

**ORDINANCE NO. 2014 - 27**

**AN ORDINANCE ESTABLISHING CHAPTER 1338 OF THE CODIFIED ORDINANCES OF THE CITY OF WILLOWICK, OHIO, TITLED, "REGISTRATION OF VACANT BUILDINGS AND CERTIFICATES OF COMPLIANCE FOR VACANT BUILDINGS," AND DECLARING AN EMERGENCY.**

**WHEREAS**, the Council for the City of Willowick believes it is in the best interests of the City and its residents to provide for the regulation of vacant buildings within the City of Willowick in order to advance the health and safety of its residents and to ensure the continued and proper maintenance and repair of such buildings;

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WILLOWICK, COUNTY OF LAKE, STATE OF OHIO:**

**Section 1.** Chapter 1338 of the Codified Ordinances of the City of Willowick, Ohio, titled "Registration of Vacant Buildings and Certificates of Compliance for Vacant Buildings" is hereby established to read and provide as follows:

CHAPTER 1338      Registration of Vacant Buildings and Certificates of Compliance for Vacant Buildings

Section 1338.01      Purpose.

The purpose of this Chapter is to establish a program for identifying and registering vacant residential and business buildings; to determine the responsibilities of owners of vacant buildings and structures; and to speed the rehabilitation of vacant buildings and require the responsible property owners to pay the costs of the property maintenance.

Section 1338.02      Definitions.

For the purpose of this Chapter, words and phrases shall have the following meanings:

(a) "Owner" shall mean any person or entity in whose name the property is recorded or has been deeded to or to whom it is contractually or by operation of law expected to be deeded or transferred, and any person, agent, servicing company, firm, third party, business entity, financial institution or bank that has an equitable or legal interest in the property as a result of a mortgage foreclosure, assignment, sale, mortgage transfer, or similar instrument, or has an agreement with an owner for the purpose of securing and/or managing the property.

(b) "Vacant building" shall be defined for the purposes of this Chapter, as a building which is not occupied by its owner, lessee or other person in lawful possession, or at which substantially all lawful business operations or residential occupancy has ceased, or which is substantially devoid of content, or which exhibits other evidence of vacancy.

(c) "Evidence of Vacancy" shall mean any condition that on its own or combined with any other conditions present would lead a reasonable person to believe that the property is vacant. Such conditions include but are not limited to the following: 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, and/or statements by persons with personal knowledge that the property is vacant.

Section 1338.03 Duties of Owner.

(a) The owner, lessee, or party in control of any vacant building, or a mortgagee that has filed and is currently maintaining an open foreclosure action regarding a vacant building shall maintain the vacant building as follows:

- (1) Grass and weeds shall be kept at a maximum height of six inches. Shrubbery must be kept trimmed and kept from encroaching or touching the building.
- (2) All building exteriors shall have adequate weather protection, including paint, siding, and/or similar finishes in good condition.
- (3) All buildings and grounds must be secured against trespass 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 deemed insecure shall be secured by their replacement with similar, new doors or window units equipped with locking hardware.
- (4) Roofs on all buildings shall be in good, weather tight condition with no leakage.
- (5) Any accumulated trash or debris must be removed from the property immediately.
- (6) 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.
- (7) Pools and spas shall be drained and kept dry. Properties with pools and spas must comply with the minimum securing fencing requirements of the City.
- (8) The gas utility shall be shut off and the building appropriately winterized to ensure proper maintenance and preservation during inclement weather.
- (9) Adherence to 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, or a mortgagee that has filed a foreclosure action that is currently pending regarding any vacant building shall register the building with the Building Inspector, and maintain the registration up-to-date. Such registration shall occur not later than ninety (90) days after any building becomes a vacant building or not later than thirty (30) days of being notified by the Building Department of the requirement to register based on evidence of vacancy, whichever event shall first occur.

(2) An application for registration of a vacant building shall include all of the following information on forms provided by the City:

- 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; P.O. boxes are not an acceptable address;
- C. A contact name, telephone number and email address for the applicant;
- D. In the case of an application whose home or business is located outside Lake County, the applicant shall provide the name and mailing address of a local property management company as well as the contact name, telephone number and email address of the person responsible for the security, maintenance, and marketing of the property;
- E. The fee required by this section.
- F. A vacant building plan as described in subsection 3 (c) of this section.

(3) Registration shall remain valid for twelve (12) months from the date of issuance. The owner, agent, lessee, or party in control, or mortgagee in foreclosure, shall renew the registration upon expiration for as long as the property remains vacant.

