

**CHAPTER 791
VACANT AND/OR FORECLOSED PROPERTY REGISTRY**

791.01 VACANT PROPERTY REGISTRY.

(A) Adoption; Purpose. The purpose of this Chapter is to establish a vacant property registration program and to further regulate the maintenance of properties which are in the foreclosure process, abandoned or vacant. This Chapter is intended to reduce and prevent neighborhood blight, to avoid the creation and continuance of public nuisances, to ameliorate conditions that threaten the public health, safety and welfare, to promote neighborhood stability and occupancy by preserving the condition and appearance of residential properties and the worth and activity of commercial and industrial properties, and to maintain property values and assessments.

There is hereby adopted, then, for the aforementioned purposes and for the purpose of providing a means of identifying the owner and/or responsible entities of vacant and/or abandoned properties within the corporate limits of the City of Alliance, Ohio having complete contact information on record for these properties and responsible parties, a registration and maintenance requirement for vacant and/or abandoned properties.

Nothing in this Chapter shall be construed to waive, relieve or otherwise excuse an owner of property from compliance with all applicable codes, ordinances, statutes or laws and the owner shall at all times remain responsible and liable therefore. Nothing in this Chapter shall be construed to prevent the enforcement of other provisions of the Codified Ordinances of the City of Alliance, Ohio or the Ohio Revised Code; and nothing in this Chapter shall be construed to relieve an owner or interested party from duties imposed pursuant to any regulatory code, ordinance, statute, or law of the City of Alliance, Ohio or State of Ohio.

791.02 APPLICABILITY.

Applicability. This Chapter shall be applicable to all residential, commercial, and industrial structures located within the corporate limits of the City of Alliance, Ohio.

791.03 DEFINITIONS.

As used in this section:

A. "Abandoned" means a structure that is unoccupied as the result of the relinquishment of possession or control by an owner or other person with the right of possession or control of the structure, a mortgagor or the mortgagor's assigns whether or not the mortgagor or mortgagor's assigns have relinquished equity and title. A structure may be deemed abandoned when there is evidence of conditions, taken separately or as a whole, that would lead a reasonable person to conclude that the property was abandoned, including, but not limited to, evidence of overgrown or dead vegetation, accumulation of newspapers, circulars, flyers, mail, past due utility notices, or other means of notice by publication, the accumulation of junk, litter, trash, or debris, absence of windows or window treatments, absence of

furnishings and personal items, statements of neighbors, delivery agents or similarly situated persons that the property is abandoned.

B. "Safety Service Director" means the Safety Service Director of the City of Alliance, Ohio or his or her designee.

C. "Codes" means the Codified Ordinances of the City of Alliance, Ohio or those adopted by said Codified Ordinances.

D. "Inspector" means a person employed by or under contract to City of Alliance, Ohio to perform inspections to determine compliance with Codes and to order corrective measures and/or initiate administrative, civil, or criminal proceedings.

E. "Vacant" means a structure that is not lawfully occupied or that otherwise qualifies as "Abandoned" under this Section. Multi-family residential structures shall be considered vacant when substantially all of the dwelling units are not lawfully occupied or that otherwise qualifies as "Abandoned" under this Section. Commercial structures shall be considered vacant when all commercial activity has ceased at the site or that otherwise qualifies as "Abandoned" under this Section. Multi-tenant *commercial* structures shall be considered vacant when substantially all of the units are not lawfully occupied or engaging in commercial activity, or that otherwise qualifies as "Abandoned" under this Section. Industrial structures shall be considered vacant when all industrial or manufacturing activity has ceased at the site or that otherwise qualifies as "Abandoned" under this Section. Multi-tenant *industrial* structures shall be considered vacant when substantially all of the units are not lawfully occupied or engaging in industrial or manufacturing activity, or that otherwise qualifies as "Abandoned" under this Section. In determining whether a structure is vacant, it is also relevant to consider, among other factors, the percentage of the overall square footage of the building or floor not in use to the occupied space; the condition and value of any items in the structure and the presence of rental or for sale signs on the property.

A property that is temporarily unoccupied and is in the process of being lawfully renovated under proper and unexpired permits shall not be considered vacant.

A property that is listed for sale with a licensed realtor under a fully executed listing agreement shall not be considered vacant for the first six months of the listing agreement under which the property was first listed for sale. Such property shall be considered vacant for purposes of this Section upon the expiration of the first six month period for which it is first listed for sale or upon a subsequent re-listing with the same or a different licensed realtor. Unoccupied property listed as "For Sale by Owner" shall be considered vacant for purposes of this Section.

