

Ordinance No. 388-2024

By Council Members Hairston and Griffin
(by departmental request)

FOR PASSAGE
April 1, 2024

AN EMERGENCY ORDINANCE

To amend Sections 367.99, 3103.09, 3104.02, 3104.06, 3106.01, 3106.05, and 3106.06 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No. 1039-2023, passed February 5, 2024, relating to criminal and civil enforcement and vacant property registration and inspections.

WHEREAS, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:

Section 1. That Sections 367.99, 3103.09, 3104.02, 3104.06, 3106.01, 3106.05, and 3106.06 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No. 1039-2023, passed February 5, 2024, are amended to read as follows:

Section 367.99 Penalty

(a) Whoever violates any provision of this Housing Code for which no other penalty is provided or any rule or regulation promulgated thereunder or fails to comply with this Housing Code or with any order issued shall be guilty of a misdemeanor of the first degree. Each day of a continuing violation shall be deemed a separate offense.

Whoever causes or permits the continuation of any violation of this Housing Code or any rule or regulation promulgated hereunder or fails to comply with this Housing Code or with any written notice or written order issued hereunder, subsequent to conviction therefor shall be liable for further prosecution, conviction and punishment upon the same order or notice without the necessity of issuing a new order or notice, until full compliance has been had on such order or notice upon which the original conviction was made.

(b) Whoever violates Section 367.11 shall be guilty of a misdemeanor of the first degree.

(c) Whoever violates Section 367.12 or 367.13 shall be guilty of a misdemeanor of the first degree.

(d) Whoever violates Sections 365.02, 365.04 or 371.01 shall be guilty of a misdemeanor of the first degree. Each day of a continuing violation shall be deemed a separate offense.

(e) Whoever violates Sections ~~365.02, 365.04~~, 369.13, 369.14, 369.15, 369.16, 369.17, 369.18, 369.19, 371.05, 371.07, 371.10 or 371.13, or Section 369.08, as a first offense shall be guilty of a minor misdemeanor. In addition to any other method of enforcement provided for in this chapter, the above listed minor misdemeanors may be enforced by the issuance of a citation in compliance with Rule 4.1 of the Ohio Rules of Criminal Procedure.

Whoever violates Sections 392.02, 392.021, 392.03, 392.04, or 392.05 is subject to the penalty established in Section 392.99 of these Codified Ordinances. In addition to any other means of enforcement provided for in these Codified Ordinances by statute, Sections 392.02, 392.03, 392.04, 392.05 or 392.06 may be enforced by the issuance of a

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citation in compliance with Rule 4.1 of the Rules of Criminal Procedure, provided that the offense is a minor misdemeanor.

(f) Whoever violates Section 369.08 as a second offense of that section shall be guilty of a misdemeanor of the fourth degree. Whoever violates Section 369.08 as a third or subsequent offense of that section shall be guilty of a misdemeanor of the first degree.

(g) A court of competent jurisdiction may require whoever is convicted of or pleads guilty to a violation of this Housing Code to pay to the Department of Building and Housing fees for inspections of violations that have not been remedied, which fees are described in Sections 367.08 and 3105.26, and the expenses or costs incurred under the provisions for demolition or boarding contained in the Housing Code.

Section 3103.09 Unsafe Structures and Exterior Property Nuisances; Violations and Remedial Notices; Cost Recovery

(a) *Legislative Findings.* Council of the City of Cleveland finds that:

(1) Structures that are vacant and open to entry at doors, windows or other points accessible to the general public:

A. Attract children to enter;

B. Become harborage for vermin;

C. Serve as temporary abode for derelicts, vagrants and criminals; and

D. Are likely to be damaged by vandals or set ablaze by arsonists.

(2) Unkept grounds surrounding vacant, open structures invite the dumping of garbage and rubbish;

(3) Thousands of structures in this City are made of wood-frame construction that is more combustible than other building types;

(4) Thousands of structures in this City are situated on narrow lots and in close proximity to one another, increasing the risk of conflagration and spread of insect and rodent infestation;

(5) Population loss and economic decline experienced by the City in recent years has caused the incidence of vacant, open structures, high grass, weeds, junk, debris, and junk motor vehicles to increase significantly;

(6) Vacant, open structures often become dilapidated because they are not repaired by the owners or persons in control of the structures;

(7) Structures that are vacant and open to entry, high grass, weeds, junk, debris, and junk motor vehicles depress the market value of surrounding properties;

(8) Vacant and unsafe structures in which utility services have not been shut-off create a serious risk of explosion, accidental fire and flood.

