

Ordinance No. 1039-2023

By Council Members Conwell, Hairston and Griffin (by departmental request)

AN EMERGENCY ORDINANCE

To amend various Sections of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by various ordinances, relating to the Department of Building and Housing generally; to renumber existing Section 3143.04 to 3143.98; to change the name of Chapter 3143; and to enact new Sections 3104.01 to 3104.09, 3104.99, 3106.01 to 3106.10, 3106.99, 3143.04, and 3143.05, relating to civil enforcement, vacant property registration, and parking garage 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 the following sections of the Codified Ordinances of Cleveland, Ohio, 1976,

Section 201.99, as amended by Ordinance No. 486-04, passed October 11, 2004,

Section 203.02, as amended by Ordinance No. 318.06, passed March 20, 2006,

Section 203.03, as amended by Ordinance No. 511-76, passed June 14, 1976,

Section 327.02, as amended by Ordinance No. 1551-50, passed June 25, 1951,

Section 327.04, as amended by Ordinance No. 54-94, passed June 6, 1994.

Section 327.99, as amended by Ordinance No. 1555-13, passed October 17, 2016

Sections 365.02, 365.03, and 365.09, as amended by Ordinance No. 747-2019, passed July 24, 2019,

Section 367.03, as amended by Ordinance No. 1075-09, passed August 5, 2009,

Sections 367.04 and 367.05, as amended by Ordinance No. 612-2022, passed September 26, 2022,

Sections 367.12 and 367.99 as amended by Ordinance No. 747-2019, passed July 24, 2019,

Section 381.04, as amended by Ordinance No. 778-76, passed June 14, 1976,

Section 381.99, as amended by Ordinance No. 1309-05, passed December 5, 2005,

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Section 3103.04, as enacted by Ordinance No. 1116-A-85, passed February 10, 1986,

Section 3103.09, as amended by Ordinance No. 612-2022, passed September 26, 2022,

Section 3103.25, as amended by Ordinance No. 2370-01, passed May 13, 2002,

Section 3143.01 and 3143.03, as amended by Ordinance No. 1533-15, passed April 4, 2016, and

Section 601.061, as amended by Ordinance No. 1198-20, passed May 16, 2011,

are amended to read as follows:

Section 201.99 Penalty

(a) Whoever fails to comply with a written order issued under this Health Code is guilty of a misdemeanor of the first degree. Each day of noncompliance shall constitute a separate offense. Whoever violates any provision of this Health Code, where another penalty is not otherwise provided, is guilty of a minor misdemeanor on a first offense and shall be fined not more than one hundred fifty dollars (\$150.00); on a second or subsequent offense, such person is guilty of a misdemeanor of the first degree and shall be fined not more than one thousand dollars (\$1,000.00) or imprisoned not more than six (6) months, or both. Each day of a continuing violation or non-compliance constitutes a separate offense.

(b) Whoever violates Sections 203.07, 203.08, ~~203.09~~, 205.02, 209.01, 209.02(a), 211.01 or 211.02 shall be fined not more than one hundred fifty dollars (\$150.00). 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.

Section 203.02 Notice to Abate; Exception

(a) Whenever the Commissioner of Environment or any authorized City officer or employee ascertains, either upon information or by observation or inspection, that any condition amounting to a nuisance or defined by law or ordinance as a nuisance exists on any premises, which nuisance affects or endangers the public health, either of them shall, in writing, notify the owner or person in charge of the premises, requiring the abatement or removal of the nuisance within a reasonable time, unless no such owner or person in charge can be found, or unless the circumstances are such, in their opinion, as to require the immediate abatement or removal of the nuisance, without waiting to give notification.

In the case of a vacant lot or a lot on which the main building or structure is vacant, either of which lot contains a nuisance as described in 209.01, the procedures outlined in Chapter 209 may be followed. In case of a nuisance as described in 209.01, the abatement shall last for the remainder of the growing season.

(b) A notice of violation under this Section 203.04 shall be served by one (1) or more of the following methods.

(1) Personal service; The City department issuing the notice may use any method that causes the Notice of Violations to be actually delivered to the

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responsible party. Actual delivery shall constitute legal service of the Notice of Violations.

(2) 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.

(3) 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:

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

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

C. 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 these methods 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.

(4) Regular mail and posting as follows:

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

B. Regular mail service to the property address that is the subject of the violation notice, if that address is different from the address in A.; and

C. Posting of the notice of violation in a conspicuous location on the building, premises or real estate or appurtenance thereto that is the subject of the violation notice.

(5) Service by publication electronically or once in a newspaper of general circulation in the City.

Section 203.03 Compliance; Abatement by City; Costs a Lien

(a) No person shall fail or refuse to comply with any provision of this Health Code or fail to comply with any lawful order issued by the Commissioner of Environmental Health or any authorized City officer or employee in the enforcement under this Health Code.

(b) In addition to any penalty for a violation of this Health Code, the Commissioner or any authorized City officer or employee may, by their authorized representatives, remove, abate, suspend, alter or otherwise improve or purify such nuisance and certify, as allowed by law, the costs and expense thereof to the County Auditor, to be assessed against the property and thereby made a lien upon it and collected as other taxes.

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Section 327.02 Enforcement; Permits and Certificates of Occupancy

(a) This Zoning Code shall be enforced by the ~~Division~~ Department of Building and Division of Housing under the direction of the ~~Commissioner of Building and the Commissioner of Housing~~ Director of Building and Housing. No person shall fail to comply with any provision of this Zoning Code or fail to comply with any lawful order issued under this Zoning Code.

(b) No person shall erect, alter or enlarge any building or structure until a permit for such erection, alteration or enlargement has been issued by the Department of Building and Housing. ~~No building shall be erected, altered or enlarged until a permit for such erection, alteration or enlargement has been issued by the Commissioner of Building.~~

(c) No person shall change, substitute or extend the use of any existing building or premises until a certificate of occupancy has been issued. No person shall permit any premises to be occupied for any new, changed, substituted or extended use, until a certificate of occupancy has been issued. ~~There shall be no change or substitution in the use of any existing building or premises and no extension of any existing use, nor shall any premises be occupied for any new use, until a certificate of occupancy has been issued.~~

(d) Before any permit or certificate of occupancy is issued, the ~~Commissioner of Building and the Commissioner of Housing~~ Director of Building and Housing shall examine or cause to be examined the application therefor, and any plans and plot plan accompanying such application, to ascertain whether the proposed work and use will conform to the provisions of this Zoning Code. No permit or certificate of occupancy shall be issued unless the proposed work and use conform to the provisions of this Zoning Code.

(e) In all instances where yard and open spaces are required by this Zoning Code, a plot plan drawn to scale shall be submitted with the application and shall clearly indicate the proposed yards, the extent of all proposed encroachments beyond required yard lines and the location of and distances to buildings on adjoining premises. The location of front yard lines and side street yard lines shall be checked and approved by the ~~Commissioner~~ Manager of Engineering and Construction ~~of the Department of Public Service~~ in the Office of Capital Projects before any permit is issued.

(f) Whenever the Director of Building and Housing determines that a use regulated under this Zoning Code is in violation of this Zoning Code, he or she shall notify in writing the person in control of the use. The notice shall order the person in control to cease the use and to take all action necessary to bring the property into compliance with this Zoning Code. The Director shall also notify the owner, if the owner is not the person in control of the use, to take all reasonable action to cause the person in control of the use to cease the use and take all action necessary to bring the property into compliance with this Zoning Code. Reasonable action may include filing an action in an appropriate court.

(g) Notices of Violation issued under this Zoning Code shall be served on responsible parties or owners by one (1) or more of the following methods:

(1) Personal service; The City department issuing the notice may use any method that causes the Notice of Violations to be actually delivered to the responsible party. Actual delivery shall constitute legal service of the Notice of Violations.

(2) 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;

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(3) 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:

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

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

C. 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 these methods 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.

(4) Regular mail and posting as follows:

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

B. Regular mail service to the property address that is the subject of the violation notice, if that address is different from the address in A.; and

C. Posting of the notice of violation in a conspicuous location on the building, premises or real estate or appurtenance thereto that is the subject of the violation notice.

