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Requested by the Department of Neighborhood Assistance

SWIRSKY**SUBSTITUTE OFFERED
AS AN AMENDMENT**OFFERED BY: MAYOR HORRIGAN; COUNCILMAN FUSCO**SOMMERVILLE**

ORDINANCE NO. 207 -2018 amending and/or supplementing Title 15 "Land Usage," and enacting Chapter 154 "Vacant Commercial or Industrial Buildings," of the Code of Ordinances of the City of Akron; and declaring an emergency.

WHEREAS, vacant commercial and industrial buildings, of which there are approximately 500 in the City, may negatively impact the social and economic welfare of the City and its residents; and

WHEREAS, establishing a program to identify, register, and monitor vacant commercial and industrial buildings will promote the interests of the City to insure the buildings are properly secured from trespassers and vermin, kept weathertight, and provide safe entry by police officers and firefighters in times of emergency; and

WHEREAS, establishing a program to identify, register, and monitor vacant commercial and industrial buildings will not impede private and/or public efforts to rehabilitate or maintain the vacant building itself or surrounding buildings; and

WHEREAS, decreasing the number of vacant commercial and industrial buildings, through repair, re-occupation, or demolition, will provide the benefits of removing blight, reducing crime, stabilizing neighborhoods, increasing property values, and fostering economic development; and

WHEREAS, a registration of vacant commercial and industrial buildings may serve the interests of owners and prospective developers by providing a means of matching the needs of developers with available buildings, and in doing so also promote economic development within the City; and

WHEREAS, owners that fail or refuse to maintain their vacant commercial and industrial buildings in compliance with safety regulations should face consequences, including orders, fines, prosecution, and demolition.

NOW, THEREFORE, BE IT ENACTED by the Council of the City of Akron:

Section 1. That Title 15 "Land Usage," Chapter 154 "Vacant Commercial or Industrial Buildings," of the Code of Ordinances of the City of Akron is hereby enacted to read as follows:

Chapter 154: VACANT COMMERCIAL OR INDUSTRIAL BUILDINGS

154.01 - Definitions.

Unless otherwise expressly stated, the following terms shall for the purpose of this chapter, have the following meanings:

"Authorized agent" means a person who shall have charge, care, or control of any structure as owner, or agent of the owner, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner. Any such person representing the actual owner shall be bound to comply with the provisions of this Code to the same extent as if the person was the owner.

“Board” means Vacant Commercial or Industrial Buildings Appeals Board.

“Building Code” means Title 19 of the Codified Ordinances of the City of Akron.

“Commercial or industrial building” means any structure, or part thereof, that is used, or designed to be used for any private or public manufacturing, industrial, or commercial business purposes, whether or not legally zoned for such use.

“Director” means the Director of the Department of Neighborhood Assistance of the City of Akron or representative authorized by the Director.

“Evidence of vacancy” means any condition that on its own or combined with other conditions present would lead a reasonable person to believe the building is vacant. Such conditions include, but are not limited to, the absence of or low levels of utility usage, missing or tagged utility meters, overgrown and/or dead vegetation, accumulation of newspapers, circulars, flyers and/or mail, accumulation of trash, junk, and/or debris, broken or boarded up windows, abandoned vehicles, automobile 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 occupation, and statement(s) by neighboring property owners, delivery persons, U.S. Postal Service employees, and/or governmental employee(s) that the building is vacant.

“Fire Chief” means the Chief of the Fire Division of the City of Akron or representative authorized by the Fire Chief.

“Fire Prevention Code” means Chapter 93 of the Codified Ordinances of the City of Akron, including general laws and standards incorporated therein.

“Owner” means a corporation, firm, partnership, association, organization and any other legal group acting as a unit, or a person who has legal title to any structure or premises with or without accompanying actual possession thereof, and shall include a purchaser, devisee, fiduciary and any person having a vested or contingent interest in the premises in question.