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(9) The existence of certain hazardous conditions may require a structure to be vacated; these conditions include but are not limited to:

- A. Danger of structural collapse;
- B. Inadequate heat or use of dangerous heating mechanism;
- C. Danger of fire; and
- D. Lack of plumbing in safe working order.

(10) Structures that remain boarded for an extended period of time contribute to blight, cause a decrease in neighboring property values, create targets for arson, and lead to the cancellation of homeowners' insurance for neighboring property owners;

(11) The following conditions provide harborage and breeding grounds for pests or otherwise create human-health problems:

- A. Grass over eight (8) inches in height;
- B. Noxious weeds including Russian, Canadian, common, or musk thistle; shatter cane; Johnsongrass; wild lettuce; wild mustard; wild parsley; wild parsnip; wild carrot; giant hogweed; ragweed; wild plants that can cause skin reaction upon contact or produce or aggravate hay fever, asthma, allergic respiratory reaction, or similar conditions; and all other noxious weeds, including those listed as prohibited noxious weeds in OAC 901:5-37-01, as it may be amended;
- C. Refuse, including but not limited to, trash, junk, garbage and food waste, offal, animal wastes, tires, and all other waste materials;
- D. Stagnant surface water.

(12) As used in this chapter, "junk" motor vehicle means a motor vehicle that meets all of the following criteria:

- A. Three (3) model years' old or older;
- B. Apparently inoperable; and
- C. Extensively damaged, including, but not limited to, any of the following: missing wheels, tires, engine, motor, or transmission.

(b) *Declaration of Nuisance.*

(1) All buildings or structures that are injurious to or a menace to the public health, safety or welfare, or are structurally unsafe, unsanitary or not provided with adequate safe egress, or constitute a fire hazard, or are vacant and open to public entry, or are otherwise dangerous to human life or injurious to the public, or in relation to existing use constitute a hazard to the public health, safety or welfare by reason of inadequate maintenance, dilapidation, obsolescence or abandonment, are, severally, for the purposes of this Building Code, declared to be "unsafe structures". All unsafe structures or conditions are declared to be public nuisances. The public nuisance shall be abated by correction

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of the violations to the minimum standards of the Codified Ordinances of Cleveland, Ohio, 1976, applicable City rules and regulations, the Revised Code, and Ohio Administrative Code, including the Ohio Building Code, or by demolition.

(2) The condition described under division (a)(8) of this section is declared to be a nuisance because of the risk of harm from explosion, accidental fire or flooding and shall be abated by shut-off of the services.

(3) The conditions listed in division (a)(11) of this section are declared to be nuisances that shall be removed, destroyed, or abated from any property on which they are found.

A. The Director may post a seventy-two (72) hour notice to abate any nuisance under division (a)(11) of this section and, if the nuisance is not abated within seventy-two (72) hours, may abate the nuisance on the property where the seventy-two (72) hour notice was posted.

B. If the nuisance for which the Director has posted a notice to abate is for the nuisance of high grass, noxious weeds, or related overgrowth or brush, or if notice has been posted for the same under Section 209.01, the Director may cause such nuisance to be abated or removed during the remainder of the growing season without further posting of notice. Such notice may be appealed during the remainder of the growing season under subsection (g) of this section.

(4) Junk motor vehicles as defined in division (a)(12) of this section are declared to be nuisances that shall be removed or abated from any property on which they are found. Junk motor vehicles are declared to be a nuisance because:

- A. They harbor rodents, vermin, and other pests;
- B. They contain toxic substances and flammable liquids and fumes;
- C. They attract children to enter;
- D. They serve as temporary abode for derelicts, vagrants and criminals;
- E. They diminish neighboring property values; and
- F. They are likely to be damaged by vandals or set ablaze by arsonists.

(c) *Effective Boarding Pending Rehabilitation.*

(1) *Permits.* Pending the correction of the violations to the minimum standards of the Codified Ordinances of Cleveland, Ohio, 1976, applicable City rules and regulations, the Revised Code, and the Ohio Administrative Code, including the Ohio Building Code, the owner of a structure may secure the structure through effective boarding. In order to effectively board the structure, the owner of the structure shall apply, within three (3) days of receiving a notice of violation, to the Department of Building and Housing for a permit to board. The Department of Building and Housing shall review the condition of the

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structure, determine if it can be effectively boarded, and grant or deny the owner's permit to board, setting forth special requirements, if any, necessary for compliance with minimum standards for effective boarding. The owner shall effectively board the structure within three (3) days of the issuance of a boarding permit, or within any other time limit that the Director deems appropriate. Structures that are boarded without first obtaining a boarding permit or structures that do not comply with the boarding permit shall continue to be considered public nuisances subject to demolition. Within thirty (30) days of the issuance of a permit to board, the owner of the structure shall apply for a rehabilitation permit under Section 3105.06 of the Codified Ordinances of Cleveland, Ohio, 1976. The Director may grant an extension of time for acquiring a rehabilitation permit on the owner's written request and for good cause shown. Failure of the owner to obtain a rehabilitation permit after effective boarding will result in the structure being deemed a public nuisance, and scheduled for demolition.

