any Municipal boards and commissions as required. The rehabilitation and/or renovation must be complete within twelve months from the time said plan is approved. Any request for an extension must be made in writing and must detail the reasons why the extension is being requested. The extension must be approved by the Building Commissioner. Any repairs, improvements, or alterations to the property must comply with any applicable zoning, housing, or building codes, and the property must be secured during the rehabilitation and/or renovation.

1380.04 VACANT BUILDING INSPECTION REQUIRED.

(a) The owner, agent, or party in control of any vacant building, or unit of a building, shall apply for and obtain a vacant building inspection from the Building Commissioner prior to selling, transferring, or conveying any interest in or entering into an agreement to sell, transfer or otherwise convey an interest in such property, which includes entering into a lease with an entity to occupy the building or unit of a building. A copy of such completed inspection report shall be provided to the prospective purchaser, transferee, or lessee prior to sale or commencement of a lease.

(b) An agreement to sell, transfer or otherwise convey an interest in a vacant building, or a lease agreement for a tenant to occupy a vacant unit of a building, shall include a copy of the vacant building inspection report from the Building Commissioner, in order for the prospective purchaser, transferee, or lessee to be aware of all known violations of the Municipal Building, Housing and/or Zoning Codes found as a result of an exterior and interior inspection.

(c) The owner shall submit to the Building Commissioner a statement signed by the purchaser or transferee, or lessee, acknowledging receipt of the vacant building inspection report, and such statement shall list thereon the date the report was given to the purchaser or transferee, or lessee.

1380.05 VACANT BUILDING INSPECTION.

An application for a vacant building inspection required by this chapter shall be made upon forms supplied by the Building Commissioner.

(a) The Building Commissioner shall cause a general exterior and interior inspection for the vacant building or unit of a building and premises to be made.

(b) The vacant building inspection report shall contain the following information:

(1) The street address or other identifying characteristics of the vacant building or unit of a building;

(2) The name and address of the owner(s); lessee or party in control;

(3) The authorized use and occupancy of the building or vacant unit of a building;

(4) The listing of all known violations of the Building Code existing at the time of such inspection.

(c) Should the building or unit of a building remain vacant for a period longer than one year from the date of the inspection, a new inspection of the property shall be conducted as outlined above. There shall be a fee of twenty-five dollars (\$25.00) per year for each inspection, after the first year.

1380.06 FEES.

(a) In order to legally occupy a space, a user of the space must file for business occupancy with the Division of Building, Zoning and Housing and pay the business occupancy application fee. In addition, a certificate of compliance will be issued once violations have been corrected and a user is legally occupying the space. The fee for a certificate of compliance shall be two hundred dollars (\$200.00).

(b) There shall be no fee for one re-inspection requested by the same owner within twelve months from the date of the initial inspection to verify correction of violations stated within the vacant building inspection report. All subsequent re-inspections may be billed at fifty dollars (\$50.00) per inspection.

(c) In the event of resale of the property within the one-year period, if violations have not been corrected, the vacant building inspection report shall be transferred to any subsequent bona fide purchaser and shall be valid for the remainder of that period.

1380.07 CORRECTION OF VIOLATIONS.

Any violations found upon inspection of the premises shall be corrected prior to issuance of the certificate of compliance. A property owner shall have six months from the date of the inspection to correct all violations. Violations that cannot be corrected due to seasonal conditions shall not preclude the issuance of a certificate of compliance; provided that, issuance of such certificate shall be upon written acknowledgment of all violations and agreement to correct all violations within nine months of the inspection date.

(a) Appeals.

(1) The Municipal Zoning Board of Appeals shall be the board of appeals for this chapter and its powers and duties and the procedures for appeal shall be as provided in such Municipal ordinance that established and governs the Zoning Board of Appeals.

(2) The owner of a vacant building, or vacant unit of a building, shall have the right to appeal from any order of, or written notice issued by, the Building Commissioner within thirty days from the date such notice was given, mailed or issued, and to appear before the Zoning Board of Appeals within sixty days of receipt of the notice appealed from, to show cause why the owner should not comply with such notice. Such appeal must be in writing. Failure to file a written appeal with the Board within the time prescribed herein shall constitute a waiver of the right to appeal. However, filing of an appeal from any such notice shall suspend action on enforcement of such notice until there is a final decision of the appeal by the Board.

1380.08 CERTIFICATE OF COMPLIANCE.

(a) At the request of the owner of property or the owner's agent, a letter or other written document shall be issued by and signed and dated by the Building Commissioner stating that all violations listed on the vacant building inspection report have been completed to the Municipality's satisfaction, and the property is eligible for occupancy. No previously vacant building, or vacant unit of a building, can be occupied until this certificate of compliance is obtained. This certificate of compliance is not in lieu of a business occupancy application. Upon issuance of a certificate of compliance, a user of a building or unit of a building, must still file for and obtain a business occupancy certificate from the Building Commissioner prior to having operations open to the public.

(b) At the request of the owner of the property or the owner's agent, a letter or other written document shall be issued, signed and dated by the Building Commissioner stating that specific violations listed on the vacant building inspection report have been completed to the Municipality's satisfaction. If the Building Commissioner issues such a letter or written document, it shall contain the specific violation(s) that remain outstanding.

1380.09 LIABILITY.

The issuance of a certificate of compliance does not guarantee compliance with the Building, Housing and/or Zoning Codes, and neither the Building Commissioner nor the Commissioner's duly authorized designee(s) accept any liability for noncompliance with those Codes. Such certificate shall be considered by all parties as the Municipality's best effort to make known to the owner, a potential purchaser, or potential tenant, of any violations on a given property at the time the inspection is made.

(a) The Municipality assumes no liability or responsibility for the failure to report violations that may exist and makes no guarantee whatsoever therefor, since there may be further violations which were not detected which may arise in the future or which may only be determined by a licensed electrician, plumber or other specialist at the expense of the person desiring such an inspection.

(b) In issuing a vacant building inspection report, the Municipality does not thereby insure, warrant or guarantee to the holder thereof, to the holder's assignees, or any other interested party that such report contains all of the violations of the Codified Ordinances or state or federal law.

(c) In issuing a certificate of compliance document under the provisions of this chapter, the Municipality does not thereby insure, warrant or guarantee the quality of repair or standard of work completed in the correction of violations listed on a vacant building inspection report. Such document should be construed only as a statement by the Municipality that some or all of the violations listed on the vacant building inspection report have been corrected to the Municipality's satisfaction.

1380.99 PENALTY.

Any person who violates any provision of this chapter or of the rules and regulations issued hereunder shall be fined not less than two hundred dollars (\$200.00) and not more than one thousand dollars (\$1,000) for each offense. Every day that a violation continues shall constitute a separate and distinct offense. Unpaid registration fees and fines shall be made an assessment on the property enforceable in the same manner as assessments for delinquent property taxes."

Section 2: It is found and determined that all formal actions of this Council concerning and relating to the adoption 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 all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 3: This Ordinance shall take effect and be in force from and after the earliest period allowed by law.

PASSED: May 24, 2022

APPROVED: May 24, 2022

ATTEST: Betsy Traben
Betsy Traben
Clerk of Council

Kim A. Thomas, Mayor

Bobby Jordan
Bobby Jordan
President of Council