

ORDINANCE NO. 19-64
INTRODUCED BY: Ms. Maier

ORDINANCE
**AMENDING PART 13 OF THE CODIFIED ORDINANCES OF
THE CITY OF BAY VILLAGE BY ENACTING CHAPTER 1375 RELATING TO
VACANT BUILDINGS AND DECLARING AN EMERGENCY**

WHEREAS, the City of Bay Village has, on occasion, vacant buildings within its municipal jurisdiction that have a detrimental effect on neighboring properties, and

WHEREAS, the City of Bay Village desires to preserve the quality of the properties within the city by requiring the owners of buildings to maintain their vacant properties;

NOW THEREFORE, be it ordained by the Council of the City of Bay Village, Ohio:

SECTION 1. That Part 13 of the Codified Ordinances of the City of Bay Village is hereby amended by enacting new Chapter 1375 which shall read as follows:

CHAPTER 1375
Vacant Buildings

1375.01 DEFINITIONS.

For the purpose of this chapter, words and phrases shall have the following meanings:

- (a) "Vacant building" shall be defined for the purposes of this section, as a building which 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.

1375.02 DUTIES OF OWNER.

- (a) The owner, 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 shall maintain the vacant building in compliance with City codes, with particular attention to the following:
- (1) Grass and weeds shall be kept at a maximum height of seven inches. Shrubbery must be kept trimmed and neat and kept from encroaching on or touching the building.
 - (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 trespassers and rodents. 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. Doors and/or windows that are found to be defective shall be replaced with similar, new doors or window units equipped with locking hardware. Property must be properly winterized.
 - (4) Roofs on all buildings shall be in good, weather tight condition with no leakage.

- (5) Any accumulated trash or debris must be removed from the property immediately.
 - (6) Graffiti, tagging or similar markings must be immediately 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.
 - (8) Property shall be maintained free of nuisance conditions.
 - (9) Compliance with this section does not relieve the owner or agent in control of the property 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.
- (b) Registration Required.
- (1) The owner, agent, lessee, or party in control of any vacant building, or a party that has filed a foreclosure action that is currently pending regarding any vacant building shall register the property with the Building Director, and maintain the registration up to date.
 - (2) An application for registration of a vacant building shall include all of the following information on forms provided by the City:
 - A. The name of the owner, agent, lessee or party in control of the property and/or foreclosing entity submitting the registration application;
 - B. The direct mailing address of the applicant; P.O. boxes are not an acceptable address;
 - C. A contact name, telephone number and e-mail address for the applicant;
 - D. In the case of an applicant whose home or business address is located outside Cuyahoga County, the applicant shall provide the name and mailing address of a property management company located in Cuyahoga County as well as the contact name, telephone number and e-mail address of the person at that company responsible for the condition, security, maintenance, and marketing of the property.
 - E. The fee required by Section 1375.02(b)(5).
 - (3) Registration shall remain valid for twelve months from the date of issuance. The owner, agent, lessee or party in control, or party in a foreclosure action, shall renew the registration upon expiration for as long as the property remains vacant.
 - (4) The owner, agent, lessee, party in control, or party in a foreclosure action of any vacant building, 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. A written report of such inspections shall be provided to the City upon request.
 - (5) Fees: The annual registration fee required by this Section shall be two hundred dollars (\$200.00).
- (c) Exemptions. Waivers exempting compliance with the provisions of this chapter shall be obtained in writing on a form provided by the City under the following circumstances as long as the property is kept in safe, secure, and habitable condition in the owner's absence, including continual compliance with Section 1375.02 "Duties of Owner":
- (1) A building under active construction, reconstruction or renovation and having a valid building permit(s) at the time of initial inspection shall be exempt from registration until the expiration of the longest running, currently active building permit. Active

construction for the purposes of this chapter is construction activity that continues without any interruption longer than 30 days.

- (2) Extended vacationers or temporary change in living arrangements: A resident on an extended vacation or in an alternative temporary living arrangement, with the intention of re-occupying the property.
- (3) A building that is for sale and listed with a State of Ohio Realtor shall be exempted for a period of 12 months from the start of vacancy, provided that the owner submits proof to the Building Department of such listing and for sale status.

1375.03 CERTIFICATE OF COMPLIANCE REQUIRED.

- (a) The owner, agent, or party in control of any vacant building, shall apply for and obtain a vacant building inspection from the Building Director prior to selling, transferring, or conveying any interest in or entering into an agreement to sell, transfer or otherwise convey an interest in such property and shall provide a copy of such inspection to the prospective purchaser or title transferee prior to conveyance of the title.
- (b) 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 Building Director, in order to permit the escrow agent to comply with this chapter. The vacant building inspection shall list thereon all known violations of the City Building, Housing and/or Zoning Codes found as a result of an exterior and interior inspection, pursuant to obtaining the certificate of compliance.
- (c) The owner shall deposit in escrow a statement signed by the purchaser or transferee acknowledging receipt of the vacant building inspection, and such statement shall list thereon the date the inspection was given to the purchaser or transferee.
- (d) Once the violations listed on the vacant building inspection report are corrected, a certificate of compliance must be obtained prior to the parcel being occupied.

1375.04 VACANT BUILDING INSPECTION AND ISSUANCE.

An application for a vacant building inspection required by this chapter shall be made upon forms supplied by the Building Director.