(2) *Materials.* The effective boarding of a structure shall include, but not be limited to, doors, windows, or other areas of the structure open to ingress and egress and to weather elements at any and all levels of the structure. The openings shall be secured by plywood, not less than one-half (1/2) inch thick, or other material of equal strength, cut and fit into the openings. Openings in excess of forty-eight (48) inches wide shall be framed with two (2) inches by four (4) inches lumber and plywood, or equivalent material fastened twenty-four (24) inches on center onto frame. The plywood or equivalent material shall be fastened into the openings by screw type nails or lag screws.

(3) *Maintenance.* Upon effectively boarding the structure, the owner shall monitor and maintain the structure and its surrounding premises in a safe, sanitary and secured condition. Any portion of the exterior structure that is deemed to be potentially hazardous due to deteriorated conditions, or to be structurally unsound, shall be removed or treated in a manner so as to eliminate the hazard. The exterior premises shall be maintained free of high weeds, debris, junk vehicles, and conditions that may provide harborage for rodents. Failure of the owner to properly maintain the building in the above condition, will result in the structure being deemed a public nuisance, and scheduled for demolition.

(4) *Rehabilitation.* Rehabilitation of the structure shall begin within thirty (30) days of receiving a rehabilitation permit under Section 3105.06 of the Codified Ordinances of Cleveland, Ohio, 1976 unless the time period is extended with permission from the Director. If rehabilitation of the effectively boarded structure does not begin within this time period, or if the rehabilitation permit is otherwise invalidated or revoked, then the Director may declare that the nuisance has not been abated and schedule the structure for demolition.

(d) *Examination and Condemnation.*

(1) The Director is authorized to examine or cause to be examined every building or other structure reported to be unsafe or damaged or injurious to or a menace to the public, and shall make a written record of the examination.

(2) The Director may designate as a public nuisance those particular structures or conditions found to be unsafe under division (b) of this section.

(3) The Director may also declare that a nuisance structure which, due to its advanced state of dilapidation, substantial fire damage or structural infirmity, is an immediate hazard to human life or health, may only be abated by

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immediate repair and rehabilitation to the minimum standards of the Codified Ordinances of Cleveland, Ohio, 1976, applicable City rules and regulations, the Revised Code, and Ohio Administrative Code, including the Ohio Building Code, or by demolition.

(4) Whenever the Director finds a vacant structure open to entry at doors, windows or other points accessible to the general public, he or she may cause the structure to be secured at those points of entry. The Director shall be authorized at any time to enter the premises to secure the structure in order to lessen the severity of the public nuisance. In securing the structure, the Director may call any department, division or bureau of the City for whatever assistance may be necessary, or may, by private contract, secure such structure and may notify utilities to shut-off service to the property under Section 3103.091. This securing shall not be deemed to constitute “effective boarding” under division (b) of this section, and it does not abate the nuisance condition of an unsafe structure, as declared under division (d)(2) of this section, unless so declared in writing by the Director. Later notice, issued under division (e)(1) below, shall include the fact that the Director has found it necessary to take appropriate action to secure the structure.

(e) *Notice of Violation.*

(1) Whenever the Director finds a building, structure or a portion of those to be unsafe and determines it or the property on which it is located to be a public nuisance as defined in this chapter, he or she shall provide to the owner, agent or person in control of the building, structure or portion of those and to any mortgagee of record a written notice of violation stating the defects in the building or structure. The notice of violation shall require the owner within a stated time to abate the nuisance condition of the building or structure by correction of the violations and defects to the minimum standards of the Codified Ordinances of Cleveland, Ohio, 1976, applicable City rules and regulations, the Revised Code, and Ohio Administrative Code, including the Ohio Building Code, or by demolition and removal of the building, structure, or a portion of those.

(2) The notice of violation under division (e)(1) of this section shall also state that if the nuisance is not abated within the required time that the Director may take appropriate action to repair, remove, or otherwise abate the public nuisance and that the owner, agent or person in control shall be responsible for the costs.