“Person” means an individual, partnership, association, syndicate, company, firm, trust, corporation, governmental corporation, department, bureau, agency, or any entity recognized by law.

“Person in control” means the owner of the property, a mortgagee or vendee in possession, a receiver, an executor, a trustee, and any person, public or private entity, lessee or holder of a lesser estate in the property, and/or its duly authorized agent(s), with the authority to bring a building or property into compliance with the provisions of this chapter.

“Property” means not only the vacant commercial or industrial building and any other structures of any kind or nature located on the lot, but also the entire parcel or parcels of land surrounding the vacant commercial or industrial building, including, but not limited to, fences, walkways, walls, and appurtenances.

“Public Nuisance” means all buildings, structures, and property that constitute a dangerous and unsafe hazard to the health, safety, or general welfare of the occupants of the public due to the following defects:

- (A) Those having walls, floors, foundations, or other members so out of plumb, level, or original position, or so deteriorated or overloaded, as to be unlikely to perform

- their intended structural function, or in such condition or of such size as to cause stresses in any structural members likely to result in failure or collapse; or
- (B) Those so dilapidated, decayed, or unsafe, or which so substantially fail to provide the basic elements of shelter of safety, that they are unfit for human habitation or use or dangerous to life or property; or
 - (C) Those which, in the opinion of the Fire Chief, constitute a serious fire hazard due to their use, construction, unprotected exposure, or lack of maintenance; or
 - (D) Those presenting a hazard to the health, safety, general welfare, or morals of occupants, neighboring properties, or the public; or
 - (E) Those which, despite order by the Director to make or keep them in a condition compliant with this Chapter, have not been brought into compliance with the terms and conditions of this Chapter or an approved building plan, if applicable.

“Superintendent” means the Superintendent of Building Inspection of the City of Akron or representative authorized by the Superintendent.

“Vacant” means an absence of contents, use or activity, including but not limited to lack of use or activity due to abandonment. A building shall not be deemed vacant if a person actually conducts a lawful business in or lawfully occupies any part of the building on a permanent, non-transient basis. A multi-unit building shall be deemed vacant if more than sixty percent of the units, by square footage, are vacant.

154.02 - Entry and inspection.

- A. The Director is authorized to make inspections to determine the conditions of vacant commercial or industrial buildings and property located within the city. For the purpose of making the inspections, the Director is authorized to enter, examine, and survey, at all reasonable times, all vacant commercial or industrial buildings and property. The owner of every vacant commercial or industrial building or the person in control thereof, on request of the Director, may give the Director free access to the vacant commercial or industrial building and property, at all reasonable times, for the purpose of the inspection, examination, and survey. If entry is refused or not obtained, the Director shall conduct the inspection only as provided by law. This chapter shall not be construed to require an owner or person in control to consent to a warrantless inspection of a vacant commercial or industrial building and property except as provided by law.
- B. Every person in control shall give the owner thereof, or his agent or employee, access to any part of the building or the property, at all reasonable times, for the purpose of making the repairs or alterations as are necessary to effect compliance with the provisions of this chapter, or with any lawful rule or regulation adopted or any lawful order issued pursuant thereto, or with Title 19, Chapters 93, 94 and 95, in the event the person in control refuses to make repairs or otherwise fails to comply with the provisions of this chapter.

154.03 - Notice of violation.

