

05/21/2025

Presented by: Mr. Heitic

**ORDINANCE NO. 75-2025**

**TITLE: AMENDING BARBERTON CODIFIED ORDINANCES  
CHAPTER 1454 – VACANT PROPERTY REGISTRATION PROGRAM**

**AN ORDINANCE AMENDING CHAPTER 1454 “VACANT PROPERTY  
REGISTRATION PROGRAM” AND DECLARING AN EMERGENCY.**

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

**SECTION 1.** Council hereby amends Chapter 1454, “Vacant Property Registration Program” by showing said amendments with a ~~strike through~~ for any deletions and **bold** for any additions.

**VACANT PROPERTY REGISTRATION PROGRAM**

**SECTION 1451.01 ADOPTION; PURPOSE**

(A) The purpose of this chapter is to establish a vacant property registration program and to regulate the maintenance of properties which are in the foreclosure process, abandoned or vacant. This chapter is intended to reduce and prevent neighborhood blight, to avoid the creation and maintenance of public nuisances, to ameliorate conditions that threaten the public health, safety and welfare, to promote neighborhood stability and occupancy by preserving the condition and appearance of residential properties and the worth and activity of commercial and industrial properties and to maintain property values and assessments.

(B) There is hereby adopted, then, for the aforementioned purposes and for the purpose of providing a means of identifying the owner and/or responsible entities of vacant and/or abandoned properties within the corporate limits of the city, having a complete contact information on record for these properties and responsible parties, a registration and maintenance requirement for vacant and/or abandoned properties.

(C) Nothing in this chapter shall be construed to waive, relieve or otherwise excuse an owner of property from compliance with all applicable codes, ordinances, statutes or laws and the owner shall at all times remain responsible and liable therefor. Nothing in this chapter shall be construed to prevent the enforcement of other provisions of the ~~code of ordinances of the city~~ **Barberton Codified Ordinance**, the city’s Development Code or the Ohio Revised Code (**ORC**) and nothing in this chapter shall be construed to relieve an owner or interested party from duties imposed pursuant to any regulatory code, ordinance, statute or law of the city or state.

(Prior Code, § 1456.01) (Ord. 98-2015, passed 9-14-2015)

**SECTION 1454.02 APPLICABILITY**

This chapter shall be applicable to all residential, commercial, and industrial structures located within the city, but does not apply to **City properties or** county land reutilization corporations organized under ~~Ohio R.C. Ch. 1724~~ **ORC 1724**.

(Prior Code, § 1456.01) (Ord. 98-2015, passed 9-14-2015)

## SECTION 1454.03 DEFINITIONS

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ABANDONED.** A structure that is unoccupied as the result of the relinquishment of possession or control by an owner or other person with the right of possession or control of the structure, a mortgagor or the mortgagor's assigns whether or not the mortgagor or mortgagor's assigns have relinquished equity and title. A structure may be deemed ~~ABANDONED~~ **Abandoned** when there is evidence of conditions, taken separately or as a whole, that would lead a reasonable person to conclude that the property was abandoned, including, but not limited to, evidence of overgrown or dead vegetation, accumulation of newspapers, circulars, flyers, mail, past due utility notices, or other means of notice by publication, the accumulation of junk, litter, trash or debris, absence of windows or window treatments, absence of furnishings and personal items, statements of neighbors, delivery agents or similarly situated persons that the property is ~~ABANDONED~~ **Abandoned**.

**AGENT.** A person who acts on behalf of another person or group.

**CODE OFFICIAL.** Code Official shall have the same meaning and duties as that set forth in § 1350.05 of the city's Development Code.

**CODES.** The ~~Code of Ordinances of the city~~ **Barberton Codified Ordinances** or those adopted by said the code of ordinances.

**COMMERCIAL/INDUSTRIAL.** "Commercial/Industrial" as set forth in the city's Development Code.

**INSPECTOR.** A person employed by or under contract to ~~to~~ **with** the city to perform inspections to determine compliance with codes and to order corrective measures and/or initiate administrative, civil or criminal proceedings.

**OWNER.** The registered owner of a property, any person who holds legal or equitable title to the property, is a mortgagee, a vendee-in-possession, assignee of rents, executor, trustee, lessee, agent or any other person, firm or corporation that is directly or indirectly in control of a property. The ~~OWNER~~ **Owner** of a property in default or for which a foreclosure action is pending or for which a judgment in foreclosure has been issued shall include the mortgagee, the successor in interest to the mortgagee, the lender or servicing company and any agent acting for the mortgagee, its successors or a lender or servicing company. Under this definition, there may be more than one ~~OWNER~~ **Owner** of a property for purposes of this chapter.