(5) Service by publication electronically or once in a newspaper of general circulation in the City.

Section 327.04 Cases of Emergency: Immediate Vacation of Premises

Whenever, in the opinion of the ~~Commissioner~~ Director of Building and Housing, the use or condition of structures or premises constitutes an immediate hazard to human life or health, he or she shall declare a case of emergency and shall make an order to cease use or vacate.

He or she may request the Director of Public Safety to enforce the orders he or she gives that are necessary to cause the use of the structure or premises to be ceased or the structure or premises to be vacated in accordance with the terms of the notice. The Director of Public Safety has the authority to enforce such orders.

Section 327.99 Penalty

(a) Except as provided in divisions (c) and (d) below, whoever fails to comply with a lawful order issued under this Zoning Code is guilty of a misdemeanor of the first degree. Each day of noncompliance constitutes a separate offense. any person, firm or corporation who violates any of the provisions of this Zoning Code or who fails to comply shall, for each and every violation or failure, be fined not less than one hundred

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dollars (~~\$100.00~~), nor more than five hundred dollars (~~\$500.00~~) or imprisoned for not less than ten (~~10~~) days, nor more than ninety (~~90~~) days, or both. A separate offense shall be deemed committed each day during or on which such violation or failure to comply is permitted to exist under notification thereof.

(b) The imposition of any penalty under this division shall not be construed as excusing or permitting the continuance of any violation, and when the violation constitutes a nuisance, any owner of the premises, whether the owner at the time the violation was committed or his or her assignee, shall be deemed guilty of a violation of this Zoning Code each day he or she permits such nuisance to continue unabated after due notice from the Director of Building and Housing of the existence of such nuisance.

(c) ~~Any person, firm, or corporation who~~ Whoever violates any provision of Section 337.16 of this Zoning Code ~~or who fails to comply~~ shall, for each and every violation or failure, be fined not less than two hundred fifty dollars (\$250.00), nor more than five hundred dollars (\$500.00) which fine shall not be reduced, waived or suspended. In addition, imprisonment for not less than ten (10) days nor more than ninety (90) days may be imposed. Each day of violation constitutes a separate offense. ~~A separate offense shall be deemed committed each day during or on which such violation or failure to comply is permitted to exist after notification thereof.~~

(d) Whoever violates Sections 337.23, 337.231, 347.02, 347.10, 347.121, 349.02, 349.04, 349.13, 350.19, 357.13 or, 357.14 or Section 347.08 is guilty of a minor misdemeanor. ~~as a first offense of that section shall be fined not more than one hundred fifty dollars (\$150.00).~~ 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.

~~(e) — Whoever violates Section 347.08 as a second offense of that section shall be fined not more than two hundred fifty dollars (\$250.00) or imprisoned for not more than thirty (30) days, or both. Whoever violates Section 347.08 as a third or subsequent offense of that section shall be fined not more than one thousand dollars (\$1,000.00) or imprisoned for not more than six (6) months, or both.~~

~~(f)~~(e) Whoever violates or fails to comply with any provision of Chapter 351 is guilty of a misdemeanor of the first degree. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

Section 365.02 Residential Rental Unit Registration Required; Application for and Issuance of Certificate of Rental Registration; Revocation
Non-Owner-Occupied Residential Unit Registration Required; Application for and Issuance of Certificate of Non-Owner-Occupied Residential Registration; Certificate Approving Rental Occupancy; Revocation

(a) ~~*Rental Unit Registration Required.* An owner of a residential rental unit or units located in the City shall register each unit with the Department of Building and Housing in a rental registry which is established by the Director.~~

(b) ~~*Application Information.* Application for a certificate of rental registration required by this Housing Code shall be made annually, on or before March 1st on forms supplied by the Director. Information to be supplied on an application shall include, but is not limited to, the following:~~

(a) ~~*Non-Owner Occupied Residential Unit Registration Required.* An owner of a non-owner occupied -residential unit or units located in the City shall apply to register each unit in a manner prescribed in writing by the Director in a publicly available non-owner-occupied residential unit registry established and maintained by~~

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the Director. Upon approval of an application, the owner shall receive a Certificate of Non-Owner Occupied Residential Unit Registration. Such an owner, before renting such a unit, shall obtain a Certificate Approving Rental Occupancy.

(b) Information Required for Annual Non-Owner-Occupied Residential Unit Registration. Application for a certificate of non-owner-occupied residential unit registration required by this Housing Code shall be made annually, on or before March 1st of each calendar year in accordance with the process prescribed in writing by the Director. Information, or documentation, to be supplied on, or with, an application shall include, but is not limited to, the following:

(1) The name, address, telephone number and email address of the owner or owners of the premises. If the owner is a partnership, then the names, addresses, telephone numbers and email addresses of all general partners. If the owner is a corporation, the names, addresses, telephone numbers and email addresses of the current statutory agent and all corporate officers of the corporation. The address for corporations and partnerships shall be the principal place of business and the address for persons shall be the home address;

A. If the owner is a natural person, then the application shall include a copy of the owner's drivers license or an acceptable government issued photo identification card.

B. If the owner is not a natural person, then the application shall include a current copy of the owner's Certificate of Good Standing issued by the Ohio Secretary of State.

~~(2) The name, address, telephone number and email address of the managing agent of the premises, if any. If a partnership, the names, addresses, telephone numbers and email addresses of the current statutory agent and all corporate officers of the corporation. The address for corporations and partnerships shall be the principal place of business and the address for persons shall be the home address;~~

~~(3) If the owner of a rental unit resides or is located outside of Cuyahoga County, the name, current address, telephone number, and email address of an agent designated by the owner, who is a natural person and who resides within Cuyahoga County, and who is authorized by the owner to receive service of a Notice of Violation on the owner's behalf. An agent designated under this section shall be of sound mind and at least eighteen (18) years of age. It is the owner's obligation to notify the Director in writing, of any change in the name, address, telephone number, and/or email address of any agent designated.~~

(e) Issuance of Certificate of Rental Registration. Upon registration, the Director shall issue a certificate of rental registration which shall indicate:

(c) Issuance of Certificate of Non-Owner-Occupied Residential Unit Registration. Upon receipt of application, the Director shall issue a certificate of non-owner occupied residential unit registration that shall state conspicuously: "This Certificate establishes that the residential unit described here is registered with the City of Cleveland Department of Building and Housing, which means that the owner has provided information to the Department concerning the property as required by law. This Certificate does not establish that the residential unit described herein is safe from lead paint hazards, meets Housing Code and Building Code requirements, or is fit and habitable to live in. A separate "Certificate Approving Rental Occupancy" from the Department of Building and Housing establishes a record of compliance with those laws and requirements." The Certificate shall also indicate:

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(1) The street address or other identifying characteristics of the building or other structure;

(2) The name, address, telephone number and email address of the owner or owners of the premises. In the case of a partnership, the names of all general partners;

(3) If the record owner is a corporation, the names, addresses, telephone numbers and email addresses of the current statutory agent and all corporate officers of that corporation;

(4) The name, address, telephone number and email address of the managing agent of the premises, if any;

(5) The name, address (including the dwelling unit, apartment or room number), telephone number and email address of the superintendent, custodian, or other individual employed by the owner or managing agent to provide regular maintenance services, if any;

(6) The name, address, telephone number and email address of an individual representative of the owner or managing agent who may be reached or contacted at any time in the event of an emergency affecting the premises of any rental unit in that structure, including such emergencies as the failure of a utility system or service, and who has the authority to make emergency decisions concerning the building including its repairs or expenditures;

(7) The name, address, telephone number and e-mail address of any Local Agent in Charge;

~~(7)~~(8) The use and occupancy authorized and the use district, ward, and census tract in which the structure is located; and

~~(8)~~(9) A statement concerning the current The lead-safe certification status of the property, if applicable and a statement concerning the existence of any Lead Hazard Control Order.

(d) Certificate Approving Rental Occupancy. Before a non-owner-occupied residential unit that is registered under this section can be rented, the owner must apply for and obtain a Certificate Approving Rental Occupancy. The owner shall apply for such certificate in a manner prescribed by the Director, using forms supplied by the Director.

