

ORDINANCE NO. 39-2020

AN ORDINANCE TO ESTABLISH CHAPTER 1399, REGISTRATION OF VACANT PROPERTIES AS PART OF THE CODIFIED ORDINANCES OF THE CITY OF REYNOLDSBURG, OHIO

WHEREAS, the City of Reynoldsburg recognizes that Chapter 1399 should be established to protect the public health, safety and welfare of the citizens and inhabitants of the City by preventing property deterioration and by establishing minimum standards governing the maintenance, appearance, and conditions of all residential and non-residential premises; to fix certain responsibilities and duties upon owners and occupants, and to fix penalties for violations of this Chapter,

WHEREAS, the City of Reynoldsburg finds a vacant property registration would ensure that the owners of vacant properties are known to the city and can be reached if necessary; and

WHEREAS, the City of Reynoldsburg desires to ensure that the owners of vacant properties are aware of the obligations of ownership under relevant codes and regulations; and

WHEREAS, the City of Reynoldsburg desires of to ensure the owners of vacant properties meet minimum standards of maintenance of vacant properties.

NOW, THEREFORE; BE IT ORDAINED BY THE COUNCIL OF THE CITY OF REYNOLDSBURG, OHIO, that:

SECTION 1. That Chapter 1399 shall be established and added to the Reynoldsburg Code of Ordinances to require registration of vacant property for the City of Reynoldsburg be and is hereby attached as Exhibit A.

SECTION 2. That upon adoption by Council, this Ordinance shall be in effect thirty days following the signature of the Mayor.

Passed this 26th day of May, 2020.

Leanora Jenkins
Leanora Jenkins, Council President

ATTEST:

Mollie Prasher
Mollie Prasher, Clerk of Council

APPROVED:

Joseph Begeny
Joseph Begeny, Mayor

DATE 5-26-2020

CHAPTER 1399
REGISTRATION OF VACANT PROPERTIES

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§1399.01 Purpose

The purpose of this Chapter is to establish a program for identifying and registering vacant buildings. This registration is to be used as a tool to protect and preserve our neighborhoods from becoming blighted through the lack of adequate maintenance and security concerns at vacant structures. The City of Reynoldsburg believes the presence of vacant buildings can lead to neighborhood decline, create public nuisances, contribute to lower property values, and discourage potential buyers from purchasing a home or business in neighborhoods with vacant properties.

§1399.02 Definitions

For the purpose of this Chapter, certain words and phrases used in this Chapter are defined as follows:

- A. "Accessible property" means a property that is accessible through a compromised or breached gate, fence, wall, or other opening providing access.
- B. "Accessible structure" means a house, building or other structure that is unsecured or breached in such a way as to allow access to the interior space by unauthorized persons.
- C. "Appeal" means a written notice to be filed with the City Board of Zoning and Building Appeals ("the Board") challenging a Notice of Violation. Such appeal must be filed within 14 days of the date of the Notice of Violation.

- D. "Buyer" means any person, partnership, co-partnership, association, and corporation, fiduciary or other entity that agrees to transfer anything of value in consideration for the property.
- E. "City" means the City of Reynoldsburg.
- F. "Deed in lieu of foreclosure" means a recorded document that transfers ownership of a property from the mortgagor to the mortgagee.
- G. "Default" means the failure to fulfill a contractual obligation, whether monetary or conditional.
- H. "Designated City Official" means the Service Director or designee of the Service Director.
- I. "Designated Agent" means a business entity located in the State of Ohio or an individual person eighteen (18) years or older residing in the State of Ohio. The "Designated Agent" must have an address other than a post office box and shall be named by an owner as a secondary point of contact regarding the use or condition of land and the occupancy and physical condition of structures on a platted lot or parcel of land.
- J. "Distressed" means a property that is the subject of a pending foreclosure suit, has been foreclosed upon by the foreclosing entity, is set for sheriff's sale, has been sold at a sheriff's sale or has been conveyed to the mortgagee via a deed in lieu of foreclosure.
- K. "Evidence of vacancy" means any condition that on its own or combined with other conditions present would lead a reasonable person to believe the property is vacant. Such conditions include, but are not limited to; significantly below standard utility usage, overgrown and or dead vegetation, graffiti or other defacement of buildings or structures, accumulation of newspapers circulars, flyers, and/or mail, vehicles, auto parts or materials, the absence of window coverings, such as curtains, blinds, and/or shutters, the absence of furnishings and/ or personal items consistent with habitation or occupations.
- L. "Foreclosing entity" means an entity holding a note secured by a mortgage, an entity holding a lien recorded with the Franklin, Licking, or Fairfield County Recorder's Office, a non- government entity that holds an interest in delinquent property taxes, an entity that takes property via a deed in lieu of foreclosure, an entity that has purchased a property from a sheriff's sale, a government entity that accepts property as a result of a government-insured mortgage or loan.