**SECURE.** ~~A covering shall be placed over~~ **All** doors and windows which are within 15 feet of the exterior grade, ~~consisting of~~ **shall be covered by** one-half inch thick plywood attached to the framing of all such doors and windows by wood screws of a minimum length of one and one-half inches, placed **twelve (12) inches on center**. Such plywood shall be painted with a minimum of two coats of oil-based exterior paint. In order to be considered ~~SECURE~~ **Secure**, a property must also be in compliance with all requirements of the city's Property Maintenance Code.

**VACANT.**

(1) A structure that is not lawfully occupied or that otherwise qualifies as "~~abandoned~~" **Abandoned** under this section.

(2) Multi-family residential structures shall be considered ~~VACANT~~ **Vacant** when ~~substantially fifty-percent 50% or more~~ all of the dwelling units are not lawfully occupied, ~~as set forth in the city's Development Code~~ or that otherwise qualifies as "~~abandoned~~" **Abandoned** under this section. **Personal storage does not count towards the fifty-percent (50%) occupied requirement as such use violates the City's Development Code.**

(3) Commercial structures shall be considered ~~VACANT~~ **Vacant** when all commercial activity, ~~as set forth in the City's Development Code~~ has ceased at the site or that otherwise qualifies as "~~abandoned~~" **Abandoned** under this section.

(4) Multi-tenant commercial structures shall be considered ~~VACANT~~ **Vacant** when ~~substantially fifty-percent 50% or more of all of the units total square footage is not~~ ~~are not~~ lawfully occupied, ~~as set forth in the city's Development Code~~, or engaging in commercial activity, or that otherwise qualifies as "~~abandoned~~" **Abandoned** under this section. **Personal storage and storage of items not produced, sold, printed, leased, serviced or repaired on the premise, unless otherwise approved through Zoning Compliance, does not count towards the fifty-percent (50%) occupied requirement as such use violates the City's Development Code.**

(5) Industrial structures shall be considered ~~abandoned~~ **Vacant** when all industrial **and/or** manufacturing activity, ~~as set forth in the City's Development Code~~, has ceased at the site or that otherwise qualifies as "~~abandoned~~" **Abandoned** under this section.

(6) Multi-tenant industrial structures shall be considered ~~VACANT~~ **Vacant** when ~~substantially fifty-percent 50% or more of the total units square footage are not~~ ~~is not~~ lawfully, ~~as set forth in the City's Development Code~~, occupied or engaging in industrial or manufacturing activity, or that otherwise qualifies as "~~abandoned~~" **Abandoned** under this section. **Personal storage and storage of items not produced, sold, printed, leased, serviced or repaired on the premise, unless otherwise approved through Zoning Compliance, does not count towards the fifty-percent (50%) occupied requirement as such use violates the City's Development Code.**

(7) In determining whether a structure is ~~VACANT~~, **Vacant**, ~~the following shall be considered: it is also relevant to consider, among other factors,~~ **The percentage of the overall square footage of the building units not in use or floor not in use to the occupied space;** the condition and value of any items in the structure and the presence of rental or for sale signs on the property.

(8) A property that is temporarily unoccupied and is in the process of being renovated under proper and unexpired permits shall not be considered ~~VACANT~~ **Vacant**.

(9) A property that is listed for sale with a ~~licensed realtor~~ **real estate agent** under a fully executed listing agreement shall not be considered ~~VACANT~~ **Vacant** for the first six months of the listing agreement under which the property was first listed for sale. Such property shall be considered ~~VACANT~~ **Vacant** for purposes of this section upon the expiration of the ~~first six~~ **(6)** month period for which it is first listed for sale or upon a subsequent re-listing with the same or a different licensed **Realtor**. Unoccupied property listed as "For Sale by Owner" shall be considered ~~VACANT~~ **Vacant** for purposes of this section.

(Prior Code, § 1456.03) (Ord. 98-2015, passed 9-14-2015)

#### SECTION 1454.04 OWNER REQUIRED TO ACT; ENFORCEMENT AUTHORITY

(A) **Commercial/Industrial.** The Owner of any **Commercial/Industrial** structure that has become **Vacant**, as defined in §1454.03 of this chapter, shall **file**;

1. within **thirty** (30) days after the structure first becomes **Vacant**,
2. within **thirty** (30) days of receiving notice that a structure is vacant, or
3. within **thirty** (30) days after the effective date of this chapter, whichever is later,

file a registration statement for each such structure ~~with which the Code Official or his or her designee determines is Vacant~~ on forms provided for such purposes **and shall be required to pay a Vacant Structure Registration Fee as outlined under the Vacant Commercial/Industrial Structure Registration Fee Schedule.**

Any ~~owner mortgagee~~ of a **commercial/industrial property structure** which files a foreclosure action against ~~said property structure~~, 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, **shall** provide a cash bond acceptable to the Building Commissioner or his or her designee, in the sum of not less than **\$10,000, Twenty-Five Thousand Dollars (\$25,000.00)** to secure the continued maintenance of the ~~property structure~~ 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~~ **the amount of \$1000.00 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 structure** and other ~~buildings structure~~ which are involved in the foreclosure process or vacant.