(3) A notice of violation under division (e)(1) of this section shall be served by one (1) or more of the following methods:

A. Personal service;

B. Residence service at the owner's address by leaving a copy of the notice of violation with a person of suitable age and discretion then residing therein;

C. Certified mail; to an address where it is reasonably calculated under the circumstances to reach the owner. When determining such an address, the City shall examine:

1. Information the responsible party provided to the City, such as rental registration information or the address used on an appeal or an application; or

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2. Information that a City representative, such as an inspector, has discovered during the performance of their duties; or

3. Information from common and readily available sources such as printed or online directories, credit bureaus, county property records, board of election records, motor vehicle records, court records or other state, county, municipal or federal records.

The City is not required to use all of the sources described in division (e)(3)C. and is not required to use any one of them; the City must use whatever combination of them is reasonably expected to be successful. The address found can be the property or premises which is the subject of the violation.

D. Regular mail and posting as follows:

1. Regular mail service to the owner at an address found under division (e)(3) above, which may be the address of the property that is the subject of the violation; and

2. Regular mail service to the property address that is the subject of the violation notice if that address is different from the address in division (e)(3)D.1; and

3. Posting of the notice of violation on the building, premises or real estate or appurtenance thereto that is the subject of the violation notice.

E. Service made by publication electronically or once in a newspaper of general circulation in the City.

(4) An owner, agent or person in control of the structure or building, a mortgagee of record, or a lien holder of record who has received a notice of violation or a notice to make corrections to the minimum standards of the Codified Ordinances of Cleveland, Ohio, 1976, applicable City rules and regulations, the Revised Code, and Ohio Administrative Code, including the Ohio Building Code, or to demolish and remove, as provided for in this section, shall inform prospective purchasers, vendees, grantees, assignees, lessees, or land contractees of the notice of violation or the notice to make corrections, or to demolish and remove. No person shall transfer to a vendee, grantee, assignee, lessee, land contractee or any other transferee any interest in a building, structure or a portion of those after receiving a notice of violation to make corrections, or to demolish and remove the same, without first providing the transferee with a copy of the notice.

(5) A. No person, agent, firm or corporation shall sell, by land contract or otherwise, any interest in any structure or building without furnishing the buyer, prior to the sale a copy of any outstanding notice or order from the City, including any notice of violation or any outstanding notice to make corrections to the minimum standards of the Codified Ordinances of Cleveland, Ohio 1976, applicable City rules and regulations, the Revised Code, including the Ohio Building Code, or any outstanding notice to demolish and remove. No buyer or grantee, by land contract or otherwise, shall obtain any interest in any structure or building without obtaining from the seller, prior to sale, the documents described above.

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B. No person, agent, firm or corporation acting in the capacity of an escrow agent in any real estate transaction involving the sale of a structure or building situated in the City, shall disburse any funds unless the provisions of this division have been met.

C. Any buyer or grantee, by land contract or otherwise, of a structure or building, with the exception of those properties required to be registered under Chapter 3106, shall begin at the date of transfer to comply with any notice or order obtained or to be obtained under this division and, within ten (10) days of the date of transfer, shall notify the Director, in writing, of the actions that will be taken to comply. If the grantee fails to provide a written plan, or to comply with the notice, within ten days, the grantee shall be in violation of Section 3103.25(e). If the Director considers the written plan to be acceptable, he or she shall notify the grantee and the grantee shall be bound by the written plan as an extension of time under the notice and shall be in violation of Section 3103.25(e) if the violations are not corrected by the time set forth in the written plan. If the Director considers the written plan to be unacceptable, he or she shall issue to the grantee a notice with dates for compliance.

(f) *Vacating Buildings and Prohibiting Use.* The Director may also require in the notice issued under division (e)(1) of this section that the building, structure or a portion of those be vacated, not be reoccupied, or used until the specified repairs and improvements are completed, inspected, and approved by the Director. The Director may cause to be posted at each entrance to the building or structure a notice as follows: “THIS STRUCTURE IS IN A DANGEROUS CONDITION AND HAS BEEN CONDEMNED AND ITS USE HAS BEEN PROHIBITED BY THE DIRECTOR OF BUILDING AND HOUSING.” The notice shall remain posted until the required corrections are made or demolition is completed. No person shall remove the notice without written permission of the Director, nor shall any person use or enter the building or structure except for the purpose of making the required corrections or demolishing or effectively boarding the building or structure, or securing the structure under division (d)(4) of this section.