- M. "Foreclosure" means the process by which a foreclosing entity seeks a decree of foreclosure from the Franklin County, Fairfield County, or Licking County Common Pleas Court.
- N. "Mortgage" means an agreement between a mortgagor and a mortgagee by which a mortgagee retains an interest in real estate title as collateral for a loan. This definition applies to any and all subsequent mortgages, i.e., second mortgage, third mortgage, etc.
- O. "Mortgagee" means the person, partnership, co-partnership, association, corporation, lender, fiduciary or any other entity holding a mortgage on a property.
- P. "Mortgagor" means a borrower under a mortgage.
- Q. "Notice of Violation" means a notice issued by the Designated City Official to the owner of real property or to their designated agent that there has been a violation of a provision of this Chapter or any other applicable section of the Reynoldsburg City Code, ordinance, or regulation concerning vacant properties.
- R. "Owner" means any person who, alone or jointly or severally with others, shall have the legal or equitable title to a property, and shall include executors, administrators, trustees or guardians of the estate of the owner, and any purchaser or assignee under a certificate of sale pursuant to a mortgage foreclosure. The term "owner" shall also include partnerships and other unincorporated associations. Any individual owner, regardless of whether he or she shares ownership responsibility with any other person, any general partner of a partnership, and any officer of a corporation or unincorporated association, shall have direct and personal responsibility and liability for compliance with the provisions of this chapter.
- S. "Property" means any unimproved or improved real property or portion thereof, situated in the City including any house, building or other structures that may be located on the property regardless of condition.
- T. "Securing" means such measures as may be directed by the Designated City Official that assist in rendering the property inaccessible to unauthorized persons, including but not limited to the repairing of fences and walls, chaining or padlocking of gates, the repair or replacement of doors, windows, or other openings.
- U. "Vacant" means a house, building or other structure where no person or persons actually or currently conducts a lawfully licensed business, lawfully resides or lives in any part of the building as the legal or equitable owner(s) or tenant-occupants(s), or owner-occupant(s), or tenants(s).

1. A building shall be deemed vacant if it is unoccupied for a period of time over sixty (60) days and is:
 - a. Unsecured; or
 - b. Secured by other than normal means; or
 - c. An unsafe building as determined by the Code Enforcement Officer; or
 - d. Utilities have been disconnected; or
 - e. Has property maintenance violations under Chapter 1711 of the Reynoldsburg Codified Ordinances; or
 - f. In a mortgage status of abandonment (i.e. deceased or foreclosed); or
 - g. Abandoned by the property owner.
2. A building shall be deemed vacant if it is legally occupied which shall include loitering and vagrancy; or
3. A building shall be deemed vacant if it has not been used for its intended purpose for more than 180 days.

V. "Secured by other than normal means" is defined as a building secured by means other than those used in the design of the building.

W. "Unoccupied" is defined as a building which is not being used for the occupancy authorized by the owner. The term "unoccupied" shall only be applicable to multi-unit structures when more than half (1/2) of the units and/ or more than half (1/2) of the available space are not currently occupied by a tenant or tenants.

X. "Unsecured" is defined as building or portion of a building which is open to entry by unauthorized persons without the use of tools or ladders.