- A. Whenever the Director determines that there has been a violation of any of the provisions of this chapter, he shall give notice of the violation to the person responsible therefor and order compliance, as herein provided. The notice and order shall:
1. Be put in writing on an appropriate form as the Director shall determine;
 2. Include a list of violations, refer to the sections and subsections violated and order remedial action which will effect compliance with the provisions of this chapter, including obtaining a permit, inspection, and approval required by state or local law;
 3. Specify a reasonable time within which to comply; and
 4. Be served on the owner or person in control personally, or by regular mail and by either certified mail or a commercial carrier service in accordance with Rule 4.1(A)(1) of the Ohio Rules of Civil Procedure, to the address provided upon registration, the person's residence, regular place of business or last known address. If the certified/commercial carrier or regular mail is returned undelivered, a copy shall be posted in a conspicuous place in or on the person's residence, regular place of business, last known address or the building affected.
- B. Whenever a person violates or fails to comply with any of the provisions of this chapter, the Director shall have the authority to impose an administrative penalty according to section 154.99(A) of this chapter. The Director shall consider the following criteria in assessing an administrative penalty:
1. The extent to which the person has benefited by the violation of this chapter;
 2. The impact on neighboring premises;
 3. The recidivism of the person, including previous notices and orders to comply and previous enforcement action;
 4. Good faith efforts of the person to remedy the violation of this chapter; and
 5. The duration of the violation after a notice and order to comply was served pursuant to this section or section 154.09 of this chapter.
- C. The imposition of an administrative fine shall be accomplished only after a notice and order is provided to the owner or person in control. Notice of a decision imposing an administrative fine shall:
1. Be put in writing on an appropriate form as the Director shall determine;
 2. State the basis for the administrative penalty, including the section of this chapter that has been violated;
 3. Specify the date and manner by which the penalty must be paid; and
 4. Be served on the owner or person in control personally or by certified/commercial carrier mail and regular mail as stated in section 154.03(A)(4), to the address provided upon registration, the person's residence, regular place of business or last known address. If the certified or regular mail is returned undelivered, a copy shall be posted in a conspicuous place in or on the person's residence, regular place of business, last known address or the building affected.

154.04 - Vacant Commercial or Industrial Building Appeals Board.

- A. The Board. There is created a Vacant Commercial or Industrial Buildings Appeals Board. The Board shall consist of five members, who shall be appointed by the Mayor, by and with the consent of Council, for overlapping terms of three years, and they shall

serve until a successor is appointed. One member shall be a representative of the Akron Area Board of Realtors, and one member shall have a background in community development.

- B. Members. Members of the Board shall be citizens of the United States and residents of the City. Three members of the Board in attendance at any meeting shall constitute a quorum. The salary of each member of the Board shall be one hundred dollars per meeting attended.
- C. Rules of Procedure—Quorum. The Board may adopt rules of procedure consistent with this chapter and elect the officers as the Board deems necessary. The Board shall meet at such times prescribed by its rules or announced at a meeting. No member of the Board shall take part in any hearing or determination in which such member has a personal or financial interest.

154.05 – Appeal of Orders Issued by the Director—Procedure.

- A. Appeals. For the purpose of this section, "person" shall include any entity which owns, leases, holds, or has any interest in a commercial or industrial building or property in the City. Any person affected by any notice and order which has been issued by the Director in connection with the enforcement of any of the provisions of this chapter may appeal by filing a written request for a hearing before the Board. The appellant shall be granted a hearing on the matter before the Board only upon filing a proper request in accordance with this chapter.
 - 1. The person shall file, in the office of the Director, a written request for the hearing and shall set forth the name, mailing address, and phone number of the appellant and a brief statement of the grounds for the hearing and appeal from any order of the Director.
 - 2. Written requests for a hearing shall be filed within ten days after the day the notice and order is served and shall be accompanied by a deposit of fifteen dollars, which deposit shall be non-refundable.
 - 3. On receipt of a properly filed hearing request, the Director shall set a time and place for a hearing before the Board. The hearing shall be held within a reasonable time after a written request has been filed.
 - 4. 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 appellant's position at the hearing shall be grounds for dismissal of the request.
- B. Notice. Written notice of the meeting of the Board shall be given to the appellant and the citizen complainant. The notice shall be sent by ordinary U.S. mail at least seven days prior to the date of the hearing before the Board. Notice of the agenda to be heard by the Board shall be published in a newspaper of general circulation in the City at least ten days prior to the meeting of the Board. The Law Department of the City shall be notified of the hearing.
- C. Decisions.
 - 1. On hearing, the Board may affirm, disaffirm, modify, or dismiss the notice and

order, or grant a variance from the notice and order, by a majority vote of the members of the Board who are present. The appellant and the Director shall be notified in writing personally or by regular mail of the findings.