The Director shall require documentation demonstrating compliance with the following requirements:

(1) That where a non-owner-occupied residential unit is part of a building with four or more residential units, the unit shall have been examined by a licensed Heating Ventilating and Air Condition (HVAC) contractor and the HVAC systems for the unit(s) found to be well-maintained and in working order.

(2) That where a non-owner-occupied residential unit is part of a building with four or more residential units, and where the service account holder for water service, electricity service, or natural gas service is not the occupant of that unit, then the account shall be active, paid in full, and otherwise in good standing.

(3) The City of Cleveland's Lead Safe Certification requirement and any Lead Hazard Control Orders.

(4) Any Notices of Violations issued for the unit, with acceptable documentation to include but not be limited to, as appropriate, certificates of

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correction, inspection reports, or documentation from contractors that demonstrates and certifies that the object of the Notice of Violation was resolved.

(5) That parcels shall not be delinquent regarding their property tax balance or in good standing on a County payment plan in the case of a tax delinquency.

(6) That parcels shall not be delinquent in fines and/or fees owed to the City, including but not limited to those related to nuisance abatement.

~~(d)~~(e) Revocation of Certificate of Rental Non-owner-Occupied Residential Unit Registration. The Director may revoke a certificate of ~~Rental non-owner-occupied residential Unit~~ registration if the applicant makes any false statement in connection with the registration, or if the structure that was covered by it is no longer in compliance with the requirements of this Code, or if the owner, agent, or person in charge of a structure refuses to comply with any provision of this Code required for the use, maintenance and/or occupancy of a structure, including this chapter and Chapters 240, 367, 369 and 371. If the Director revokes a certificate of non-owner occupied residential unit rental registration, the owner may appeal the Director's action to the Board of Zoning Appeals, in writing within ten (10) days from the date of the Director's action. The Board may sustain, disapprove or modify the Director's action, and the Board's decision shall be final.

~~(e) — Notice of Change in Owner's Information. An owner of a residential rental unit shall give notification of a change in the name, address, telephone number, and/or email address of a corporation, partnership or person listed on a certificate of rental registration under division (e)(2) through (e)(6) of this section to the Director within seven (7) days after the change occurs. If the owner fails to give written notification as required in this section, the Director may revoke the certificate of rental registration until the owner provides in writing the changed name, address, telephone number, and/or email address.~~

~~In addition to revocation of the certificate of rental registration, whoever violates this division (e) shall be fined not more than two hundred dollars (\$200.00). Each three (3) month period during which the violation continues is a separate offense.~~

(f) Revocation of Certificate Approving Rental Occupancy. Whenever the Director discovers that a non-owner-occupied residential unit no longer qualifies for a Certificate Approving Rental Occupancy, the Director shall revoke the certificate. The Director shall mail a copy of the revocation to the owner and to the residential unit addressed to the occupants by name or as "occupants." The Director may have the revocation posted on the residential unit. The revocation of the certificate shall in no way alter the rights of an occupant under a rental agreement or relieve the owner of its obligations under a rental agreement.

(g) Notice of Change in Information. It is the owner and the Local Agent in Charge's obligation to notify the Director, in writing, of any change in the name, address, telephone number, and/or email address of any information provided in this Section within seven (7) days after the change occurs. If the owner fails to give written notification as required in this section, the Director may revoke the certificate of non-owner occupied residential unit registration until the owner provides in writing the changed name, address, telephone number, and/or email address.

(h) The owner or Local Agent in Charge of the unit shall pay a fee of five hundred dollars (\$500) upon revocation of the Certificate of Non-Owner Occupied Residential Unit Registration or the Certificate Approving Rental Occupancy, and the certificates shall not be reissued while any fee is outstanding.

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Section 365.03 Rental Registration Fee

(a) An application for a certificate of ~~rental~~ non-owner-occupied residential unit registration shall be accompanied by a nonrefundable ~~rental registration fee~~ for each non-owned-occupied residential unit which shall be set by the Board of Control and which shall be no less than of seventy dollars (\$70.00) for each residential rental unit.

(b) ~~No fee shall be charged for a unit occupied by the owner or for a unit for which the owner does not receive rent or anything else of value. The Director shall establish guidelines for fee exemptions.~~ The Board of Control shall establish any fee exemptions and guidelines for implementation.

(c) No fees shall be collected from any one (1) owner for all units owned by that owner within the City in excess of thirty thousand dollars (\$30,000.00) per calendar year.

(d) A certificate may be renewed prior to expiration upon application and payment of the fee described above. A certificate that has expired may be renewed upon payment of the above registration fee plus a late fee of one hundred dollars (\$100.00).

Section 365.09 Inspections; Right of Entry

(a) All residential rental units shall be subject to inspection for the purpose of determining compliance with the provisions of this Housing Code, ~~Chapter 240~~, and all other applicable laws, ordinances, rules and regulations. Inspections shall be conducted in accordance with the residential rental unit inspection schedule established by the Director, or as may be necessary in the Director's discretion pursuant to specific complaint received under this Code.

(b) The Director and the Director's duly authorized agents or inspectors may enter at reasonable times any residential rental unit registered under this Chapter in accordance with the right of entry defined in Chapter 367.

Section 367.03 Right of Entry

(a) Upon presentation of proper credentials the Director of Building and Housing and his or her duly authorized agents or inspectors or the Fire Chief or his or her duly authorized agents or inspectors may enter at reasonable times, or at such other times as may be necessary in an emergency, any dwelling, building, structure or premises in the City to perform any duty imposed on him or her by this Housing Code or the Fire Code, provided that permission to enter is obtained from the occupant or, in the case of unoccupied property, from the owner or his or her agent, or as otherwise permitted by this Section. If such permission is refused or is otherwise unobtainable, a search warrant shall be obtained before such entry or inspection is made, except in the case of an existing emergency in which case entry may be made at any time and no search warrant is necessary, or as otherwise permitted by this Section.

(1) The Director of Building and Housing or Fire Chief may seek a search warrant, with or without having first sought the consent of the occupant or owner, to enter, observe and inspect a dwelling, building, or structure, to allow their duly authorized agents or inspectors to enter, observe and inspect a dwelling, building or structure.

(2) The Director of Building and Housing or Fire Chief may seek a warrant based on probable cause or may seek an administrative warrant as may be allowed by law.

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(3) The Director of Building and Housing or Fire Chief or their duly authorized agents or inspectors may enter, observe and inspect a dwelling, building, or structure when an emergency exists, without obtaining consent or a search warrant.

(4) The Director of Building and Housing or Fire Chief or their duly authorized agents or inspectors may enter, observe and inspect a dwelling, building, or structure, with the consent of the occupant, in the case of an occupied property, or owner, in the case of an unoccupied property, or administrator or executor in the case of an unoccupied property where the owner or owners are deceased.

(b) No person shall in any way obstruct, hinder, delay or otherwise interfere with such entrance under this section.

Section 367.04 Notice of Violation

(a) Whenever the Director of Building and Housing shall find any dwelling structure or premises, or any part thereof, to be in violation of the provisions of this Housing Code, he or she shall provide to the owner or agent or person in charge of such structure or premises, and the mortgagee of record, a written notice stating the violations therein. Such notice shall order the owner within a stated reasonable time to repair, improve, demolish or effectively board the structure or premises concerned.

(b) A notice of violation under Section 367.04(a) shall be served by one (1) or more of the following methods:

(1) Personal service; The City department issuing the notice may use any method that causes the Notice of Violations to be actually delivered to the responsible party. Actual delivery shall constitute legal service of the Notice of Violations;

(2) 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;

(3) 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:

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

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

C. 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 (b)(3) 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.

(4) Regular mail and posting as follows:

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A. Regular mail service to the owner ~~or a location at which the owner is reasonably believed to receive mail~~ at an address found under division (b)(3) above, which may be the address of the property that is the subject of the violation; and

B. Regular mail service to the property address that is the subject of the violation notice if the address is different from the address in division(b)(4)A.; and

C. Posting of the notice of violation in a conspicuous location on the building, premises or real estate or appurtenance thereto that is the subject of the violation notice.