(g) *Right to Appeal.* The owner, agent or person in control shall have a right to appeal from the notice and decision of the Director as provided in this section and appear before the Board of Building Standards and Building Appeals at a specified time and place to show cause why he or she should not comply with the notice. Any notice served by the Director shall automatically become a final order if a written notice of appeal before the Board is not filed in the office of the Board within the time set forth in the notice from the Director. In the absence of an appeal, all actions taken shall constitute a valid exercise of the police powers of the City of Cleveland.

(h) *Noncompliance with Notice.*

(1) *Director Authorized to Demolish, Remove, or Abate.* In case the owner, agent or person in control fails, neglects or refuses to comply with the notice to repair or rehabilitate, or to demolish and remove a public nuisance or unsafe building, structure or a portion of those, the Director may take appropriate action to demolish and remove an unsafe structure or to remove or abate any condition that is defined as a nuisance under this chapter.

(2) *Action by Director of Law.* The Director may advise the Director of Law of the facts in the case, who may institute appropriate action in the court to

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cause correction of the violations and defects, or demolition and removal, or effective boarding of the building or structure pending rehabilitation.

(3) *Rehabilitation Permits Not Bar to Director's Action to Abate.* The securing of rehabilitation permits for the building or structure shall not in and of itself bar the Director from taking action to abate the nuisance.

(4) *Effective Boarding by Director.* The Director may, with respect to any condemned structure, also take appropriate action to effectively board the structure, or to secure it under division (d)(4) of this section. The Director shall specifically state in writing his or her findings with respect to the structure, and shall determine whether to secure or to effectively board, based on factors which may include the following: the distance of the structure from neighboring structures, the type of structure, the extent to which the structure is secured, the likelihood of vandalism or arson, the extent of the deterioration, the economic likelihood of eventual rehabilitation of the structure, or cost of securing or effectively boarding the structure.

(5) *Failure to Comply with Notice.* In case the owner, agent or person in control fails, neglects or refuses to comply with the notice to repair or rehabilitate, or to demolish and remove a public nuisance or unsafe building, structure or a portion of those, or to remove or abate any other condition that is defined as a nuisance under this chapter, the Director may take appropriate action to take repair or maintenance measures or cause utility services to be shut-off under Section 3103.091 or to otherwise abate the public nuisance. The Director shall specifically state in writing the findings with respect to the structure, and shall determine whether to perform repair or maintenance based on factors which may include the following: the distance of the structure from neighboring structures, the type of structure, the extent of deterioration, the likelihood of vandalism or arson, the economic likelihood of eventual complete rehabilitation of the structure, the cost of repair or maintenance.

(6) *Notice of Intent to Demolish and Remove or Repair.* Except as provided in division (1) of this section, the Director shall give written notice ~~by certified mail~~ as provided in this section to the owner, agent, or person in control, mortgagee of record and lien holders of record of the City's intention to demolish and remove or repair the unsafe building or structure at least thirty (30) days before the intended action by the City. The notice shall include a copy of the violation notice. A condemned structure, once effectively boarded by the owner pending rehabilitation that later becomes open to entry, upon a finding by the Director that the structure can no longer be effectively boarded, may then be demolished and removed, subject to the Director giving written notice as stated in this division (h)(6).

(i) *Junk Motor Vehicle Removal.*

(1) *Notice.* The Director shall send written notice, by certified mail with return receipt requested, to the person having the right of possession of the property on which a junk motor vehicle, as defined in this chapter, is left. This notice shall notify the person having right of possession of the property that within ten (10) days of mailing of the notice, the junk motor vehicle either shall be covered by being housed in a garage or other suitable structure or removed from the property. The notice shall also be posted in a conspicuous place on the property.

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(2) *Director Authorized to Remove Junk Motor Vehicles.* The Director is authorized to provide for and order the removal of a junk motor vehicle when the junk motor vehicle has not been either covered by being housed in a garage or other suitable structure or removed from the property, within ten (10) days of the date of mailing and posting of the notice as set forth above.

(j) *Cases of Emergency.* In cases of emergency that, in the opinion of the Director, involve immediate danger to human life or health, the Director shall promptly cause the building, structure or a portion of those to be made safe or removed. For this purpose he or she may at once enter the structure or land on which it stands, or any abutting land or structure, with assistance and at the cost as he or she deems necessary. He or she may request the Director of Public Safety to enforce the orders he or she gives that are necessary to cause the building, structure or a portion of those to be made safe or removed. The Director of Public Safety has the authority to enforce the orders. He or she may order adjacent structures and premises to be vacated, and protect the public by an appropriate fence or other means as may be necessary, and for this purpose may close a public or private way.