2. The Board shall interpret the intent of this chapter in specific cases where, on appeal, it clearly appears that, by reason of special conditions, undue hardship would result from a literal application of any section of this chapter. Where undue hardship is clearly demonstrated, the Board may permit a variance from the applicable section if the building or property will vary only a reasonable minimum from the literal provisions of this chapter but will comply with the spirit and intent of this chapter with respect to sanitation, safety, and rehabilitation.

- D. Records. The proceedings at the hearings, including the findings and decision of the Board and reasons therefor, shall be summarized in writing and entered as a matter of public record in the office of the Director. The record shall also include a copy of every notice and order issued in connection with the matter. Any person aggrieved by the decision of the Board rendered pursuant to this section may seek relief therefrom in any court of competent jurisdiction as provided by the laws of the state.

154.051 - Repair, Vacation and Demolition—Procedure—Remedy of City for Noncompliance.

- A. Report to the Board of a Hazardous Building or Property.

On receipt of a report of the Director that a vacant commercial or industrial building or property is in such a condition as to create a risk of hazard to the public health or safety, the Board shall:

1. Give written notice to the owner and all other persons having an interest in the premises, as shown by the land records of Summit County, to appear before the Board on the date specified in the notice by the method stated in section 154.03(A)(4) of this chapter. A copy of the written notice will be provided to the Historical Society of Summit County and the Clerk of City Council not less than ten days before the matter comes for hearing;
2. Hold a hearing and hear testimony offered by the Director, Superintendent, Fire Chief, citizens, owner, person in control, and all other persons having an interest in the building, as shown by the land records of Summit County, relative to the fitness of the building or structure;
3. Make written findings of fact from the testimony offered as to whether the building or structure is maintained in such a condition as to constitute a public nuisance; and
4. Issue an order as described in subsection (B) of this section.

- B. Orders.

1. Upon the Board's findings of fact made, the Board shall issue an order commanding that the vacant commercial or industrial building be repaired or demolished.
2. In the event the Board orders repairs under subsection (C) of this section, the order shall be served upon any owner or interested party appearing at the hearing personally or by regular mail.
3. When the Board determines the vacant commercial or industrial building or property is a public nuisance, and in all cases where it cannot be repaired, or

where the owner refuses or fails to repair the commercial property so that it will no longer be in violation of any of the terms of this chapter, it shall be demolished. In all cases where it is a fire hazard, existing or erected in violation of any of the terms of this chapter or any ordinances of the city, it shall be demolished.

4. In the event the Board orders demolition, the order shall be served on all persons specified in subsection (A)(1) and by the method stated therein, shall state that the building will be demolished by the city, and shall state that there is a right to appeal the Board's order pursuant to Revised Code Chapter 2506.
5. The Board shall advise the Director of the particulars involved so the appropriate action may be instituted to cause the building to be demolished and/or to abate the offending condition at the owner's expense.

C. Repairs.

The Board may grant a thirty to ninety day extension to a property owner or interested party for compliance with the provisions of this chapter only upon a showing of satisfactory assurance to the Board that the property owner or interested party has the financial and practical capability of initiating and completing the required repairs to the premises within the time extended. After one thirty to ninety day extension has been granted, additional thirty to ninety day extensions for repairs may be granted only upon a showing to the Board of substantial progress toward completion of required repairs at the owner's building. In the event of noncompliance, to any extent, or partial repairs to the building by the owner, the Board may at any time declare the building to be a public nuisance and order that the building be razed and any offending condition abated.