§1399.03 Registration required

- A. The owner of a vacant building shall register the building with the City of Reynoldsburg Designated City Official not later than ninety (90) days after any building in the City becomes a vacant or not later than thirty (30) days of being notified by a designated city official of the requirement to register based on evidence of vacancy, whichever event occurs first.
- B. For any abandoned real property subject to foreclosure that is located within the City of Reynoldsburg, the foreclosing entity shall register the abandoned property within thirty (30) days after the property becomes vacant when:
 1. The entity files a foreclosure action; or
 2. The entity accepts a deed in lieu of foreclosure; or
 3. The entity buys real property at a sheriff's sale or accepts property as result of a government-insured mortgage or loan.

- C. The Registration requirement of this Section shall be in full force and effect ninety (90) days after the effective date of this Chapter.

§1399.04 Designated agent; Notice of service of process

- A. Every owner of a vacant property or foreclosing entity of a vacant property shall designate an agent who resides in the State who shall be responsible for the vacant property and who may accept service of process and official notices on behalf of the owner or foreclosing entity. An official notice or service of process issued to a designated agent shall be deemed as served or delivered upon the owner of record.
- B. The Designated Agent shall reside or maintain a principal place of business within twenty-five (25) miles of the vacant property. The purpose of this requirement is to ensure a timely response to any Notice of Violation.

§1399.05 Exemptions

1. A building under active construction/ renovation and having a valid building permit(s) at the time of the initial inspection shall be exempt from the registration until the expiration of the longest-running currently active building permit.
2. A building that has suffered fire damage or damage caused by extreme weather conditions shall be exempt from the registration requirement for a period of ninety (90) days if the owner submits a request for exemption in writing to the Designated City Official. The request shall include the names and addresses of the owner or owners, and a statement of intent to repair and reoccupy the building in an expedient manner, or the intent to demolish the building.
3. A building that is for sale shall be exempted for a period of twelve (12) months from the start of the vacancy, provided that the owner submits proof to the Designated City Official of such listing and for-sale status.
4. Any owner of a vacant building may request an exemption from the provisions of this Chapter by filing a written application with the City who shall timely consider the same. In determining whether a request for exemption should be granted, the Designated City Official or designee shall consider the following:
 - a. The applicant's prior record as it pertains to Property Maintenance Code Violations.
 - b. The amount of vacant property the applicant currently has within the City of Reynoldsburg.
 - c. The length of time that the building for which the exemption is sought has been vacant.

- d. The Designated City Official shall approve with conditions, or reject the completed application for exemption within thirty (30) days of receiving it.

§1399.06 Registration application form

- A. Application for registration of vacant buildings shall be on forms provided by the Designated City Official and shall including, at a minimum, the following:
 - (1) Address of the vacant property;
 - (2) Name, address, telephone, and e-mail address, if applicable, of an individual owner, sole proprietor or a corporate officer or business representative of a corporation, trust or other entity capable of holding title, or foreclosing entity, if applicable; and
 - (3) Name, address, telephone number, and e-mail address, if applicable, of the Designated Agent, who must be located in the State of Ohio; and
 - (4) Names and addresses of all known lien holders and all other parties with an ownership interest in the building.
 - (5) A Vacant Building Plan as describe in Section 1399.08 of this Chapter.
- B. No post office boxes shall be accepted as a legal address for purposes of this Chapter.
- C. Registrations shall be retained by the City as a public record and made available to any other City department or public entity upon request.
- D. Every person required to register a vacant building shall complete a new application upon amendment or change of any required information.
- E. Upon sale or transfer of the property, the previous owner shall provide the Designated City Official with the name and contact information of the new owner so that they may complete a new application for certificate of registration.
- F. The failure of the owner of the vacant building to obtain a deed for the property or to file the deed with the County Recorder shall not excuse the property owner from registering the property.

§1399.07 Registration term and renewal

- A. Registration shall remain valid for twelve (12) months from the approved registration date. Should the property remain vacant upon the expiration of the initial registration, the owner or foreclosing entity shall complete another application to re-register the

property and pay an escalating fee schedule as outlined in Section 1399.07 of this Chapter.