(k) *Costs to Be Paid by Property Owner.*

(1) Any and all expenses or costs, including but not limited to attorneys fees, costs of inspection, administrative staff and support staff, property maintenance costs, court costs, title search fees, process server fees, skip tracing expenses, and costs of collection or prosecution, including discovery and deposition expenses, incurred under this section relating to the demolition, repair, alteration, securing or boarding of a building or structure or for abating any other nuisance shall be paid by the owner of such building or structure, except when such expenses or costs are incurred with respect to a government or school building owned by a governmental entity or political subdivision and are funded by federal money.

(2) Any and all owners of a building or structure, who appear in the chain of title from the time of receipt of a notice of condemnation until demolition of the building or structure, shall be jointly and severally responsible for all costs and expenses incurred relating to the demolition and all costs and expenses of prosecution or collection related thereto. In the case of a junk motor vehicle, any and all expenses or costs incurred under this section to remove the vehicle shall be paid by the person having the right of possession of the premises where the vehicle is located.

(3) Whenever an inspection is made after the compliance date stated on a Notice of Violation of the Building Code, the Housing Code, or the Zoning Code or after a compliance date determined by a court of competent jurisdiction to determine whether the violation has been remedied and the violation has not been remedied, or an additional permit is obtained for work previously permitted and the original permit has expired or was appropriately voided, a fee of one hundred dollars (\$100.00) shall be charged for each inspection, except that this fee shall not apply to one (1) family and two (2) family owner-occupied dwelling structures.

(4) If within thirty (30) days from the date the Director of Building and Housing sends a statement of charges and costs incurred to the last known address of the property owner or the tax mailing address listed at the Cuyahoga County Recorder's office and its successor in interest as the custodian of the real property tax records for Cuyahoga County, the owner fails to pay for the costs of removal, repair, alteration, securing or boarding or of inspections of violations

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that have not been remedied, or the person having possession fails to pay for the cost of removing a junk vehicle, the Director may certify the amount to the Commissioner of Assessments and Licenses, including collection agency fees. The Commissioner of Assessments and Licenses may make written return to the County Auditor of the action under this section with a statement of the charges for services, the amount paid for the performing of labor and a proper description of the premises. Certification to the County Auditor is for the purpose of making expenses and costs a lien upon the lands, to be collected as other taxes and returned to the City with the General Fund, with special accounting under RC 715.261.

(5) Notwithstanding the method of collection set forth in this division, the Director of Law, in the Director's sole discretion, may take any action necessary to collect the costs of demolition, boarding, or other nuisance abatement from the owner or other responsible party, including but not limited to filing of legal proceedings, referring the amount due to outside counsel by the Law Director for collection action, including filing civil complaints, and initiating post judgment execution actions.

Section 3104.02 Civil Offenses

In addition to any other means of enforcement provided for in these Codified Ordinances, each of the following sections may be enforced through the issuance of a Notice of Civil Offense to the Responsible Parties:

1. Section 337.23 Accessory Uses in Residence Districts
2. Section 337.231 Portable Storage Containers
3. Section 347.02 Restrictions on the Keeping of Farm Animals and Bees
4. Section 347.08 Regulations for Trash Areas and Refuse Containers
5. Section 347.10 Temporary Use Permits
6. Section 347.121 Hookah Lounges and Vapor Lounges
7. Section 349.02 Existing Off-Street Parking Facilities
8. Section 349.04 Required Parking Spaces
9. Section 349.13 Permitted Garages and Parking Space in Residence Districts
10. Section 357.13 Yard Encroachments Permitted
11. Section 357.14 Yard Encroachments Prohibited
12. Section 365.02 Non-Owner-Occupied Residential Rental Unit Registration Required; Application for and Issuance of Certificate of Rental Registration; Certificate of Approving Rental Occupancy; Revocation
13. Section 365.04 Lead-Safe Certification Required for Residential Rental Units Built Before January 1, 1978
- ~~12.~~ 14. Section 369.08 Rubbish and Garbage Disposal
- ~~13.~~ 15. Section 369.13 General Maintenance Requirements
- ~~14.~~ 16. Section 369.14 Maintenance of Foundations
- ~~15.~~ 17. Section 369.15 Maintenance of Exterior Walls and Roof
- ~~16.~~ 18. Section 369.16 Maintenance of Interior Walls and Floors
- ~~17.~~ 19. Section 369.17 Infestation by Pests
- ~~18.~~ 20. Section 369.18 Exterior Property Areas
- ~~19.~~ 21. Section 369.19 Secondary or Appurtenant Structure
22. Section 371.03 Minimum Requirements for Fire-Protective Features
- ~~20.~~ 23. Section 371.05 Lighting of Public Hallways and Common Areas
- ~~21.~~ 24. Section 371.07 Rubbish and Garbage Disposal Facilities
- ~~22.~~ 25. Section 371.10 Sanitation Responsibilities of Owner and Occupant
26. Section 371.11 Required Heating Capacity