~~(5) In addition to A., B., and C. above, service may be made~~ Service by publication electronically or once in a newspaper of general circulation in the City.

(c) Any owner, agent or person in charge of such dwelling structure, mortgagee of record, lessee of record and lien holders of record who have received a notice of violation as provided for in division (a) of this section, or who receive a notice of the City's intention to demolish or effectively board as provided for in division (c) of Section 367.05, shall inform prospective purchasers, vendees, grantees, assignees, sublessees or land contractees thereof of any such notice of violation or notice of the City's intention to demolish or effectively board. No owner or agent or person in charge of such dwelling structure, mortgagee of record, lessee of record or lien holders of record shall transfer to a vendee, grantee, assignee, sublessee or land contractee or any other transferee any interest in such dwelling structure after receiving a notice of violation, or notice of the City's intention to demolish or effectively board without first providing the transferee with a copy of such notice.

(d) Any buyer or grantee, by land contract or otherwise, of a dwelling building or structure, shall begin at the date of transfer to comply with any notice obtained or to be obtained pursuant to Section 367.12, 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. The Director may then establish a reasonable time to comply.

Section 367.05 Noncompliance with Notice; Vacation of Premises; Board and Demolition of Premises

(a) No person shall fail to comply with any provision of this Housing Code or fail to comply with any lawful order issued under this Housing Code.

~~(a)(b)~~ Whenever the owner, agent or person in charge of a dwelling structure or premises fails, neglects or refuses to comply with a notice of the Director of Building and Housing, the Director may issue a notice ordering the structure or premises concerned to be vacated, or he or she may advise the Director of Law of the circumstances and request the Director of Law to institute an appropriate action of law to compel a compliance, or both.

~~(b)(c)~~ Whenever the owner or agent or person in charge of a dwelling structure or premises fails, neglects or refuses to comply with a notice to vacate issued by the Director, the Director may request the Director of Public Safety to enforce the orders of such notice of vacation and cause the structure to be vacated in accordance with the terms of such notice.

~~(e)(d)~~ Whenever the Director has made the determination that a dwelling structure or premises constitutes a public nuisance in that the structure or premises is injurious to the public health, safety and welfare, and the owner, agent or person in charge of such structure fails, neglects or refuses to comply with a notice of violation

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ordering such structure to be demolished or boarded, or the violations corrected, the Director may take necessary action to demolish or effectively board such structure in accordance with the procedure and requirements set forth in Section 3103.09 or take such other action as may be necessary to abate the nuisance. The Director shall give written notice in conformance with the procedures set forth in division (h)(6) of Section 3103.09 for the service of notice of violation informing the owner or agent, mortgagee of record, lessee of record or lien holder of record of the City's intention to demolish or effectively board such structure at least thirty (30) days prior to such intended action by the City.

Section 367.12 Statement of Authorized Use of Dwelling Building or Structure Certificate of Disclosure for Real Property and Notice of Violation; Fee

~~(a) — No person, agent, firm or corporation shall sell, by land contract or otherwise, any interest in any dwelling building or structure, as defined in Section 363.04 of five (5) or more units, without furnishing the buyer, prior to the sale, (i) a current certificate of occupancy or a statement from the Department of Building and Housing describing the authorized use of the dwelling under the ordinances of the City, and describing its current lead status, (ii) a copy of any outstanding notice or order from the City, including any notice of violation or outstanding notice of the City's intention to demolish or effectively board, and (iii) when an escrow has been established, depositing in escrow prior to delivery of possession or transfer of title a statement from the buyer acknowledging the receipt of these documents. However, a statement signed by both the seller and the buyer stating that the property being transferred does not contain a dwelling building or structure may be deposited in escrow instead of the documents regarding use required above.~~

~~(b) — An application to provide the statement required by this section shall be accompanied by a fee of forty dollars (\$40.00).~~

~~(e)(a) No person, agent, firm or corporation shall sell or transfer real property, enter into a contract for the sale of a one (1), two (2), three (3) or four (4) unit dwelling building or structure, as defined in Section 363.04, without furnishing to the purchaser a Certificate of Disclosure addressing the condition of the property, including its current lead status for real property with rental units, which Certificate shall be in a form prescribed by the Director of Building and Housing. ~~No real estate agent, escrow agent or seller shall sell or transfer a one (1), two (2), three (3) or four (4) unit dwelling building or structure without furnishing to the purchaser information required by the Certificate of Disclosure described above.~~ If the purchaser does not receive any portion of the Certificate of Disclosure to be completed by the City prior to sale, the purchaser may rescind the purchase contract for the sale of the property prior to the sale of the property.~~

~~(d)(b) A request for a Certificate of Disclosure shall be accompanied by a nonrefundable fee, which shall be established by the Board of Control and updated from time to time and which shall not be lower than of sixty dollars (\$60.00).~~

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

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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 ~~third~~ first degree.

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

(d) Whoever violates ~~Section~~ 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 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 381.04 Right of Entry; Abatement Order and Appeal

(a) No person shall fail to comply with any provision of this Fire Prevention Code or shall fail to comply with any lawful order issued under this Fire Prevention Code. The Fire Chief or his or her authorized representatives upon presentation of proper credentials, may enter any building or premises at all reasonable hours or at such times as may be necessary in an existing emergency to examine and inspect for hazardous or dangerous conditions, equipment, materials, liquids, gases or accumulations; obstructions to or on fire escapes or other means of egress; and for the maintenance of fire protection equipment. No person shall prevent, obstruct or delay any inspection or the performance of any lawful duty of a fireman acting within his or her official capacity. The Fire Chief's right of entry shall be as authorized in Section 367.03.

(b) ~~Abatement orders may be issued in writing to the owner, agent, occupant or person in charge of any premises to remedy any hazardous or dangerous condition or orders to conduct the necessary tests to determine the sources of hazardous materials, liquids, gases or the adequacy of the equipment within the time limit stated in such order. Written abatement orders shall be served personally or by posting a copy to the~~

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~~building or premises and sending by registered mail to the last known post office address.~~

(b) Whenever the Fire Chief or his or her representatives find that a property is in violation of this Fire Prevention Code, he or she shall notify in writing the owner or person in control of the property through an abatement order which can also be labeled as a Notice of Violations to correct the violation by a stated time. The order or notice may also order the person in control or the owner to remedy any hazardous or dangerous condition or orders to conduct the necessary tests to determine the sources of hazardous materials, liquids, gases or the adequacy of the equipment within a stated time. The Abatement order or Notice of Violations shall be served as stated in paragraph (f) below.

(c) In an emergency, an abatement order may be summarily issued to be complied with immediately or the fire official may take such action as is necessary to remedy or remove any hazardous or dangerous condition.

(d) No person to whom an abatement order is directed shall fail to comply with such order within the time stated in such order.

(e) Except in an emergency, any person aggrieved by an abatement order may appeal by filing written notice with the Board of Building Standards and Building Appeals within thirty (30) days of the date of the order being appealed, accompanied by the required appeal fee.

(f) Abatement Orders or Notices of Violation issued under this Fire Prevention Code shall be served on responsible parties or owners by one (1) or more of the following methods:

(1) Personal service; The City department issuing the notice may use any method that causes the Notice of Violations to be actually delivered to the responsible party. Actual delivery shall constitute legal service of the Notice of Violations.

(2) 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;

(3) 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:

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

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

C. 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 these methods 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.

(4) Regular mail and posting as follows:

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

B. Regular mail service to the property address that is the subject of the violation notice, if that address is different from the address in A.; and

C. Posting of the notice of violation in a conspicuous location on the building, premises or real estate or appurtenance thereto that is the subject of the violation notice.

(5) Service by publication electronically or once in a newspaper of general circulation in the City.

Section 381.99 Penalty

(a) Whoever violates a lawful order issued under this Fire Prevention Code shall be guilty of a misdemeanor of the first degree. Each day of failure to comply constitutes a separate violation.