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

(5) Fees: The annual fee for registering a vacant building shall be as follows:

- A. One Hundred Fifty Dollars (\$150.00) for the first year any residential building remains vacant. For every consecutive year thereafter that the residential

building remains vacant, the annual fee will be increased at Fifty Dollars (\$50.00) more than the immediately previous year's annual fee amount but only to a maximum annual fee amount total of Two Hundred Fifty Dollars (\$250.00) for the third year and for all consecutive, subsequent years of vacancy.

B. Three Hundred Dollars (\$300.00) for the first year any business building remains vacant. For every consecutive year thereafter that the business building remains vacant, the annual fee shall be increased at One Hundred Dollars (\$100.00) more than the immediately preceding year's annual fee amount, but only to a maximum annual fee amount of Six Hundred Dollars (\$600.00), for the fourth year and all consecutive, subsequent years of vacancy.

(6) The failure of the owner, agent, lessee, or party in control of any vacant building, or a mortgagee that has filed a foreclosure action that is currently pending regarding any vacant building, to maintain the vacant building in accordance with this Chapter and any applicable zoning, housing, or building codes of the City shall be grounds for revocation of the approved registration and plan required by this Chapter.

(c) Vacant Building Plan. The owner shall submit a Vacant Building Plan, which must meet the approval of the Building Inspector. The Plan, at a minimum must contain information from one of the following three (3) choices:

(1) If the building is to be demolished, a demolition plan indicating the proposed time frame for demolition which includes starting within thirty (30) days of acceptance of the proposed demolition time line does not exceed sixty (60) days in accordance with the Ohio Building Code; or

(2) If the building is to remain vacant, a plan for ensuring the building is secured in accordance with the City of Willowick Codified Ordinances, along with the procedure that will be used to maintain the property, a statement of the reasons why the building will be left vacant (e.g., the building is for sale, etc.); or

(3) If the building is to be returned to appropriate occupancy or use, a rehabilitation plan for the building and grounds. The rehabilitation plan shall not exceed twelve (12) months from the time any and all necessary permits are obtained, unless the Building Inspector 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, or building codes, and a property must be secured during the rehabilitation.

(d) Exemptions. Waivers exempting compliance with the provisions of this Chapter can be obtained in writing on a form provided by the City under the following circumstances as long as the property is kept in safe, secure, and habitable condition in the owner's absence:

(1) Fire damaged buildings: as long as clean up, repair or demolition is initiated within ninety (90) days from the date of the fire.

(2) Extended vacationers or temporary change in living arrangements: A resident on an extended vacation or in an alternative temporary living arrangement, with the intention of re-occupying the property.

(3) A Willowick owner-occupant who has moved and is actively attempting to sell his/her vacant home, provided that a fully completed application of inspection has been filed with the City's Building Department.

(4) Estate of a deceased Willowick homeowner which is actively attempting to sell the vacant home.

(5) A building under active construction/renovation and having a valid building permit at the time of initial inspection shall be exempt from registration until the expiration of the longest running, currently active building permit.

(6) A business building that is either for rent or for sale and listed with a licensed State of Ohio realtor shall be exempt from registration for a period of twelve (12) months from the start of vacancy, provided that the owner in offering a business building for sale submits proof to the Building Department of such listing and for sale status and that a fully completed application of inspection has been filed with the City's Building Department.

#### Section 1338.04 Inspection Certificate Required.

(a) The owner, agent or party in control of any vacant building, shall apply for and obtain a certificate of inspection from the Building Inspector 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 and shall provide a copy of such certificate to the prospective purchaser or transferee prior to sale. A certificate of compliance must be obtained prior to sale or transfer.

(b) An agreement to sell, transfer or otherwise convey an interest in a vacant building shall include a copy of the certificate of inspection from the Building Inspector, in order to permit the escrow agent to comply with this Chapter. The certificate of inspection shall list thereon all known violations of the City Building, Fire Prevention and/or Zoning Codes found as a result of an exterior and interior inspection.

(c) The owner shall deposit in escrow a statement signed by the purchaser or transferee acknowledging receipt of the certificate of inspection, and such statement shall list thereon the date the certificate was given to the purchaser or transferee.

#### Section 1338.05 Certificate of Inspection Application; Inspection; and Issuance.

An application for a certificate of inspection required by this Chapter shall be made upon forms supplied by the Building Inspector.