D. Non-compliance.

Should the owner fail, neglect, or refuse to pay the costs so incurred by virtue of the demolition or abatement of any offending condition, the costs shall be paid out of the City treasury on the certificate of the Director of Neighborhood Assistance, and the Director of Finance shall then certify the amount so paid to the Fiscal Officer of Summit County. The Fiscal Officer shall enter the amount on the tax duplicate of the County as a special assessment against the real estate on which the building or property requiring the work is or was situated, and the assessment shall be collected as other taxes and assessments and, when collected, shall be refunded to the City.

E. Bond to Promote Rehabilitation; Reconsideration; No Right of Appeal Created.

1. Bond to Promote Rehabilitation. After the deadline for appeal of any demolition order issued by the Board has passed, at the discretion of the Director and upon the request of the Owner or person affected by the decision of the Board, the order of the Board that a building must be demolished may be stayed upon the posting of a bond or other method of surety in an amount equal to the anticipated expense of demolition as determined by the Director with the assistance of the Building Inspection Superintendent and/or estimated by a reputable and qualified demolition contractor.
 - a. The bond posted under this subsection shall include as a condition that if repairs are not performed to the satisfaction of the Director, the stay shall be rescinded, and the bond shall be forfeited to the City to be applied toward the expense of executing demolition.
 - b. If the repairs are not performed to the satisfaction of the Director, the stay shall be rescinded, the bond forfeited to the City to be applied toward the expense of demolition, and any excess amount returned to the party that

- posted the bond.
- c. If the repairs are performed to the satisfaction of the Director, the bond, minus any expenses incurred by the City during the period of the stay, shall be returned to the party that posted the bond.
2. Reconsideration.
Upon the Director determining that the repairs to the building have resulted in a change of circumstance sufficient for the Board to reconsider its prior decision that the building must be demolished, the matter will be presented to the Board for reconsideration, such that the Board may vacate its demolition order.
3. No Right of Appeal Created.
This subsection is intended to promote compromise by the City and an affected person when compromise serves the interests of both. This subsection is not intended to create a right of appeal where such right does not otherwise exist, such as for failure to timely appeal the demolition order of the Board or an attempt to collaterally attack a timely but unsuccessful appeal of a decision of the Board.

154.06 - Obligations of Owners and Persons in Control.

- A. No owner or person in control of a vacant commercial or industrial building shall fail to do any of the following:
 1. Register the vacant commercial or industrial building with the Director in accordance with the requirements section 154.07 of this chapter.
 2. Pay the registration fee to the Director required by section 154.08 of this chapter.
 3. Designate an authorized agent who resides within Summit County, if the owner or person in control of the vacant commercial or industrial building does not reside within Summit County, Ohio or a contiguous county.
 4. Submit a vacant building plan which shall be approved by the Director in accordance with section 154.09 of this chapter.
 5. At all times secure and maintain the building and property in accordance with the vacant building maintenance standards set forth in section 154.10 of this chapter and the approved building plan under section 154.09(B), if applicable.

154.07 - Registration Required.

- A. All buildings located within the City that are vacant commercial or industrial buildings shall be registered by the owner or person in control thereof with the Director within one-hundred eighty days after the effective date of this chapter and no later than December 31st of every year thereafter. Every commercial or industrial building that subsequently becomes vacant shall be registered by the owner or person in control thereof with the Director within one-hundred eighty days from the date of the last occupancy, or within thirty days of notification by the Director pursuant to section 154.03 of the requirement to register based on evidence of vacancy.
- B. Registration shall be made on forms provided by the Director or person in control of the vacant commercial or industrial building and shall contain all of the following and any other information required by the Director:
 1. The name, address and telephone number of the owner or person in control;
 2. The name, address and telephone number of the authorized agent, if required;
 3. The names, addresses, and telephone numbers of all known lien holders and all other parties with any legal interest in the vacant commercial or industrial building and property;
 4. The address of the vacant commercial or industrial building and the permanent parcel