~~(a)(b)~~ Whoever violates any provision of Chapters 381 to 391 of this Title Eleven – Fire Prevention Code is guilty of a minor misdemeanor. For a second offense such person is guilty of a misdemeanor of the fourth degree and shall be fined not more than two hundred fifty dollars (\$250.00) or imprisoned not more than thirty (30) days or both. On a third or subsequent offense such person is guilty of a misdemeanor of the first degree and shall be fined not more than one thousand dollars (\$1,000.00) or imprisoned not more than one (1) year or both. Each day of a continuing violation shall be deemed a separate offense.

~~(b)(c)~~ Whoever violates Section 381.03 shall be fined not more than one hundred dollars (\$100.00) by the officer concerned, pursuant to the Ohio Rules of Criminal Procedure, or imprisoned until such person is willing to comply with the order of such officer. Whoever violates Section 381.03 is also subject to being held in contempt by a court of competent jurisdiction, the sanction for which can be to imprison the person until the person complied with Section 381.03.

~~(e)(d)~~ Whoever violates Section 381.101 shall be guilty of a minor misdemeanor. In addition to any other method of enforcement provided in this chapter, this chapter may be enforced by the issuance of a citation in compliance with Rule 4.1 of the Ohio Rules of Criminal Procedures. Each day of a continuing violation shall be deemed a separate offense.

~~(d)(e)~~ Whoever violates any provision of Chapter 393 shall be subject to the penalties set forth in Section 393.00.

Section 3103.04 Right of Entry and Inspection

~~(a)~~ The ~~Commissioner~~ Director and the Fire Chief or any of their assistants may, at any reasonable hour, enter any dwelling, multifamily dwelling, building, structure or premises within the City to perform any duty imposed on them by OBBC or this Building Code, or the City Housing or Fire Prevention Codes subject to the requirements and authority of Section 367.03. ~~provided that permission to enter is obtained from the occupant or, in the case of unoccupied property, from the owner or his or her agent. If such permission is refused or is otherwise unobtainable, a search warrant shall be obtained before such entry or inspection is made, except in the case of an existing emergency in which case entry may be made at any time and no search warrant is necessary.~~

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(b) No person shall refuse to permit such emergency entry or inspection, nor shall any person hinder, obstruct, resist or abuse any person making or attempting to make such entry or inspection.

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.

(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.

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(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, or common thistle; wild lettuce; wild mustard; wild parsley; ragweed; ~~milk-weed; iron weed;~~ 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;

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 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.

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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, the Director may cause such nuisance to be abated or removed during the remainder of the growing season without further posting of notice.

(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 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)

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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 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

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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

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 ~~or a location at which the owner is reasonably believed to receive mail~~ 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.

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E. ~~In addition to 1., 2., and 3. above, service may be~~ 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.

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, 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. The Director may then establish a reasonable time to comply.

(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

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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 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 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.*

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(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.

(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.

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(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 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 3103.25 Violations Generally

(a) ~~No person shall violate any provision of OBC or this Building Code, or any Code adopted therein or any rule or regulation promulgated thereunder, or fail to comply therewith or with any order issued thereunder.~~ No person shall fail to comply with any provision of OBC or this Building Code or any code adopted therein or any rule or regulation promulgated thereunder or fail to comply with any lawful order issued thereunder, including but not limited to any notice to repair, rehabilitate or demolish a building or other structure or fail to comply with a notice requiring the abatement or removal of a violation or requiring compliance with any provision of this Building Code or cause or permit the same to be done.

(b) No person shall fail or neglect promptly to notify the administrative officer having jurisdiction that work under a permit issued pursuant to the provisions of OBC or this Building Code has been begun.

(c) No person shall perform any work or install any appliance, device or equipment without first obtaining the permit required therefor under OBC or this Building Code; nor refuse, neglect or fail to obtain any permit required under OBC or this Building Code for the storage, use or handling of a hazardous substance; nor block, wedge or otherwise hold in an open position any self-closing door required under OBC or this Building Code to be maintained in a normally closed position.

(d) No person shall perpetrate a fraud or misrepresent a material fact by reason of which any permit or approval required under OBC or this Building Code is obtained; nor pursue any trade or business or perform any work or service for which a license, certificate of registration or certificate of qualification is required under OBC or this Building Code without possessing such license or certificate.

(e) No person shall ~~refuse, neglect or fail to comply with any stop work order issued under the provisions of this Building Code; nor refuse, neglect or fail to comply with a notice to repair, rehabilitate or demolish a building or other structure declared to be unsafe under the provisions of this Building Code; nor refuse, neglect or fail to comply with a notice requiring the abatement or removal of a violation or requiring~~

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~~compliance with any provision of this Building Code or any rule or regulation thereunder within the time limit set forth in such notice;~~ nor maintain a use or occupancy prohibited by this Building Code; nor refuse, neglect or fail to maintain stair enclosures, stairways, fire escapes, exit passageways or other required means of egress in a safe and usable condition as required by OBC or this Building Code.

(f) No person shall refuse, neglect or fail to comply with a written order issued under the provisions of this Building Code requiring the immediate abatement of a dangerous condition when immediate compliance with such order is essential for the public health, safety and welfare.

(g) No person shall convert any residential occupancy building or any part thereof by performing or causing to be performed any construction, repair or alteration in or for such building without first obtaining the required permit.

(h) No person shall fail to install, repair, or alter material or equipment in a workmanlike manner. For the purposes of this Building Code, workmanlike manner shall be defined as work that occurs in accordance with the standards set forth in the latest edition of the "Residential Construction Performance Guidelines for Professional Builders and Remodelers" as published by the National Association of Home Builders.

(i) No person shall fail to perform work in a workmanlike manner pursuant to division (h) of Section 3103.25.

(j) No person shall abandon work for more than ninety (90) days in a substantially incomplete state. For purposes of this Building Code, work that is abandoned for more than ninety (90) days in a substantially incomplete state shall be considered work that is not performed in a workmanlike manner pursuant to division (h) of Section 3103.25.

Section 3143.01 Definitions

(a) "Substantial structure" means any structure of any construction type or use that is five (5) stories or seventy-five (75) feet above grade, whichever is shorter, at any point along its perimeter.

(b) "Parking Garage" means a multi-level structure of other than Type V construction intended for the parking or storage of motor vehicles. A parking garage may be accessory to a principal use or structure on a lot or may be the principal structure on a lot.

~~(b)~~(c) "Protected distance" means the horizontal distance measured perpendicular from any substantial structure to a public way, public land, other structure or adjoining property.

~~(e)~~(d) "Qualified inspector" means either of the following: (1) a design professional certified in inspection of the specific elements that make up the facade of the structure, and licensed by the State of Ohio; or (2) a special inspector or inspection agency accredited and experienced in the specific type of structure being inspected, and qualified under the Ohio Building Code for special inspectors.

Section 3143.03 Certificate of Exterior Walls and Appurtenances Inspection

(a) *Issuing of Certificates.* The Director of Building and Housing shall issue an exterior wall and appurtenances certificate only after having received satisfactory proof of inspection, and after the inspection report of the architect or engineer reports a safe condition. No building owner or person in control of a building, subject to the

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requirements in this chapter shall permit the substantial structure to be occupied without such certificate.

(b) *Keeping and Producing of Certificates.* The owner or person in control of a building subject to the requirements of this chapter shall keep and maintain such certificate on-site or produce said certificate within forty-eight (48) hours of any request by the Director of Building and Housing ~~or officials~~ or the Chief ~~or of~~ Fire ~~or officials~~, or their designees. No building owner or person in control subject to the requirements of this chapter shall fail to keep and maintain or produce the required certificate.

Section 601.061 Strict Criminal Liability in Building and Housing Code Offenses

Notwithstanding any other section of the Codified Ordinances, when any section of the Building Code, ~~or~~ Housing Code, Health Code, or Fire Prevention Code defining an offense does not specify any degree of culpability, then strict criminal liability shall apply and culpability is not required for the person to be guilty of the offense.

Section 2. That the following existing sections of the Codified Ordinances of Cleveland, Ohio, 1976:

Section 201.99, as amended by Ordinance No. 486-04, passed October 11, 2004,

Section 203.02, as amended by Ordinance No. 318.06, passed March 20, 2006,

Section 203.03, as amended by Ordinance No. 511-76, passed June 14, 1976,

Section 327.02, as amended by Ordinance No. 1551-50, passed June 25, 1951,

Section 327.04, as amended by Ordinance No. 54-94, passed June 6, 1994.