- (a) The Building Director shall cause a general exterior and interior inspection for the dwelling structure and premises to be made.
- (b) The vacant building inspection 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.
- (c) Once a vacant building inspection is issued, it shall be valid for a period of one year from the date of the inspection required herein, and that inspection is only good for one transfer. In the event of resale within the one-year period, this vacant building inspection shall be transferred to any subsequent bona fide purchaser and shall be valid for the remainder of that period.
- (d) If the owner or agent refuses to consent to an inspection of the subject property, or if consent is otherwise unobtainable, the Building Director or his/her designated

representative shall not make such inspection without first obtaining a search warrant from a court of competent jurisdiction.

1375.05 FEES.

- (a) Upon completion of vacant building violations, fee for a certificate of compliance shall be two hundred dollars (\$200.00).
- (b) There shall be no fee for one re-inspection requested by the same owner 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 twenty-five dollars (\$25.00) 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.

1375.06 ESCROW DEPOSIT REQUIRED PRIOR TO SALE.

- (a) If all violations listed on the vacant building inspection are not corrected prior to transfer of title, an escrow account shall be established by a party to the transfer, in an amount not less than one thousand dollars (\$1,000) and equal to 100 percent of the estimated cost of repairs, shall be deposited therein to pay for the cost to correct all remaining violations. No party to a transfer of a vacant building shall authorize or accept such transfer without ensuring compliance with this section.
- (b) The Building Director may establish the amount of the escrow based on a schedule of fees.
- (c) A party of the transfer may procure written estimates from at least two companies capable of performing the work, which are currently registered to do business in the City of Bay Village. These estimates may be provided to the Building Director as an alternative to the schedule of fees for determining escrow.

1375.07 CORRECTION OF VIOLATIONS.

Any violations found upon inspection of the premises shall be corrected prior to issuance of the certificate of compliance. However, should the buyer agree to assume all violations listed in the notice of violations, a certificate of compliance may still be issued if the condition of the property meets minimum requirements for habitation as specified in Section 1344.04. In such case the buyer would have six months from the date of title transfer to correct all outstanding violations. Violations that cannot be corrected due to seasonal conditions shall not preclude the issuance of a certificate of compliance; provided that, issuance of such certificate shall be upon written acknowledgment of all violations and agreement to correct all violations within six months of the inspection date. In addition, written notice must be received by the City that funds are being held in an escrow account in a sufficient amount to correct all violations, but in no case less than one thousand dollars (\$1,000). Such account shall be held by an independent escrow agent, or by the City of Bay Village, at the City's discretion, and be closed only upon written notice by the Building Director.

(a) Appeals.

- (1) The Board of Appeals on Zoning and Building Standards as established by ordinance, shall be the Board of Appeals for this chapter and its powers and duties and the procedures for appeal shall be as provided in such ordinance establishing the Board.
- (2) The seller or transferor, or the purchaser or transferee of a vacant building shall have the right to appeal from any order of, or written notice issued by, the Building Director within thirty days from the date such notice was given, mailed or issued, and to appear before the Board within sixty days of receipt of the notice appealed from, to show cause why he/she should not comply with such notice. 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.

1375.08 DISPERSAL OF FUNDS BY ESCROW AGENTS.

No person acting in the capacity of an escrow agent in any real estate transaction involving the sale or transfer of a vacant building, shall disperse any funds held in escrow in compliance with Section 1375.06 unless there has been compliance with Section 1375.07.

- (a) Funds shall be disbursed only upon written authorization from the Building Director or his/her designee as follows:
 - (1) The Building Director or his/her designee may authorize one partial release of funds from the escrow account established per Section 1375.06 once completion of a significant number of violations occurs, as long as sufficient funds remain in escrow to correct all other remaining violations; and remaining escrow will be released in full once all violations are corrected and a certificate of compliance is obtained.

1375.09 CERTIFICATE OF COMPLIANCE.

- (a) At the request of the owner of the property or his/her agent, the City shall issue a letter or other written document signed and dated by the Building Director stating that all violations listed on the vacant building inspection have been completed to the City's satisfaction, and the property is eligible for occupancy. No previously vacant building may be lawfully occupied until this certificate of compliance is obtained.
- (b) At the request of the owner of the property or his/her agent, the City may issue a letter or other written document signed and dated by the Building Director stating that specific violations listed on the vacant building inspection have been completed to the City's satisfaction. If the Building Director issues such a letter or written document, it shall contain the specific violation(s) that remain outstanding, the respective cost(s) of correcting same, and be compliant with the requirements of Section 1375.07.

1375.10 LIABILITY.

The issuance of a certificate of compliance does not guarantee compliance with the Building, Housing and/or Zoning Codes, nor does the Building Director nor his or her duly authorized designee(s) accept any 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 Bay Village Codified Ordinances, State or Federal law.
- (c) In issuing a certificate of compliance 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.

1375.99 PENALTY.

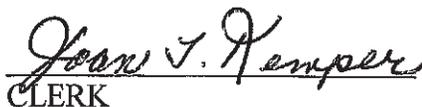
Any person who violates any provision of this chapter or of the rules and regulations issued hereunder shall be fined not less than two hundred dollars (\$200.00) and not more than one thousand dollars (\$1,000) for each offense. Every day that a violation continues shall constitute a separate and distinct offense.

SECTION 2. That this Council finds and determines 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 committee that resulted in those formal actions were in meetings open to the public in compliance with law.

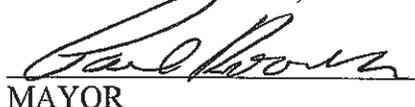
SECTION 3. That this ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, safety and welfare, wherefore this ordinance shall be in full force and take effect immediately upon its passage and approval by the Mayor.

PASSED: June 24, 2019


PRESIDENT OF COUNCIL


CLERK

APPROVED: June 24, 2019


MAYOR

06.13.19 jt