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~~23-27.~~ Section 371.13 Identification of Dwelling Units

~~28.~~ Section 391.17 Maintenance

~~24-29.~~ Section 392.02 Smoke Detection and Alarm Systems – Installation

Required

~~25-30.~~ Section 392.021 Carbon Monoxide Alarms; Installation Required in Rental Dwelling Units

~~26-31.~~ Section 392.03 Testing, Inspection, and Notification

~~27-32.~~ Section 392.04 Maintenance

~~28-33.~~ Section 392.05 Tampering

~~29-34.~~ Section 3101.10(e) Safety and Maintenance – Maintenance of Exterior Property Areas

~~30-35.~~ Section 3101.11 Removal of Graffiti

~~36.~~ Section 3103.09(f) Unsafe Structures and Exterior Property Nuisances; Violations and Remedial Notices; Cost Recovery - Vacating Buildings and Prohibited Use

~~31-37.~~ Section 3103.091 Utility Shut-Off in Vacant and Unsafe Structures

~~32-38.~~ Section 3103.10 Abandoned Service Stations

~~39.~~ Section 3103.25 Violations Generally

~~33-40.~~ Section 3105.01 Permits Required; Exceptions

~~34-41.~~ Section 3105.02 Permit Applications; Plans and Specifications

~~35-42.~~ Section 3105.05 Plans Required at Work Site

~~43.~~ Section 3106.02 Duties of Responsible Party

~~44.~~ Section 3106.03 Vacant Building Registration Required

~~45.~~ Section 3106.04 Vacant Building Inspection, Obligation to Correct Violations, and Issuance of Certificate of Correction

~~46.~~ Section 3106.06 Inspection Required for Transfer of Vacant Residential Property; Correction Required Following Transfer

~~36-47.~~ Section 3109.11 Retractable Awnings

~~37-48.~~ Section 3125.01 Protection of Excavations

~~49.~~ Section 3141.05 Responsibility of Owner

Section 3104.06 Collection

The costs imposed by this Chapter may be enforced and collected by means of a civil action or any other means provided for in these Codified Ordinances or the Ohio Revised Code. The costs imposed under this Chapter may be recovered as provided in Revised Code Section 715.261, including certifying the costs and expense to the County Auditor, to be placed on the property as a lien to be collected as other taxes and returned to the City.

Section 3106.01 Definitions

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

(a) “Vacant building” or “vacant property” means a building that is not occupied by its owner, lessee or other person in lawful possession, and at which substantially all lawful business operations or substantially all residential occupancy has ceased, or which is substantially devoid of content. As used in this chapter, “vacant” shall have the same meaning as found in division (b) of Section 209.02.

(b) “Responsible Party” means the owner, Local Agent in Charge as defined in Section 365.01, other agent, lessee, or party in control of any vacant building, or a party

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that has filed and is currently maintaining an open foreclosure action regarding a vacant building.

(c) “Commercial building”, “commercial property,” and “commercial real estate” shall have the same meaning as “commercial real estate” in Revised Code Section 4703.20.

Section 3106.05 Bond Required for Registration of Non-Residential Property

(a) Upon registration of a commercial, industrial, or other non-residential vacant building of under or equal to 10,000 interior square feet, as of July 1, 2024, the Responsible Party shall provide a cash bond to the Director in the sum of five thousand dollars (\$5,000). Upon registration of a commercial, industrial, or other non-residential vacant building of over 10,000 interior square feet, as of July 1, 2024, the Responsible Party shall provide a cash bond to the Director in the sum of fifteen thousand dollars (\$15,000). Thereafter, the amounts may be adjusted by the City of Cleveland on an annual basis, beginning July 1, 2025 and each year thereafter in proportion to the Consumer Price Index for Northeast Ohio, as published by the Bureau of Labor Statistics, U.S. Department of Labor.

Upon registration of a non-residential vacant property under Section 3106.03, the Responsible Party may apply to the Director for an exemption from the bond requirement in this Section. Upon such application, the Director may cause a vacant building inspection to occur at the vacant property. The exemption shall be granted only under one of the following conditions:

(1) The exemption shall be granted until the ~~transfer or occupancy of the property of the property~~ next annual registration of the property if the property is not boarded up and has not been boarded up by the City in the last three years; no Notices of Violation have been issued against the property with which the Responsible Party has not complied; no formal complaints regarding the Responsible Party’s ownership or maintenance of the property have been made in the last three years and were found meritorious; and the Responsible Owner is not delinquent regarding the vacant property’s property tax balance.