- tax identification number of the land on which the vacant commercial or industrial building is located;
 5. The date on which the building became vacant or will become vacant; and
 6. A vacant building plan in accordance with section 154.09 of this chapter. The owner or person in control may, but is not required to, provide to the Director the following:
 7. The name, address and telephone number of the company and realtor or agent responsible for marketing the property, if it is for sale; and
 8. A copy of the insurance policy, if general liability insurance is carried covering the vacant commercial or industrial building.
- C. No person shall furnish false information to the Director in the Registration Form.
- D. Registration shall be valid until December 31st of each year, unless a transfer of title to the vacant commercial or industrial building has been recorded at which point the purchaser shall file an amended registration form pursuant to section 154.11 of this chapter.
- E. No owner or person in control of a vacant commercial or industrial building shall fail to notify the Director and file an amended registration form within seven (7) days of any change in the registration information required by this section.

154.08 – Registration Fees.

- A. The owner of a vacant commercial or industrial building shall pay to the Director a registration fee annually each year the building remains vacant. The amount of the registration fee shall be based on the square footage of the commercial or industrial building as reflected on the tax card for the property maintained by the Fiscal Officer of Summit County, Ohio.
1. For vacant commercial or industrial buildings of less than ten thousand square feet, the annual registration fee shall be \$300.
 2. For vacant commercial or industrial buildings of ten thousand square feet or more than ten thousand square feet, the annual registration fee shall be \$500.
- B. If a registration form is filed late, an additional late fee shall be paid to the Director in addition to the annual registration fee and shall be fifty dollars (\$50) per day the annual fee is late, up to a maximum late fee of one thousand dollars (\$1000).
- C. All delinquent registration fees shall be paid by the owner prior to any transfer of an ownership interest in the vacant commercial or industrial building.
- D. For purposes of this section, a commercial or industrial building ceases to be vacant upon presentation by the owner to the Director of a certificate of occupancy issued by the Division of Building Inspection of Summit County, or other satisfactory proof that the building is fit for occupancy, in addition to the building being occupied in fact.

154.09 – Vacant Building Plan.

- A. The owner or person in control of the vacant commercial or industrial building shall submit a vacant building plan that shall be reviewed and approved pursuant to subsection (B). The vacant building plan shall be selected from and include the minimum requirements from one of the three following categories:
1. Demolition. If the vacant commercial or industrial building is to be demolished, the vacant building plan shall include a proposed time frame for demolition which shall

include a commencement date within thirty (30) days of approval of the proposed building plan and shall not exceed one (1) year in duration.

2. Secured structure. If the vacant commercial or industrial building is to remain vacant, the vacant building plan shall contain all of the following:
 - a. A plan for fire alarm, fire protection, ingress/egress, placarding, and other facilities as required by the Fire Code.
 - b. A plan of action to remedy any public nuisance existing in the building or on the property.
 - c. A lighting plan, including periodic maintenance, for the exterior of the building and property, walkways adjacent thereto, parking or loading areas, and other areas which may be vulnerable to vandalism, vagrancy or arson.
 - d. A plan for the maintenance of all structural openings, such as windows, doors, areaways and other openings to avoid the necessity of boarding up. Windows, doors, areaways and other openings that are located on the first floor and facing the street shall not be papered, soaped, blacked out or boarded up, and to avoid the appearance of vacancy, a form of display shall be set up that shall be approved by the Director.
 - e. A plan of action to maintain the vacant commercial or industrial building and property in compliance with the vacant building maintenance standards set forth in section 154.10.
3. Rehabilitation. If the vacant commercial or industrial building is to be returned to lawful occupancy or use, the vacant building plan shall include a rehabilitation schedule for the building and property. The rehabilitation schedule shall not exceed twelve (12) months. The Director may grant an extension of time upon receipt of a written explanation from the owner stating the reasons for the extension. During the period of rehabilitation, the building shall be kept secured and in compliance with the vacant building maintenance standards as provided in section 154.10.

B.