F. "Owner" means the registered owner of a property, any person who holds legal or equitable title to the property, is a mortgagee, a vendee-in-

possession, assignee of rents, executor, trustee, lessee, agent or any other person, firm or corporation that is directly or indirectly in control of a property. The Owner of a property in default or for which a foreclosure action is pending or for which a judgment in foreclosure has been issued shall include the mortgagee, the successor in interest to the mortgagee, the lender or servicing company and any agent acting for the mortgagee, its successors, or a lender or servicing company. Under this definition, there may be more than one "Owner" of a property for purposes of this Chapter.

G. "Secure" means a secure covering shall be placed over all doors and windows which are within fifteen feet of the exterior grade, consisting of one-half inch thick plywood attached to the framing of all such doors and windows by wood screws of a minimum length of one and one-half inches, placed twelve inches on center. Such plywood shall be painted with a minimum of two coats of oil-based exterior paint. In order to be considered secure, a property must also be in compliance with all requirements of the Alliance Codified Ordinances.

791.04 OWNER REQUIRED TO ACT; ENFORCEMENT AUTHORITY

A. The Owner of any structure that has become vacant as defined above shall, within thirty (30) days after the structure first becomes vacant, or within thirty (30) days of receiving notice that a structure is vacant, or within thirty (30) days after the effective date of this Chapter, whichever is later, file a registration statement for each such structure with the Manager or his or her designee on forms provided for such purposes. Any Owner of a property which files a foreclosure action involving said property, or for which a foreclosure action is pending, or a judgment of foreclosure has been issued shall, in addition to all other requirements of this Section, provide a cash bond acceptable to the Safety Service Director or his designee, in the sum of not less than Ten Thousand Dollars (\$10,000.00), to secure the continued maintenance of the property throughout its vacancy and compensate the City of Alliance for any expenses incurred in inspecting, securing, repairing, marking and/or making such building safe by any legal means including, but not limited to, demolition. A portion of said bond in an amount to be determined by the Safety Service Director (but not to exceed ten percent (10%) per annum of the principal amount of the bond posted) shall be retained by the City of Alliance as an administrative fee to fund an account for expenses related to administering this program.

The registration statement shall remain valid for one year from the date of registration. The registering party shall be required to annually renew the registration as long as the structure remains vacant and shall pay an annual registration fee of one hundred dollars (\$100.00) for each residential structure and two hundred and fifty dollars (\$250.00) for each commercial or industrial structure; provided, however, that all religious, educational, benevolent or charitable associations, all governmental agencies shall be exempt from the payment of the

annual registration fee. The registering party shall not be entitled to a refund of all or any part of the registration fee should the structure no longer be deemed vacant during the annual registration period.

The owner shall notify the Safety Service Director or his or her designee within twenty (20) days of any change in the registration information by filing an amended statement on a form provided for such purposes. The registration statement shall be deemed prima facie proof the statements therein contained in any administrative enforcement proceeding or court proceeding instituted by the City of Alliance, Ohio against the owner of the structure. An owner shall be liable under this section for failing to register a vacant structure, failing to pay an appropriate annual registration fee, or failing to timely update any change in registration.

B. In addition to other information required by the Safety Service Director, the registration statement shall include the name, street address and telephone number of a natural person twenty-one years of age or older, designated by the owner as the authorized agent for receiving notices of code violations and for receiving process in any court proceeding or administrative enforcement proceeding on behalf of such owner in connection with the enforcement of this Chapter. This person must maintain an office in Stark or Mahoning Counties, Ohio, or must actually reside within Stark or Mahoning Counties, Ohio. An owner who is a natural person and who meets the requirements of this subsection as to location of residence or office may designate him- or herself as agent.

By designating an authorized agent under the provisions of this subsection the owner is consenting to receive any and all notices of code violations concerning the registered building and all process in any court proceeding or administrative enforcement proceeding brought to enforce code provisions concerning the registered structure by service of the notice or process on the authorized agent. Any owner who has designated an authorized agent under the provisions of this subsection shall be deemed to consent to the continuation of the agent's designation for the purposes of this subsection until the owner notifies the Safety Service Director or his or her designee in writing of a change of authorized agent or until the owner files a new annual registration statement. An owner shall be liable under this Section for failing to register an authorized agent.