- B. If the building is to remain vacant after twelve (12) months, the owner or foreclosing entity shall submit, in writing, an explanation how the building will remain secure, along with the procedure that will be used to maintain the property, and the reasons why the building will be left vacant.
- C. Once a registered property is sold and the deed is transferred into a new owner's name, the new owner or foreclosing entity must submit in writing to have the property removed from the registry.

§1399.08 Vacant building plan

Upon registration of a vacant building, the owner shall also file a vacant building plan, which must contain one of the following:

- (1) If the building is to be demolished, a demolition plan that complies with the Ohio Building Code; or
- (2) If the building is to remain vacant, an explanation detailing how the building will remain secure, along with the procedure that will be used to maintain the property, and the reasons why the building will be left vacant.

§1399.09 Rehabilitation plan required for re-occupancy

If a vacant building is to be returned to the appropriate occupancy or use, the owner shall submit a rehabilitation plan for the building and grounds. The rehabilitation plan shall be completed not longer than twelve (12) months from the time permits are obtained, unless the Designated City Official or designee grants an extension upon receipt of a written request from the owner detailing the reasons for the extension. Any repairs, improvements or alteration to the property must comply with the applicable zoning, housing, historic, preservation, or building codes and the property must be secured during the rehabilitation.

§1399.10 Inspections

- A. Inspections shall be conducted on the premises upon presentation of proper credentials. Nothing in this chapter shall be construed to require an owner or foreclosing entity owner to consent to a warrantless inspection of a vacant building premises except as provided by law.

- B. Any exterior or interior common area, which is accessible to the public, of any vacant building may be inspected at any time.
- C. Interior inspections of vacant buildings may be performed at the request or consent of an owner or foreclosing entity.
- D. If the owner or foreclosing entity does not consent to the proposed inspection, the Designated City Official may appear before any judge in a court of competent jurisdiction and seek an administrative search warrant to allow an inspection. Any such application shall be made within ten (10) calendar days after the non-consent. The application for the warrant shall specify the basis upon which the warrant is being sought and shall include a statement that the inspection will be limited to a determination whether there are violations of the Ohio Residential Building Code, the Property Maintenance Code under Chapter 1711 of the City Ordinances of Reynoldsburg, or any other applicable law. The Court may consider any of the following factors along with such other matters as it deems pertinent in its decision as to whether a warrant shall be issued:
 - 1. Eyewitness account of a violation;
 - 2. Citizen complaints;
 - 3. Plain view violations;
 - 4. Violations apparent from city records;
 - 5. Property deterioration;
 - 6. Age of property;
 - 7. Nature of alleged violation;
 - 8. Condition of similar properties in the area;
 - 9. Documented violations on similar properties in the area;
 - 10. Passage of time since last inspection;
 - 11. Previous violations on the property.
- E. If a warrant is issued, no owner or foreclosing entity shall fail or neglect, upon presentation of a warrant, to properly permit entry therein by the code official or his/her duly authorized designee for the purpose of conducting an inspection and examination pursuant to this section and consistent with the terms of the warrant.
- F. No criminal or civil penalty under this Chapter shall attach solely by reason of the owner or foreclosing entity's refusal to consent to a full inspection.

1399.11 Maintenance requirements

While vacant properties are required to be registered with the City pursuant to this chapter, such properties are required to be maintained in accordance with Chapter 1385 and Chapter 1711 of the City of Reynoldsburg Codified Ordinances.

1399.12 Security requirements

Any structure on the premises of a registered vacant property is required to be maintained in a secure manner, so as not to be accessible to any unauthorized persons. Secure manner includes, but is not limited to:

1. Closure and locking of all windows, doors, and other openings that may allow access to the interior of a structure
2. In the case of damaged or broken doors, windows or other openings, they must be repaired properly within thirty (30) days of notification.
3. Boarding up a damaged or unsecure door, window or other openings may be permitted only to eliminate an immediate hazard, but not to exceed thirty (30) days.
4. Any property found to be unsecure must be secured within forty-eight (48) hours of notification.