1. Upon receipt, the Director, in consultation with the Fire Chief and Superintendent, shall review the vacant building plan.
2. If the Director determines that the building plan does not satisfy the requirements of this chapter, the Director shall notify the owner or person in control in writing of the particular deficiencies, and order the submission of a satisfactory building plan within thirty days of notification by the Director.
3. Upon the Director determining that the vacant building plan satisfies the requirements of this chapter, the Director shall notify the owner or person in control in writing that the vacant building plan has been approved and that the owner or person in control is ordered to maintain the building and property in conformance with the approved vacant building plan.
4. Failure by the owner or person in control to resubmit a complying plan in violation of subsection (B)(2) of this section, or to maintain the building and property in compliance with an approved plan in violation of subsection (B)(3) of this section is satisfactory grounds for the Director to issue administrative penalties or pursue any other remedy provided in section 154.99 of this chapter, and if deemed necessary by the Director, to refer the building to the Board pursuant to section 154.051.

154.10 – Vacant Building Maintenance Standards.

All vacant commercial or industrial buildings and property within the City shall be maintained in accordance with the following vacant building maintenance standards:

1. Exterior surfaces and openings shall be maintained pursuant to section 190.602 of this code;

2. A vacant commercial or industrial building and property shall be maintained free from public nuisance and free of litter in accordance with Chapters 94 and 95, respectively, of the Codified Ordinances of the City of Akron; and
3. A vacant commercial or industrial building shall comply with Chapter 93 of the Codified Ordinances of the City of Akron, and the Ohio Fire Code as adopted thereby.

154.11 – Transfer of Registration Prohibited.

All registration form may not be transferred to the purchaser of a vacant commercial or industrial building and shall be void upon the completion of transfer of title to the property.

154.12 – Duty of Owner to Disclose Notice of Violations to Buyer.

- A. The owner of any property who has received written notice pursuant to Section 154.03 of this chapter that the property is in violation of the Vacant Commercial or Industrial Building Code shall give the purchaser or grantee of the property written notice of the code violations prior to entering into an agreement for the transfer of title to the property. If the owner does not enter into a written agreement for the transfer or subsequently receives notice of code violations, then the owner shall give the transferee notice prior to effecting transfer and/or the filing for record of a deed to the property.
- B. The owner shall obtain written acknowledgement from the purchaser or grantee of the written notice of the code violations required in subsection (A).
- C. The transfer of title to, or any interest in, real property in which a violation of the Vacant Commercial or Industrial Building Code exists shall not be grounds for dismissal of charges in any court against a previous owner of the real property for failure to comply with a notice for correction of a violation of this chapter.
- D. Notwithstanding the failure of an owner to provide notice pursuant to subsection (A), the notice of violation to the owner is notice to all subsequent purchasers, transferees or other persons who acquire any interest in the real property in which the violation exists, and may be enforced against their interest in the real property without further notice or order to them.

154.13 – No Warranties and liability.

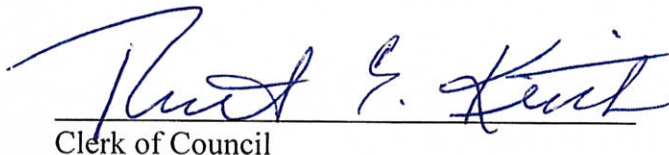
The provisions of this chapter shall not be construed to warrant, insure or guarantee that there are no violations of the Health, Safety and Sanitation Code, Litter Code, Vacant Commercial or Industrial Building Code, or Zoning Code at a property, or that the property is in a clean, sanitary, safe or fit condition. Inspections of the Department of Neighborhood Assistance are made on behalf of the City and the Department of Neighborhood Assistance for the purpose of preserving and improving the commercial and industrial building stock and enforcing the Health, Safety and Sanitation Code, Litter Code, Vacant Commercial or Industrial Building Code, and Zoning Code. Inspections of the Department of Neighborhood Assistance are not made on behalf of an occupant, owner, person in control, purchaser of a property, or any other person.