Section 327.99, as amended by Ordinance No. 1555-13, passed October 17, 2016

Sections 365.02, 365.03, and 365.09, as amended by Ordinance No. 747-2019, passed July 24, 2019,

Section 367.03, as amended by Ordinance No. 1075-09, passed August 5, 2009,

Sections 367.04 and 367.05, as amended by Ordinance No. 612-2022, passed September 26, 2022,

Sections 367.12 and 367.99 as amended by Ordinance No. 747-2019, passed July 24, 2019,

Section 381.04, as amended by Ordinance No. 778-76, passed June 14, 1976,

Section 381.99, as amended by Ordinance No. 1309-05, passed December 5, 2005

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Section 3103.04, as enacted by Ordinance No. 1116-A-85, passed February 10, 1986

Section 3103.09, as amended by Ordinance No. 612-2022, passed September 26, 2022,

Section 3103.25, as amended by Ordinance No. 2370-01, passed May 13, 2002,

Section 3143.01 and 3143.03, as amended by Ordinance No. 1533-15, passed April 4, 2016, and

Section 601.061, as amended by Ordinance No. 1198-20, passed May 16, 2011,

are repealed.

Section 3 That the Codified Ordinances of Cleveland, Ohio, 1967, are supplemented by enacting new Sections 3143.04 and 3143.05 to read as follows:

Section 3143.04 Inspection and Reporting Requirements for Parking Garages

In order to maintain parking garages in a safe condition, the following requirements shall apply:

(a) *Inspection Requirements.* The owner of a parking garage shall conduct a critical inspection of the condition of parking garage and appurtenances at least once every five (5) years.

(1) Such inspection shall be conducted and witnessed by a qualified inspector, by or on behalf of the owner of the building. Such inspection shall be for the purpose of determining whether the parking structure and all parts thereof are either safe, unsafe, or safe with repairs and/or engineering monitoring and whether, in the judgment of a qualified parking structure inspector, remedial work is required. Any areas found to be deficient in the general inspection shall require a detailed inspection.

(2) Such inspection shall be conducted using the most current ASCE 11 standard (Guideline for Structural Assessment of Existing Buildings). Qualified personnel shall perform a preliminary assessment as defined in the standard and provide a determination as to whether a detailed assessment is required. When in the opinion of the qualified inspector a detailed assessment is required, such an inspection shall be performed according to the standard and a detailed report be produced.

(3) The owner shall complete such inspection and file a report within the following time:

A. All new inspections and reports shall be completed and filed within one (1) year of the effective date of this section, and successive inspections and reports shall be completed every five (5) years from the date of the original inspection report filed in accordance with division (c).

B. If a structure has already been inspected prior to the adoption of this chapter, the owner must file a report of that inspection within one (1) year of the effective date of this section, and successive

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inspections and reports shall be completed every five (5) years from the date of the original inspection report filed in accordance with division (c).

(b) *Registration.* The owner of a parking garage shall register with the Director of Building and Housing by submitting a registration of the conditions identified in the report on a form determined by the Director of Building and Housing.

(c) *Inspection Report.* The owner of a parking garage shall register with the Director of Building and Housing by submitting a written report, prepared by a qualified inspector who conducted or supervised the inspection, as follows:

(1) Such report shall clearly document the condition of the walls, floors, ceilings, and ramps, and appurtenances as either safe, unsafe, or safe with a repair and maintenance program. The report shall document all significant deterioration, unsafe conditions, in sufficient detail so that a comparison of successive reports will indicate any change of condition. Such report must be signed by and bear the professional seal of the qualified inspector.

(2) Such report shall be filed with the Director of Building and Housing together with a fee, in an amount to be determined by the Board of Control, within the time specified in division (a)(3).

(3) Such report shall be maintained for review by the Department of Building and Housing at any time requested.

(4) Such report shall include the following:

A. The location of the parking garage by address and permanent parcel number;

B. The year the parking garage was built;

C. The date the building was inspected;

D. The name, address, and title of the person or firm who conducted the inspection;

E. Complete description of inspections conducted to determine whether the parking structure and all parts thereof are either safe, unsafe, or safe with repairs and/or engineering monitoring and whether, in the judgment of a qualified parking structure inspector, remedial work is required, based on the current version of ASCE 11 standard (Guideline for Structural Assessment of Existing Buildings), including the locations of and descriptions the general inspection areas and any of detailed inspection areas.

(5) Such inspection report shall be filed with Director of Building and Housing every five (5) years from the date of the original report. The owner shall keep and maintain the complete and full inspection documentation on-site or produce said documentation within forty-eight (48) hours of any request by the Director of Building and Housing or the Chief of Fire, or their designees.

(d) *Notice of Unsafe Condition.* Upon the discovery of an unsafe condition relating to the exterior walls or appurtenances, the owner shall notify the Director of Building and Housing immediately in writing of such condition, and immediately begin repair, reinforcement or precautionary measures, with the required permits, to abate the unsafe condition to ensure public safety.

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Section 3143.05 Certificate of Parking Garage Inspection

(a) *Issuing of Certificates.* The Director of Building and Housing shall issue a parking garage certificate only after having received satisfactory proof of inspection, and after the inspection report of the architect or engineer reports a safe condition. No owner or person in control of a parking garage subject to the requirements in this chapter shall permit the parking garage to be used without such certificate.

(b) *Keeping and Producing of Certificates.* The owner or person in control of a parking garage subject to the requirements of this chapter shall keep and maintain such certificate on-site or produce said certificate within forty-eight (48) hours of any request by the Director of Building and Housing or the Chief of Fire, or their designees. No owner or person in control of a parking garage subject to the requirements of this chapter shall fail to keep and maintain or produce the required certificate.

Section 4. That the Codified Ordinances of Cleveland, Ohio, 1976, are supplemented by enacting new Sections 3104.01 to 3104.09 and 3104.99 to read as follows:

CHAPTER 3104 **Civil Enforcement**

Section 3104.01 Civil Enforcement System Established

(a) *Civil Enforcement System Established.* The City of Cleveland hereby adopts a civil enforcement system for the infractions made subject to a civil fine by this Chapter. This civil enforcement system imposes monetary liability on the Responsible Parties.

(b) *Liability Imposed.* Each Responsible Party of a parcel at which an infraction has occurred is liable to the City of Cleveland in the amounts established in Section 3104.99. Responsible Parties shall be jointly and severally liable for the civil offenses specified under this Chapter.

(c) *Noncriminal Offense; No Conviction.* The infractions established by this Chapter are noncriminal. The imposition of liability upon the Responsible Parties under this section shall not be deemed a conviction for any purpose.

(d) *Other Costs and Penalties Not Abrogated.* Nothing in this section shall be construed as altering or limiting the effects of any other section of these Codified Ordinances, the criminal penalties imposed by any such other section, or the ability of the Director of Building and Housing, or such other officials of the divisions of the City having jurisdiction, to enforce those sections.