(2) The exemption shall be granted until the next annual registration of the property if the Responsible Party can demonstrate that there are reasonable and substantial plans to correct the property’s code violations; there has been substantial progress in correcting the property’s code violations; and appropriate permits have been filed.

(3) The exemption shall be granted indefinitely if the Owner is a Governmental Entity.

(b) Such bond may be used to ensure the continued maintenance of the property in compliance with the provisions of this Housing Code throughout its vacancy and to reimburse the City for any fees owed and expenses incurred in inspecting, securing, repairing and/ or making such building safe by any legal means including, but not limited to, demolition.

(c) If violations of the Codified Ordinances are identified by the City and their correction would cost more than the value of the bond required under division (a) of this section, then the City is authorized to require a higher bond, based on the amount set in the report of such inspection. If the Bond is entirely depleted, the Responsible Party shall provide another bond for the greater of the cost of repairing the remaining,

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uncorrected violations or the equivalent value as it was required to provide under division (a) of this section, whichever is greater.

(d) The bond obligations of this section shall apply until the property is no longer vacant or until title to the property has been transferred to a third party.

(e) When the property is no longer vacant or the title to the property has transferred, the remaining bond funds will be returned to the party making the deposit upon proof of compliance with this Chapter and if the owner submits a written request for such refund.

Section 3106.06 Inspection Required For Transfer of Vacant Residential Property; Correction Required Following Transfer

(a) To sell, transfer, or convey any interest in a residential vacant property, or enter into an agreement regarding the same, shall require a vacant building inspection that has occurred within one year of the sale date. In the event of resale within the one-year period, the vacant building inspection report shall be transferred to any subsequent bona fide purchaser and shall be valid for the remainder of that period.

(b) Prior to selling, transferring, or conveying any interest in or entering into an agreement to sell, transfer or otherwise convey an interest in any vacant residential property, the Responsible Party shall provide a copy of a vacant building inspection that has occurred within one year of the proposed sale date to the prospective purchaser or title transferee prior to conveyance of the title.

(c) An agreement to sell, transfer or otherwise convey an interest in a vacant building shall include a copy of the vacant building inspection from the Director.

(d) Following transfer, the Responsible Party, with the exception of a Responsible Party that is a Governmental Entity, shall correct all code violations at the vacant property and bring the property into compliance with Section 365.04 within six months of transfer or, if the Director determines that the condition of the property poses a threat to health and safety such that it should be corrected within a lesser time, within a lesser time established by the Director. Failure to do so shall be a violation of Section 3103.25(e).

(1) The Responsible Party may request from the Director an extension of time to correct the code violations. Such a request shall be made at least 30 days before the end of the Responsible Party's time to comply, and the request shall be made on a form provided by the Director. No single extension may be for more than six months. Responsible Parties may request multiple extensions.

(2) The Director shall approve such a request for an extension so long as the request for an extension is reasonable, the buyer has made substantial progress in correcting the violations, and issuing an extension is in the best interests of the City. If such an extension is approved, then failure to make the corrections within the extended time shall be a violation of Section 3103.25(e).

(3) The Responsible Party may appeal any decision by the Director under this Section to the Board of Zoning Appeals, in writing within ten (10) days from the date of the Director's issuance of the decision. The Board may sustain, disapprove, or modify the Director's action, and the Board's decision shall be final.

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Section 2. That existing Sections 367.99, 3103.09, 3104.02, 3104.06, 3106.01, 3106.05, and 3106.06 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No. 1039-2023, passed February 5, 2024, are repealed.

Section 3. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

DR:nl
4-1-2024
FOR: Director Martin O'Toole

Ord. No. 388-2024

REPORT
after second Reading

By Council Members Hairston and Griffin (by departmental request)

AN EMERGENCY ORDINANCE

To amend Sections 367.99, 3103.09, 3104.02, 3104.06, 3106.01, 3106.05, and 3106.06 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No. 1039-2023, passed February 5, 2024, relating to criminal and civil enforcement and vacant property registration and inspections.

READ FIRST, SECOND AND THIRD TIME

READ FIRST TIME

REPORTS

and referred to

CITY CLERK

READ SECOND TIME

CITY CLERK

READ THIRD TIME on APRIL 1, 2024

PRESIDENT

CITY CLERK

APPROVED

MAYOR

Recorded Vol. 111

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Published in the City Record _____