

ORDINANCE NO. 106-2020

**TITLE: AMENDING BARBERTON CODIFIED ORDINANCES
CHAPTER 1456 - VACANT PROPERTY REGISTRATION PROGRAM**

AN ORDINANCE AMENDING SECTION 1456.04 “OWNER REQUIRED TO ACT; ENFORCEMENT AUTHORITY” BY ADDING TIERED REGISTRATION FEES FOR COMMERCIAL AND INDUSTRIAL VACANT PROPERTIES, AND DECLARING AN EMERGENCY.

WHEREAS, the Vacant Property Registration Program was established September 14, 2015 (Ordinance 98-2015); and

WHEREAS, this was presented to the Planning Commission on September 16, 2020 and they unanimously recommended this amendment.

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

SECTION 1. That Section 1456.04 of the Barberton Codified Ordinances entitled “Owner Required to Act; Enforcement Authority” shall be amended by showing additions in **bold print**:

1456.04 OWNER REQUIRED TO ACT; ENFORCEMENT AUTHORITY

(a) (1) The owner of any structure that has become vacant as defined in Section 1456.03 shall, within thirty days after the structure first becomes vacant, within thirty days of receiving notice that a structure is vacant, or within thirty days after the effective date of this chapter, whichever is later, file a registration statement for each such structure with the Code Official or his or her designee on forms provided for such purposes. Any owner of a property which files a foreclosure action against said property, or for which a foreclosure action is pending, or a judgment of foreclosure has been issued shall, in addition to all other requirements of this section, provide a cash bond acceptable to the Building Commissioner or his designee, in the sum of not less than ten thousand dollars (\$10,000), to secure the continued maintenance of the property throughout its vacancy and remunerate the City for any expenses incurred in inspecting, securing, repairing, marking and/or making such building safe by any legal means including, but not limited to, demolition. A portion of said bond in an amount to be determined by the Building Commissioner shall be retained by the City as an administrative fee to fund an account for expenses incurred in inspecting, securing, repairing and/or marking said building and other buildings which are involved in the foreclosure process or vacant.

(2) The registration statement shall remain valid for one year from the date of registration. The registering party shall be required to annually renew the registration as long as the structure remains vacant and shall pay an annual registration fee of one hundred dollars (\$100.00) for each residential structure and two hundred and fifty dollars (\$250.00) for each commercial or industrial structure **for properties up to 10,000 square feet, five hundred dollars (\$500.00) for properties between 10,001 and 20,000 square feet, one thousand dollars (\$1,000.00) for properties between 20,001 and 50,000 square feet, two thousand dollars (\$2,000.00) for properties between 50,001 and 100,000 square feet, and five thousand dollars (\$5,000.00) for structures over 100,000 square feet**; provided, however, that all religious, educational, benevolent or charitable associations, all governmental agencies shall be exempt from the payment of the annual registration fee. The registering party shall not be entitled to a refund of all or any part of the registration fee should the structure no longer be deemed vacant during the annual registration period.

(3) The owner shall notify the Code Official or his or her designee within twenty days of any change in the registration information by filing an amended registration statement on a form provided for such purposes. The registration statement shall be deemed prima facie proof of the statements therein contained in any administrative enforcement proceeding or court proceeding instituted by the City against the owner of the structure. An owner shall be

liable under this section for failing to register a vacant structure, paying an appropriate annual registration fee, or timely updating any change in registration.

(b) (1) In addition to other information required by the Code Official, the registration statement shall include the name, street address and telephone number of a natural person twenty-one years of age or older, designated by the owner as the authorized agent for receiving notices of code violations and for receiving process in any court proceeding or administrative enforcement proceeding on behalf of such owner in connection with the enforcement of this chapter. This person must maintain an office in Summit County, Ohio, or must actually reside within Summit County, Ohio. An owner who is a natural person and who meets the requirements of this subsection as to location of residence or office may designate him- or herself as agent.

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

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

(d) Any owner who fails to register a vacant structure under the provisions of this section shall further be deemed to consent to receive, by posting at the structure, any and all notices of code violations and all process in an administrative proceeding brought to enforce code provisions concerning the structure and premises.

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

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 this policy be implemented as soon as possible, 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 _____ 2020

Clerk of Council

President of Council

Approved _____ 2020

Mayor