1399.13 Fees

The fees described in this section are established in order to defray the costs to the City related to the health, safety, and economic impact of structures which remain vacant for long periods of time, including but not limited to administrative costs for registering and processing the vacant building owner registration form and for the costs incurred by the City in monitoring the vacant building. The annually increased fee amounts are reasonably related to the costs incurred by the City for demolition and hazard abatement or repairs to vacant buildings, as well as the continued administrative costs.

1. The owner of a vacant building shall pay an annual fee of two hundred dollars (\$200) for the first year the building remains vacant.
2. For every consecutive year that the building remains vacant, the annual registration fee shall be increased by two hundred dollars (\$200) over the previous year to a five (5) year maximum of one thousand dollars (\$1,000) to be used for the fifth and for all consecutive, subsequent years of vacancy.
3. The first annual fee shall be paid at the time the building is registered. If the fee is not paid, the amount owed shall be assessed against the owner and certified to the appropriate County Auditor as a lien against the property.
4. The fee shall be paid in full prior to the issuance of any building permits unless the property is granted an exemption.
5. All delinquent fees shall be paid by the owner prior to any transfer of an ownership interest in the vacant building. A lien may be placed on the property to collect delinquent fees.

§1399.14 Notice of Violations

- A. The Designated City Official, or his or her designee, shall have the power to enforce all provisions of this Chapter.

- B. The Designated City Official, or designee, shall have the responsibility to issue to the owner of a vacant property or an authorized agent of an owner of a vacant property a Notice of Violation of any part of this Chapter, the Property Maintenance Code provided in Chapter 1711, or any other applicable section of the City ordinances.
- C. The Notice of Violation shall include the applicable code section the owner is alleged to have violated, a brief statement of the factual basis for the alleged violation, and instructions to the owner of the right to appeal under Section 1399.15.

1399.15 Appeals

The Board of Zoning and Building Appeals (the "Board") shall have jurisdiction to hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Designated City Official in the enforcement or administration of this chapter.

Any person affected by any Notice of Violation which has been issued in connection with the enforcement of any of the provisions of this Chapter may request and shall be granted a hearing on the matter by filing an appeal.

The person shall file, with the Clerk of City Council, an appeal with a written request for the hearing and shall set forth the name, address, and phone number of the appellant and a brief statement of the grounds for the hearing and appeal from any Notice of Violation of this Chapter. Requests shall be filed within 14 days of the date of the Notice of Violation. On receipt of the appeal, the Clerk of Council shall set a time and place for a hearing before the Board. The hearing shall be held within a reasonable time after a request has been filed. At the hearing, the appellant shall be given an opportunity to be heard and to show cause why the notice and order should be modified or dismissed, or why a variance should be granted. The failure of the appellant or his representative to appear and present his position at the hearing shall be grounds for dismissal of the request.

Any party entitled to appeal a decision of the Board may appeal to a court of competent jurisdiction.

§1399.16 Failure to Remediate

- A. If, after expiration of the time to file an appeal of a Notice of Violation or upon the affirmance by the Board and exhaustion of further appeals, the owner fails to remediate revision the violation, the Designated City Official shall have the power to issue a criminal or civil citation to the owner.
- B. Any citation issued under Section (A) shall be filed in the Reynoldsburg Mayor's Court, in the Franklin County Municipal Court, Environmental Division, or in the appropriate county municipal or common pleas court which shall have jurisdiction over the address where the violation occurred.

§1399.17 Validity.

Should any section, clause, or paragraph of this chapter be declared invalid by a court of competent jurisdiction, the same shall not affect the validity of the Chapter as a whole or any part thereof other than the part declared invalid.

1399.99 Penalties

Whoever violates or fails to comply with any of the provisions of this Chapter, including the failure to register a vacant property pursuant to Section 1399.03, is guilty of an unclassified misdemeanor that shall be punishable by up to one thousand dollars (\$1000.00) in fines. Each separate violation shall constitute a separate offense, and a separate offense shall be deemed committed for each day a violation continues.