C. The owner of any vacant structure shall, within fifteen (15) days of registering a vacant structure, cause a physical inspection of the structure to be made and Secure the structure in accordance with this Chapter, and shall cause photographs to be taken of the property that accurately portrays the condition of the structure. Photographs shall be dated and preserved by owner. An owner shall be liable under this Section for failing to inspect the property or structure or for failing to maintain the inspection photographs as required by this Section.

D. Any owner who fails to register a vacant structure under the

provisions of this subsection shall further be deemed to consent to receive, by posting at the structure, any and all notices of code violations and all process in an administrative proceeding brought to enforce code provisions concerning the structure and premises.

E. The Safety Service Director may issue rules and regulations for the administration of this Section. These rules may designate board-up materials and methods which must be used when securing a structure beyond the standards provided so that the boarding is reasonably incapable of being removed by trespassers or others acting without the owner's consent.

791.05 REGISTRATION REQUIRED AND PENALTY.

A. The Owner of any vacant structure shall file a registration statement for each such structure with the Safety Service Director or his or her designee on forms provided for such purposes. Any such registration statement shall be deemed prima facie proof of the statements therein contained in any administrative enforcement proceeding or court proceeding instituted by the City against the owner or owners of the structure.

B. The owner of any vacant structure who fails to file a registration statement for each such structure within the timeframes established by this Chapter or who fails to update a change in registration information within the timeframes established by this Chapter shall be subject to a fifty dollar (\$50.00) per day administrative penalty with a maximum penalty of one thousand dollars (\$1,000).

C. Notwithstanding any other language in this Chapter and unless otherwise specified, any person who violates any provision of this section or of the rules and regulations issued hereunder and fails to maintain the property according to the Codes shall be guilty of a first degree misdemeanor and, upon conviction, shall be fined not less than two hundred dollars (\$200.00) for each offense. Every day that a violation continues shall constitute a separate and distinct offense.

791.06 ADDITIONAL ENFORCEMENT PROVISIONS

A. Unless otherwise specifically provided, the owner, the owner's agent for the purpose of managing, controlling or collecting rents, and any other person managing or controlling a structure or premises in any part of which there is a violation of the provisions of this code, shall be liable for any violation therein, existing or occurring, or which may have existed or occurred, at or during any time when such person is or was the person owning or managing, controlling, or acting as agent in regard to said structure or premises and is subject to injunctions, abatement orders or other remedial orders.

B. The liabilities and obligations hereunder imposed on an owner shall attach to a trustee under a land trust holding title to such building, structure or premises without the right of possession, management or control, unless said

trustee in a proceeding under said provisions of this code discloses in a verified pleading or in an affidavit filed with the court, the name and last known address of each person who was a beneficiary of the trust at the time of the alleged violation and of each person, if any, who was then acting as agent for the purpose of managing, controlling or collecting rents, as the same may appear on the records of the trust.

C. The liabilities and obligations imposed on an owner shall attach to any financial institution, mortgage company, or any other person or entity with or without an interest in the structure or premises who knowingly takes any action in any judicial or administrative proceeding that is intended to delay issuance or enforcement of any remedy for any violation of the Codes, provided that with respect to fines such person shall be liable only for fines which accrue on or after the date of such action and further provided that no liability shall be imposed under this section for any action taken in any proceeding, including a proceeding to foreclose on a lien, that does not delay or prevent the prosecution of any action brought by the Municipality to enforce the adopted Codes.

D. In the event the City of Alliance, Ohio, due to lack of response of an owner or agent, is required to take action, through its own efforts or via a contract for such services, to abate a nuisance at a vacant property the owner will be billed for the cost of the abatement to include all labor and materials needed to correct the violation. Nuisance abatements shall include, but are not be limited to, elimination of hazardous conditions, cutting of weeds and overgrowth, securing and/or boarding of a structure, trash cleanup and disposal and demolition.

791.07 APPEALS

Appeals from administrative actions shall be processed in accordance with Ohio Revised Code, Section 2506 et seq.

791.08 MISCELLANEOUS

(A) Severability. If any section, subsection, clauses, phrase or portion of this section 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 portion thereof.

(B) Savings clause. The repeal or amendment herein shall not abrogate or affect any offense or act committed or done, or any penalty or forfeiture incurred, or any pending litigation or prosecution of any right established or occurring prior to the effective date of this ordinance, as amended.