

Presented by: Frederick Maurer  
Michael Soyars  
Carla Debevec  
Gary Endres  
John Lysenko  
John Wagner  
Craig Megyes  
Terry Avant  
Carol Frey

**RESOLUTION NO. 48-2012  
SPONSORED BY: MR. LYSENKO**

**TITLE: “IN ABSENTIA” CORPORATE REAL ESTATE OWNERS**

**A RESOLUTION OF THE COUNCIL OF THE CITY OF BARBERTON  
TO SUPPORT AND ENCOURAGE THE GENERAL ASSEMBLY TO ENACT  
LEGISLATION THAT ALLOWS LOCAL GOVERNMENTS AN EFFECTIVE  
MEANS TO PROSECUTE ABSENT CORPORATE REAL ESTATE OWNERS /  
DEFENDANTS, AND DECLARING AN EMERGENCY.**

**WHEREAS,** the Ohio Supreme Court has ruled that corporate owners of real estate may not be tried “in absentia” in the State’s municipal courts; and

**WHEREAS,** these corporations are often absent, unavailable and fail to appear in response to court proceedings in spite of their knowledge of such proceedings against them; and

**WHEREAS,** there is a large volume of blighted, neglected and vacant real estate situated within the City of Barberton and said properties are in many cases owned by an absentee corporate owner; and

**WHEREAS,** the City of Barberton has experienced the spread of blighted properties which are often owned by banks and/or other corporations with no ties to this area that permit properties to decay and decrease in value. These properties are abandoned, attract vandalism, pests and infestations, and generally decrease the safety and quality of life in the neighborhoods of the City. The properties generally constitute a nuisance; and

**WHEREAS,** in the absence of a change in the Ohio Revised Code, there is no means by which corporate owners are bound to appear in municipal courts in response to building code violations charged against them and there is no means available to public officials to obtain convictions and/or enforce financial penalties against said corporations; and

**WHEREAS,** there are currently hundreds of abandoned and unmaintained bank owned residential properties located within the City limits; and

**WHEREAS,** the City of Barberton has spent well over a million dollars in an effort to abate nuisance properties and has spent said funds on code enforcement proceedings and demolition costs. With the current state of the economy, the amount of foreclosures which result in abandoned and vacant properties, and the financial constraints cities in Ohio are now subjected to, a change in law is necessary; and

**WHEREAS**, Chief Justice Maureen O’Connor, in her concurring opinion in City of Cleveland v. Washington Mutual Bank, stated the following:

**“City prosecutors working in municipal and common pleas courts must have a mechanism through which they can constitutionally provide notice to owners but proceed with trial in absentia if an owner fails to respond to defend the claim. Legislative modification of R.C. 2941.47 to permit a municipal court to proceed in absentia is one manner by which this goal can be accomplished.**

**In asserting the need for action, I am aware that many lenders are now inundated with foreclosed properties. But that dynamic is not likely to change in the foreseeable future, and lenders, as the lawful property owners, must now address the problem. They may choose to do so through cooperative efforts with city leaders. But ignoring the problem will only contribute to it, a result that is not legally, fiscally, or morally acceptable.”**

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the City of Barberton, State of Ohio:

**SECTION 1.** That this Council of the City of Barberton supports and encourages the General Assembly to enact legislation that allows local governments an effective means to prosecute absent corporate real estate owners / defendants.

**SECTION 2.** That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were taken in an open meeting of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action were meetings open to the public in compliance with the law.

**SECTION 3.** That this ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety, convenience and welfare of the City of Barberton and the inhabitants thereof, for the reason that it is necessary go into effect immediately to confirm support, and provided it receives the necessary votes required by the City Charter, shall be in full force and effect from and after its passage and approval; otherwise to be in full force and effect from and after the earliest period allowed by law.

Passed \_\_\_\_\_ 2012

_____	_____
Clerk of Council	President of Council

Approved \_\_\_\_\_ 2012

\_\_\_\_\_  
Mayor