(1) **The annual registration fee for a vacant Commercial/Industrial structure not in a foreclosure and not located within the established Historical Overlay District shall be based on the duration of time the structure has been Vacant regardless of a change in ownership. The Owner of a Vacant Commercial/Industrial structure shall pay an annual registration fee as outlined under the Vacant Commercial/Industrial Registration Fee Schedule.** ~~of \$500.00 for the first year the structure remains Vacant. For every consecutive year that building remains vacant, the annual registration fee shall be assessed at double the previous year's registration fee amount for a maximum annual registration fee equaling the five (5) year registration fee of eight thousand dollars (\$8000.00) which shall be the registered fee for the fifth and all consecutive, subsequent years of vacancy. 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.~~

**The Vacant Commercial/Industrial Registration Fee shall be as follows:**

**Year One: \$500.00**

**Year Two: \$1000.00**

**Year Three: \$2000.00**

**Year Four: \$4000.00**

**Year Five and on: \$5000.00**

(2) **The annual registration fee for a vacant Historic Commercial/Industrial structure not in a foreclosure and located within the established Historical Overlay District shall be based on the duration of time the structure has been Vacant regardless of a change in ownership. The Owner of a Vacant Commercial/Industrial structure shall pay an annual registration fee as outlined under the Vacant Commercial/Industrial Registration Fee Schedule.** ~~of \$500.00 for the first year the structure remains Vacant. For every consecutive year that building remains vacant, the annual registration fee shall be assessed at double the previous year's registration fee amount for a maximum annual registration fee equaling the five (5) year registration fee of eight thousand dollars (\$8000.00)~~

~~which shall be the registered fee for the fifth and all consecutive, subsequent years of vacancy.~~ 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.

**The Vacant Historic Commercial/Industrial Registration Fee shall be as follows:**

**Year One: \$2000.00**

**Year Two: \$4000.00**

**Year Three: \$8000.00**

**Year Four: \$16,000.00**

**Year Five and on: \$32,000.00**

**(B) Residential.** The Owner of any residential structure that has become Vacant and has not filed a foreclosure, as defined in §1454.03 of this chapter, shall file:

- 1. Within thirty (30) days after the structure first becomes vacant,**
- 2. Within thirty (30) days of receiving notice that a structure is vacant, or;**
- 3. Within thirty (30) days after the effective date of this chapter, whichever is later,**

**file a registration statement for each such structure with the Code Official determines is Vacant on forms provided for such purposes. Any mortgagee of a residential property which files a foreclosure action against said structure, 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, in the sum of not less than Fifteen Thousand Dollars (\$15,000.00) to secure the continued maintenance of the structure 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 of \$1000.00 ~~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 structure and other structures which are involved in the foreclosure process or Vacant.**

**(1) The annual registration fee for a Vacant Residential structure not in a foreclosure shall be based on the duration of time the building has been Vacant regardless of change of ownership. The Owner of a Vacant Residential structure shall pay an annual registration fee as outlined under the Vacant Residential Registration Fee. ~~of Two Hundred Dollars (\$200.00) for the first year the building remains vacant. For every consecutive year that the structure remains vacant, the annual registration fee shall be assessed at double the previous year's registration fee amount for a max annual registration fee equaling the five (5) year registration fee of Sixteen Hundred Dollars (\$1600) which shall be the registered fee for the fifth and all consecutive, subsequent years of vacancy.~~ All governmental agencies shall be exempt from the payment of the annual registration fee. The Owner 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.**

**The Residential Registration Fee shall be as follows:**

**Year One: \$200.00**

**Year Two: \$ 400.00**

**Year Three: \$800.00**

**Year Four: \$1600.00**

**Year Five and on: \$3200.00**

~~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 \$100 for each residential structure and \$250 for each commercial or industrial structure for properties up to 10,000 square feet, \$500 for properties between 10,001 and 20,000 square feet, \$1,000 for properties between 20,001 and 50,000 square feet, \$2,000 for properties between 50,001 and 100,000 square feet, and \$5,000 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.~~

(2) The **Owner** shall notify the **Code Official** or his or her designee within **twenty** (20) 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.

(3) **Registration Statement** (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 21 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 **contiguous County** or must actually reside within Summit County, Ohio **or contiguous county**. An **Owner** who is a natural person and who meets the requirements of this division (B) as to location of residence or office may designate himself or herself as agent.

(4) By designating an authorized agent under the provisions of this division (B), 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 division

(B) shall be deemed to consent to the continuation of the agent's designation for the purposes of this division (B) 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.