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

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- 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 369.08 Rubbish and Garbage Disposal
 - 13. Section 369.13 General Maintenance Requirements
 - 14. Section 369.14 Maintenance of Foundations
 - 15. Section 369.15 Maintenance of Exterior Walls and Roof
 - 16. Section 369.16 Maintenance of Interior Walls and Floors
 - 17. Section 369.17 Infestation by Pests
 - 18. Section 369.18 Exterior Property Areas
 - 19. Section 369.19 Secondary or Appurtenant Structure
 - 20. Section 371.05 Lighting of Public Hallways and Common Areas
 - 21. Section 371.07 Rubbish and Garbage Disposal Facilities
 - 22. Section 371.10 Sanitation Responsibilities of Owner and Occupant
 - 23. Section 371.13 Identification of Dwelling Units
 - 24. Section 392.02 Smoke Detection and Alarm Systems – Installation
- Required
 - 25. Section 392.021 Carbon Monoxide Alarms; Installation Required in Rental Dwelling Units
- Dwelling Units
 - 26. Section 392.03 Testing, Inspection, and Notification
 - 27. Section 392.04 Maintenance
 - 28. Section 392.05 Tampering
 - 29. Section 3101.10(e) Safety and Maintenance – Maintenance of Exterior Property Areas
- Property Areas
 - 30. Section 3101.11 Removal of Graffiti
 - 31. Section 3103.091 Utility Shut-Off in Vacant and Unsafe Structures
 - 32. Section 3103.10 Abandoned Service Stations
 - 33. Section 3105.01 Permits Required; Exceptions
 - 34. Section 3105.02 Permit Applications; Plans and Specifications
 - 35. Section 3105.05 Plans Required at Work Site
 - 36. Section 3109.11 Retractable Awnings
 - 37. Section 3125.01 Protection of Excavations

Section 3104.03 Notice of Civil Offense and Civil Fine; Procedures

- (a) A city officer or employee authorized to enforce the City’s Building, Housing, and Zoning Codes, may issue a notice of civil offense and civil fine to a Responsible Party.
- (b) A notice of civil offense and civil fine shall:
 - (1) Identify the Owner, Operator, or Local Agent in Charge of the premises;
 - (2) Indicate the offense or offenses charged, the civil fine, and date, time, and location of the offense or offenses charged;
 - (3) Be signed, dated and attested by the issuing officer or employee;
 - (4) Advise the Responsible Party being charged that all available collection remedies and costs of collection will be pursued in the event the civil fine and other charges are not timely paid; and
 - (5) Advise the Responsible Party that failure to appeal the notice or pay the costs imposed not later than fifteen (15 days) days from the date of issuance of the notice shall constitute a waiver of the right to contest the notice and shall

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be considered an admission. The notice shall further state that if the Notice of Civil Offense is not appealed or paid in that period, then a default finding of civil liability shall be imposed upon respondents for the costs established in Section 3104.99.

(c) The notice of civil offense shall be served upon the Responsible Party charged by one or more of the following means:

(1) By personal delivery to the Responsible Party charged;

(2) By delivery to an adult at the address of the Responsible Party charged;

(3) By posting a copy of the notice in a conspicuous location on the real property where the violation occurred if the real property is owned or occupied by the Responsible Party charged;

(4) By mail addressed to the Responsible Party charged at an address shown on a public record identifying the Responsible Party being charged as the owner, operator, or Local Agent in Charge of the real property to which the offense relates. If mail service is attempted via mail with a “certificate of mailing” or via certified or registered mail and the mail is not returned by the postal service within 15 calendar days of mailing, the delivery of the notice shall be presumed.

(5) In addition to (1)-(4) of this division, service may be made by publication electronically or once in a newspaper of general circulation in the City.

Section 3104.04 Appeal

(a) Any person who is potentially liable for the costs under this Chapter may appeal the imposition of liability to the Director of Building and Housing or his or her designee, in the manner described in the Notice.

(b) The appeal shall be taken not later than fifteen (15) days from the date of issuance of the Notice. Failure to appeal the Notice or pay the costs imposed within this time period shall constitute a waiver of the right to contest the Notice and shall be considered an admission.

(c) *Appeal – Process.* The Director shall establish an administrative appeal process for persons to appeal Notices issued under this chapter. The administrative appeal process shall allow the appellant the right to present appellant’s case in person at an administrative hearing, or submit evidence by mail or electronically for an administrative review, including proof of correction of the violations that are the subject of the Notice. The strict rules of evidence applicable to courts of law shall not apply in any administrative hearing or administrative review. The Notice charging the offense shall constitute prima facie evidence that the offense identified in the Notice occurred and that the Responsible Parties to whom the Notice was mailed are liable to the City of Cleveland for the costs imposed by this section. The decision of the Director shall be in writing following the administrative hearing or administrative review.

(d) (1) If the Director finds by a preponderance of evidence that an appellant is liable under this chapter for the costs assessed, then the Director shall deny the appeal and order the appellant to pay the costs identified in the Notice.

(2) If the Director finds by a preponderance of evidence that an appellant is liable under this chapter for the costs assessed but that there are

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reasons for the commission of the infraction that mitigate the offense or that the violations have been corrected, then the Director shall deny the appeal and order the appellant to pay the costs identified in the Notice, but may in the interest of equity reduce the costs assessed.

(3) If the Director finds by a preponderance of evidence that the appellant is not liable under this chapter for the costs assessed, then the Director shall grant the appeal and dismiss the Notice.

(e) *Appeal of the Director's Decision.* Any person subject to an adverse decision of the Director may appeal that decision to the Board of Building Standards and Building Appeals. The notice of appeal shall be in writing and shall be filed with the Board of Building Standards and Building Appeals within fifteen (15) days of the decision of the Director. The Board shall approve, modify or annul the finding from which the appeal is taken.

Section 3104.05 Default

If a person who has been served with a notice of a civil offense fails to timely pay the civil fine or appeal the Notice, or attend a requested appeal hearing, the person is in default, and the civil fine as specified by Section 3104.99 is due.

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.

Section 3104.07 Rules and Regulations

The Director may issue rules and regulations to carry out the provisions of this Chapter, which shall be effective thirty (30) days after their publication in the City Record.

Section 3104.08 Definitions

As used in this Chapter

(a) "Director" means the Director of Building and Housing and in the case of appeals, the Director of Building and Housing or his or her designee.

(b) "Local Agent in Charge" shall have the same meaning as defined in Section 365.02.

(c) "Operator" shall have the same meaning as defined in Section 363.11.

(d) "Owner" shall have the same meaning as defined in Section 363.12.

(e) "Responsible Party" and "Responsible Parties" mean the Owner, Operator, or Local Agent in Charge.

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Section 3104.99 Civil Fines; Late Penalties

(a) The costs imposed by this section upon the Responsible Parties for the commission of an infraction shall be set by the Board of Control but shall not be less than two hundred dollars (\$200.00) for each offense.

(b) If the costs established in division (a) remain unpaid thirty (30) days after the Notice of Civil Offense is issued or thirty (30) days after the conclusion of all appeals, an additional fine shall be assessed, to be set by the Board of Control but which shall not be less than fifty dollars (\$50.00).

Section 5. That the Codified Ordinances of Cleveland, Ohio, 1976, are supplemented by enacting new Sections 3106.01 to 3106.10 and 3106.99 to read as follows:

CHAPTER 3106 **Registration of Vacant Buildings and Certificates of** **Compliance for Vacant Buildings**

Section 32106.01 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 365.02, other agent, lessee, or party in control of any vacant building, or a party that has filed and is currently maintaining an open foreclosure action regarding a vacant building.

Section 3106.02 Duties of Responsible Party

(a) The Responsible Party shall maintain the vacant building in compliance with City codes, with particular attention to the following:

(1) Property shall be maintained in a condition free of nuisance in accordance with Chapter 209.

(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 entry by unauthorized persons, and against becoming a harborage for vermin. 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 except as provided under Codified Ordinance Section 3103.09. Doors and/or windows that are found to be defective shall be repaired or replaced with similar doors or window units equipped with locking hardware.

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(4) Property must be properly winterized, including but not limited to: the proper disconnection of water supply and drainage systems; ensuring that HVAC systems are functional and properly maintained; temporarily discontinuing or adjusting utility services; clearing and maintaining the property's exterior to safeguard against ice buildup or other hazards; and other security measures to deter and prevent unauthorized entry.

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

(6) Graffiti, tagging or similar markings must be 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 security fencing requirements of the City.

(b) Compliance with this section does not relieve the Responsible Parties 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.

Section 3106.03 Vacant Building Registration Required

(a) The Responsible Party shall register the property with the Director of Building and Housing. A building with multiple residential units in which at least one unit is occupied is not a vacant building. The Responsible Party shall maintain the vacant building registration up-to-date. A vacant building undergoing a tax foreclosure by a political subdivision is exempt from this requirement.

(b) An application for registration of a vacant building shall be submitted with the associated fee required in this Chapter. The application shall include all of the following information on forms provided by the Director:

(1) The name of the party submitting the registration application and whether the party is the owner, agent, lessee, or party in control of the property, or a party who has filed a foreclosure action;

(2) The direct mailing address of the applicant; P.O. boxes are not an acceptable address;

(3) A contact name, telephone number and e-mail address for the applicant;

(4) The name, address, telephone number and email address of a Local Agent in Charge.