(a) The Building Inspector shall cause a general exterior and interior safety inspection for the building structure and premises to be made.

(b) The certificate of inspection shall contain the following information:

- (1) The street address or other identifying characteristics of the building structure;
- (2) The name and address of the owner(s); lessee or party in control;
- (3) The authorized use and occupancy of the building structure; and
- (4) The listing of all known violations of the building code existing at the time of such inspection.

(c) Once a certificate of inspection is issued, it shall be valid for a period of one (1) year from the date of the inspection required herein, and that certificate of inspection is only good for one transfer. In the event of resale within the one (1) year period, this certificate shall be transferred to any subsequent bona fide purchaser and shall be valid for the remainder of that period.

Section 1338.06 Escrow Deposit Required Prior to Sale.

(a) If all violations listed on the certificate of inspection are not corrected prior to transfer of title, an escrow account shall be established by a party to the transfer, in an amount not less than One Thousand Dollars (\$1,000.00), and equal to One Hundred Fifty Percent (150 %) of the higher estimated cost of repairs from between at least two City registered contractors capable of performing the work, shall be deposited therein to pay for the cost to correct all remaining violations. No party to a transfer of a vacant building shall authorize or accept such transfer without ensuring compliance with this section.

(b) The amount to be held in escrow shall be determined by a party of the transfer procuring written estimates from at least two companies capable of performing the work, which are currently registered to do business in the City. The amount deposited into escrow shall be One Hundred Fifty Percent (150 %) of the higher of the two estimates.

Section 1338.07 Appeals.

The Board of Zoning Appeals shall be the Board of Appeals for this Chapter and its powers and duties and the procedures for appeal shall be as provided pursuant to Chapter 167 of the City's Codified Ordinances.

Section 1338.08 Dispersal of Funds by Escrow Agents.

No person acting in the capacity of an escrow agent in any real estate transaction involving the sale or transfer of a vacant building, shall disperse any funds held in escrow in compliance with Section 1338.07 unless there has been compliance with Section 1338.08.

(a) Funds shall be dispersed only upon written authorization from the Building Inspector or his/her designee as follows:

(1) The Building Inspector or his/her designee may authorize a release of funds from the escrow account established per Section 1338.07 as payment in full to a contractor as each violation is corrected, provided the amount due does not exceed the written estimate.

Section 1338.09 Certificate of Compliance.

At the request of the owner of the property or his/her agent, the City shall issue a letter or other written document signed and dated by the Building Inspector stating that all violations listed on the certificate of inspection have been completed to the City's satisfaction.

Section 1338.10 Liability.

The issuance of a certificate of compliance does not guarantee compliance with the Building, Fire Prevention and/or Zoning Codes, nor do the Building Inspector and his or her duly authorized designee(s) accept any liability for non-compliance with same. Such certificate shall be considered by all parties as the City's best effort to make known to the owners and purchasers of violations known on a given property at the time the inspection is made.

(a) The City assumes no liability or responsibility for the failure to report violations that may exist and makes no guarantee whatsoever, 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 extent of the person desiring such an inspection.

(b) In issuing a certificate of inspection, the City does not thereby insure, warrant or guarantee to the holder thereof, to his/her assignees, or any other interested party that such certificate contains all of the violations of the City of Willowick Codified Ordinances, state or federal law.

Section 1338.99 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 (\$1,000.00), for each offense. Every day that a violation continues shall constitute a separate and distinct offense. Unpaid registration fees and fines shall be an

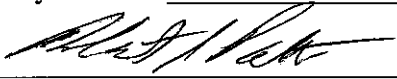
assessment on the property enforceable in the same manner as assessments for delinquent property taxes.

**Section 2.** All formal actions of this Council concerning the passage of this Ordinance were adopted in an open meeting, and that all deliberations of this Council, or any of its Committees, which resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Chapter 107 of the Codified Ordinances and Section 121.22 of the Ohio Revised Code.

**Section 3.** This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety, welfare and dignity of the residents of the City of Willowick.

WHEREFORE, this Ordinance shall be in full force and effect immediately upon its passage by Council and approval by the Mayor.

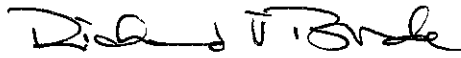
Adopted by Council: JUN 03 2014



Robert Patton, Council President

Attest: Susan K. Womack  
Clerk of Council

Approved by Mayor: JUN 18 2014



Richard J. Bonde, Mayor