(A) The **Owner** of any **Vacant Commercial/Industrial** structure shall, within **Fifteen** (15) days of registering a Vacant structure, cause a physical inspection **by the Building and Fire Departments in the presence of the Owner, person in control, or authorized agent of the Owner having responsibility for security and maintenance of the structure for the purpose of determining the structural integrity, that it will be safe by firefighters and police officers in times of emergency, and that it complies with the requirements of this Chapter** ~~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.

(B) 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.

(C) **If the Owner or person in control fails or refuses to consent to and arrange for an inspection, the Building Commissioner or Fire Chief shall obtain a search warrant from Barberton Municipal Court to authorize inspection of the structure.**

(D) 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.

(Prior Code, § 1456.04) (Ord. 98-2015, passed 9-14-2015; Ord. 106-2020, passed 9-28-2020)\

#### SECTION 1454.05 REGISTRATION REQUIRED AND PENALTY

(A) The owner of any vacant structure shall file a registration statement for each such structure with the code official or his or her designee on forms provided for such purposes. Any such 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 or owners of the structure.

(B) The owner of any vacant structure who fails to file a registration statement for each such structure within the timeframes established by this chapter or who fails to update a change in registration information within the timeframes established by this chapter shall be subject to a \$50 per day administrative penalty with a maximum penalty of \$1,000.

(C) Notwithstanding any other language in this chapter and unless otherwise specified, any person who violates any provision of this section or of the rules and regulations issued hereunder and fails to maintain the property according to the codes shall be guilty of a first degree misdemeanor and, upon conviction, shall be fined not less than \$200 for each offense. Every day that a violation continues shall constitute a separate and distinct offense.

(Prior Code, § 1456.05) (Ord. 98-2015, passed 9-14-2015)

#### SECTION 1454.06 LIABILITY

(A) Unless otherwise specifically provided, the owner, the owner's agent for the purpose of managing, controlling or collecting rents, and any other person managing or controlling a structure or premises in any part of which there is a violation of the provisions of this code, shall be liable for any violation therein, existing or occurring, or which may have existed or occurred, at or during any time when such person is or was the person owning or managing, controlling or acting as agent in regard to said structure or premises and is subject to injunctions, abatement orders or other remedial orders.

(B) The liabilities and obligations hereunder imposed on an owner shall attach to a trustee under a land trust holding title to such building, structure or premises without the right of possession, management or control, unless said trustee in a proceeding under said provisions of this code discloses in a verified pleading or in an affidavit filed with the court, the name and last known address of each person who was a beneficiary of the trust at the time of the alleged violation and of each person, if any, who was then acting as agent for the purpose of managing, controlling or collecting rents, as the same may appear on the records of the trust.

(C) The liabilities and obligations imposed on an owner shall attach to any financial institution, mortgage company or any other person or entity with or without an interest in the structure or premises who knowingly takes any action in any judicial or administrative proceeding that is intended to delay issuance or enforcement of any remedy for any violation of the codes; provided that, with respect to fines such person shall be liable only for fines which accrue on or after the date of such action and further provided that no liability shall be imposed under this section for any action taken in any proceeding, including a proceeding to foreclose on a lien, that does not delay or prevent the prosecution of any action brought by the city to enforce the adopted codes.

(D) In the event the city, due to lack of response of an owner or agent, is required to take action, through its own efforts or via a contract for such services, to abate a nuisance at a vacant property the owner will be billed for the cost of the abatement to include all labor and materials needed to correct the violation. Nuisance abatements shall include, but are not be limited to, elimination of hazardous conditions, cutting of weeds and overgrowth, securing and/or boarding of a structure, trash cleanup and disposal and demolition.

(Prior Code, § 1456.06) (Ord. 98-2015, passed 9-14-2015)

#### SECTION 1454.07 APPEALS

Appeals shall be processed in accordance with § 1310.03(c) of the city's Development Code.

(Prior Code, § 1456.07) (Ord. 98-2015, passed 9-14-2015)

#### SECTION 1454.09 SAVINGS CLAUSE

The repeal or amendment herein shall not abrogate or affect any offense or act committed or done, or any penalty or forfeiture incurred, or any pending litigation or prosecution of any right established or occurring prior to the effective date of this chapter, as amended.

(Prior Code, § 1456.09) (Ord. 98-2015, passed 9-14-2015)

#### SECTION 1454.10 APPROPRIATION OF FEES COLLECTED

All fees collected shall be paid into the treasury of the city and shall, in turn, be certified by the Finance Director and appropriated by City Council for the enforcement of this chapter.

(Prior Code, § 1456.10) (Ord. 98-2015, passed 9-14-2015)

**SECTION 3.** 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 4.** 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, and for the reason the get the program up and running in a timely manner, 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 June 9, 2025

\_\_\_\_\_  
Clerk of Council

\_\_\_\_\_  
President of Council

Approved \_\_\_\_\_ 2025

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Mayor