A. The Local Agent in Charge shall be designated by the owner, be authorized by the owner to receive service of a Notice of Violation on the owner's behalf, be responsible for the maintenance and repair of the material conditions of the non-owner-occupied residential unit, and oversee the maintenance and financial obligations of the non-owner-occupied residential unit. The Local Agent in Charge's agreement with these responsibilities shall be documented in a form to be supplied by the Director.

B. If the owner is a natural person and resident of Cuyahoga County or a contiguous county, then the Local Agent in Charge may be the owner. Otherwise, the Local Agent in Charge shall be a natural person who

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resides within Cuyahoga County. The Local Agent in Charge shall register with the City on forms provided by the Director and attest to the obligations listed in this section.

C. Local Agent in Charge designated under this section shall be of sound mind and at least eighteen (18) years of age.

D. If the Local Agent in Charge is a real estate broker as defined in Ohio Revised Code 4735.01, then the application shall include a copy of the Local Agent in Charge's real estate broker's license.

(5) The names and addresses of all known lien holders and all other parties with an ownership interest in the building.

(c) Registration shall remain valid for twelve months from the date of issuance. The Responsible Party shall renew the registration upon expiration for as long as the property remains vacant.

(d) The Responsible Party 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. Any interior and exterior inspections that are required by loan servicers for a given vacant property, when applicable, may satisfy this requirement, but all properties regardless of loan servicing require such inspections. Written reports of such inspections shall be provided to the Director upon request.

(e) The annual registration fee required by this Section shall be:

(1) For residential structures with no more than three residential units, \$150 per unit.

(2) For all other structures, \$1,000 per structure.

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

The Director may cause vacant building inspections to occur upon the first registration of the building as a vacant building. Inspections may also occur upon request by the Responsible Party; as warranted in the determination of the Director based on exterior conditions; and/or the results of past inspections; and/or from time to time at the discretion of the Director. An application for a vacant building inspection required by this chapter shall be made upon forms supplied by the Director. The inspections shall result in a vacant building inspection report.

(a) Vacant building inspections shall include a general exterior and interior inspection of the dwelling structure and premises.

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

(1) The street address or other identifying characteristics of the dwelling structure;

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

(3) The authorized use and occupancy of the dwelling structure; and

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

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(c) Once the vacant building inspection report has been issued, the Responsible Party shall apply for and obtain a certificate of correction. A certificate of correction may only be issued upon correction of all vacant building violations at that property, and the certificate shall state which violations were remedied.

(d) No vacant building may become occupied without a certificate of correction.

(e) All vacant buildings shall be subject to inspection for the purpose of determining compliance with the provisions of this Housing Code, and all other applicable laws, ordinances, rules and regulations. Inspections shall be conducted in accordance with this section.

(f) The Director and the Director's duly authorized agents or inspectors may enter at reasonable times any vacant property registered under this Chapter in accordance with the right of entry defined in Chapter 367.

Section 3106.05 Bond Required For Registration Of Vacant Commercial Property

(a) Upon registration of a commercial 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 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.

(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, 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.

(f) An annual administrative fee of one thousand five hundred dollars (\$1,500.00) or ten percent (10%) of the required bond, whichever is greater, will be deducted from the bond by the City for administrative expenses including, but not limited to, the processing, accounting, and other administrative functions inherent in the administration of the bond. The fee shall be deducted at the beginning of each year

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and shall not be prorated. These fees will be held in a separate fund. Except for the initial fee, the annual fee shall be due on or before January 1 each calendar year.

Section 3106.06 Inspection Required For Transfer of Vacant Residential Property

(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.

Section 3106.07 Escrow Required for Transfer of Vacant Residential Property

(a) For any vacant residential property, if a code violation has been found at any inspection of the vacant property under Section 3106.06, and if a certificate of correction has not been issued stating that those violations have been remedied, then title to that vacant property shall not be sold, transferred, or have any interest conveyed, nor shall any party enter into an agreement regarding the same, unless ~~the buyer~~ a party to the transfer establishes an escrow account with least an amount established in subsection (1) of this section 3106.07 and the account has been approved in writing by the Director or his/her designee. No funds shall be released or dispersed from the escrow account without the written approval of the Director or that of his/her designee.

(1) As of July 1, 2024, the amount in escrow shall be at least five thousand dollars (\$5,000.00). Thereafter, the amount 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.

(2) Proof of escrow shall be issued by the title company in the sale, transfer, conveyance, or agreement for the same, and received by the City before any transfer shall occur. If no title company is involved in the transaction, the City may hold the escrow, at the discretion of the Director.

(3) In lieu of establishment of an escrow account hereunder, a purchaser may present proof of a commitment for a Federal Housing Administration Section 203(k) loan or other similar rehabilitation loan from a recognized lending institution in an amount adequate to correct all code violations, as approved by the Director.

(4) If no code violations have been found at the vacant property, then the requirement for an escrow ~~shall~~ account shall not apply.

(b) All code violations at the property shall be corrected within six months of purchase.

(1) The Director may provide an extension of no more than six months per request to correct any individual or all violations, so long as a request is made

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at least 30 days before the end of the deadline, and the request is made on the form or forms provided by the Director, if each of the following conditions are met:

A. The proper correction of the code violations on a property requires by their severity more than six months to remedy, or seasonal conditions prevent the timely correction of certain violation, or correcting the violations on the property poses notably greater challenges than on a typical vacant property in the City;

B. The buyer has made good-faith efforts to correct or initiate the correction of the violations; and

C. An extension of the deadline is in the best interests of the City.

(2) If all code violations have been corrected within six months of purchase or within an extended deadline as approved by the Director, then upon issuance of a certificate of correction, all funds in the escrow account shall be dispersed.

(3) If all code violations have not been corrected within six months of purchase or within an extended deadline as approved by the Director, then all funds in the escrow account shall be dispersed to the City if necessary for the costs of completing the repairs or for demolition of the property. Prior to the disbursement of funds to the City from the escrow account, the City shall provide written notice in accordance with Section 3103.09(h)(6).

Section 3106.08 Fees

(a) The fee for a certificate of correction shall be set by the Board of Control but shall not be less than one hundred and fifty dollars (\$150).

(b) There shall be no fee for one re-inspection requested by the same Responsible Party within twelve months from the date of the initial inspection to verify correction of violations stated within the vacant building inspection. All subsequent re-inspections may be billed at one hundred and fifty dollars (\$150) per inspection.

(c) In the event of resale within the one-year period, this vacant building inspection report shall be transferred to any subsequent bona fide purchaser and shall be valid for the remainder of that period.

Section 3106.09 Appeals

The seller or transferor, or the purchaser or transferee of a vacant building shall have the right to appeal to the Board of Building Standards and Building Appeals from any order of, or written notice issued by the Director within thirty days from the date such notice was given, mailed, or issued. 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 the appeal is acted upon by the Board.

Section 3106.10 Liability

The issuance of a certificate of correction does not guarantee compliance with the City's Codes, nor does the Director nor his or her duly authorized designee(s) accept any

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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 expense of the person desiring such an inspection.

(b) In issuing a vacant building 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 inspection report contains all of the violations of the Cleveland Codified Ordinances, State or Federal law.

(c) In issuing a certificate of correction document under the provisions of this chapter, the City 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. Such document should be construed only as a statement by the City that some or all of the violations listed on the certificate of inspection have been corrected to the City's satisfaction.

Section 3106.99 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.

Section 6. That existing Section 3143.04, Rules, as amended by Ordinance No. 1533-15, passed April 4, 2016, is renumbered to new "Section 3143.98".

Section 7. That the name of Chapter 3143 is changed to "Exterior Walls and Appurtenances; Parking Garages".

Section 8. That Sections 3106.01 to 3106.10 and 3106.99 of the Codified Ordinances of Cleveland, Ohio, 1976, shall take effect and be in force one hundred days after passage of this ordinance, but no earlier than July 1, 2024.

Section 9. 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
9-18-2023
FOR Director Martin O'Toole