- A. Administrative Penalties. In addition to any criminal penalties that may be imposed pursuant to subsection D of this section, any person, owner or person in control who violates or fails to comply with any of the provisions of this chapter shall be subject to following administrative penalties in accordance with the criteria stated in section 154.03(B) of this chapter:
1. For a first offense, an administrative fine of up to one hundred dollars.
 2. For a second offense, an administrative fine of up to five hundred dollars.
 3. For a third offense, and for each offense thereafter, an administrative fine of up to one thousand dollars.
- B. If a person, owner or person in control fails, neglects or refuses to pay an administrative penalty within the time ordered pursuant to section 154.03 of this chapter, then the Director shall so notify the Director of Finance. The Director of Finance shall certify the administrative penalty to the County Auditor. In addition to the administrative penalty, an interest rate equal to the current rate of interest charged by the City on special assessments shall be imposed by the City for the life of the administrative penalty, added to the administrative penalty, and collected as provided in this section. The Director of Finance shall then certify the amount of the administrative penalty, including interest, to the County Auditor. The County Auditor shall enter the amount on the tax duplicate of the county as a special assessment against the person's real estate at issue.
- C. Money collected under this section and section 154.08 shall be used exclusively for administration and/or enforcement of this chapter.
- D. Criminal Penalties. In addition to any administrative penalties that may be imposed pursuant to subsection A of this section, any person, owner or person in control who violates or fails to comply with any of the provisions of this chapter shall be guilty of a misdemeanor of the third degree and shall be fined not more than five hundred dollars or imprisoned not more than sixty days, or both, and shall, in addition to any other penalties within these maximum amounts, be subject to imposition of the following minimum mandatory penalties, which shall not be suspended or held in abeyance:
1. A person, owner or person in control who has not previously been convicted of any violation of a section of the Fire Prevention Code, Health, Safety and Sanitation Code, Litter Code, Housing Code, Zoning Code, Vacant Building or Industrial Building Code, or Building Code shall be fined not less than fifty dollars.
 2. A person, owner or person in control who has previously been convicted of one violation of a section of the Fire Prevention Code, Health, Safety and Sanitation Code, Litter Code, Housing Code, Zoning Code, Vacant Building or Industrial Building Code, or Building Code shall be fined not less than two hundred dollars.
 3. A person, owner or person in control who has previously been convicted of two violations of a section of the Fire Prevention Code, Health, Safety and Sanitation Code, Litter Code, Housing Code, Zoning Code, Vacant Building or Industrial Building Code, or Building Code shall be imprisoned not less than three days, and shall be fined not less than three hundred fifty dollars.

7. A person, owner or person in control who has previously been convicted of three violations of a section of the Fire Prevention Code, Health, Safety and Sanitation Code, Litter Code, Housing Code, Zoning Code, Vacant Building or Industrial Building Code, or Building Code shall be imprisoned not less than ten days, and shall be fined not less than five hundred dollars.
- F. Application of Prior Convictions. Each separate count of which a person has been convicted shall constitute a separate violation of a section of the Fire Prevention Code, Health, Safety and Sanitation Code, Litter Code, Housing Code, Zoning Code, Vacant Building or Industrial Building Code, or Building Code.
- G. Continuing Violations. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.
- H. Strict Liability. The provisions of this chapter are specifically intended to impose strict liability.

Section 2. That this ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of public peace, health, safety and welfare for the reason that regulations identifying, registering, and monitoring vacant commercial and industrial buildings will promote the City's economic welfare and protect neighbors and the City's safety forces from the dangerous conditions often found at vacant commercial and industrial buildings, and provided this ordinance receives the affirmative vote of two-thirds of the members elected or appointed to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, it shall take effect and be in force at the earliest time allowed by law.

Passed June 11, 2018


Clerk of Council


President of Council

Adm

Approved 6/13, 2018


MAYOR

Code

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AKRON CITY COUNCIL