

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF HOLLAND, MICHIGAN, BEING ORDINANCE NO. _____ OF THE CITY OF HOLLAND, BY AMENDING SECTION 19-1 AND BY ADDING SECTIONS 19-3.1 TO 19-3.6 OF CHAPTER 19 OF SAID CODE.

The City of Holland ordains as follows:

Section 1.

Section 19-1 of Chapter 19 "Nuisances" of the Ordinance Code of the City of Holland is hereby amended and shall read as follows:

Sec. 19-1. Defined.

Whatever annoys, injures or endangers the safety, health, comfort or repose of the public; offends public decency; interferes with or obstructs or renders dangerous any street, highway, public sidewalk or navigable stream; or in any way renders the public insecure in life or property, is hereby declared to be a public nuisance. Public nuisances shall include, but not be limited to, whatever is forbidden by any provision of this chapter.

Section 2.

Sections 19-3.1 to 19-3.6 of Chapter 19 "Nuisances" of the Ordinance Code of the City of Holland are hereby added to such Chapter and shall read as follows:

Sec. 19-3.1 Vacant or Abandoned Structures; Purpose.

(a) *Purpose and Intent:* The purpose of this article is to protect the health, safety and welfare of the citizens of the City of Holland by preventing blight, protecting property values and neighborhood integrity, remedying these nuisances and ensuring safe and sanitary maintenance of vacant or abandoned structures. Vacant or abandoned structures are hereby declared a nuisance.

(b) The City of Holland makes the following legislative findings:

- 1) Vacant or abandoned structures create a serious and substantial problem and are public nuisances.
- 2) Vacant or abandoned structures that are not maintained constitute a

hazard to public health, safety, and welfare.

- 3) Vacant or abandoned structures often become dilapidated because they are not maintained and repaired by their owners.
- 4) Vacant or abandoned structures attract children, harbor vermin, shelter vagrants and criminals, and are more likely to be damaged by vandals or arsonists than occupied properties.
- 5) Unkempt grounds surrounding vacant or abandoned structures invite dumping of garbage, trash, and other debris.
- 6) Many vacant or abandoned structures are on narrow lots and close to neighboring structures, increasing the risk of fire and spread of insect and rodent infestation.
- 7) Vacant or abandoned structures contribute to blight; cause a decrease in property values; and discourage neighbors from making improvements to structures.
- 8) Vacant or abandoned structures that remain boarded up for an extended period of time also exert a blighting influence and contribute to a decline of the neighborhood by decreasing property values, discouraging persons from moving into the neighborhood, and encouraging persons to move out of the neighborhood.
- 9) Vacant or abandoned structures that may otherwise provide safe, affordable, homeownership, often continue to deteriorate to the point that demolition of the structure is required, decreasing available housing in the community and contributing to the neighborhood decline.
- 10) The blighting influence of vacant or abandoned structures adversely affects the tax revenues of local government.
- 11) The City of Holland spends resources and staff time to maintain, secure, demolish or otherwise respond to problems associated with vacant or abandoned structures.
- 12) Owners of vacant or abandoned structures should be held accountable for the physical condition of their structures. At a minimum they should prevent such structures from exerting a negative influence on the well-being of the neighborhoods where they are located.

Sec. 19-3.2. Definitions.

(a) *Vacant or Abandoned Structure:* Means a parcel of real property with a structure or building, that has been without occupancy for 30 days or more, and is either:

- 1) Subject to foreclosure as defined by this Section or
- 2) Is not maintained in compliance with Ordinance Code of the City of Holland, including without limitation, the Building Code, Mechanical Code and Plumbing Code in Chapter 6, Housing and Property Maintenance Code in Chapter 14, Nuisances in Chapter 19, and Refuse and Garbage in Chapter 27; and, meets any one or more of the following criteria:
 - a. Has one or more broken or boarded windows;
 - b. Has taxes in arrears for a period of time exceeding 365 days;
 - c. Has utilities disconnected or not in use;
 - d. Has a structure for which a building permit has expired that is only partially completed and is not fit for human occupancy.
 - e. Open to casual entry or trespass
 - f. Suffers deterioration from neglect,
 - g. Has a structure that is damaged by fire, flood, weather, or vandalism to an extent which prohibits human occupancy;
 - h. Is under a condemnation notice or legal order to vacate;
 - i. Has a structure that is structurally unsound; or
 - j. Is a potential hazard or danger to persons.

(b) *Enforcing Officer:* Means the Director of the Department of Community and Neighborhood Services or his designee.

(c) *Foreclosure:* Means the process by which a mortgage, security interest or lien is enforced against a parcel of real property through sale or offering for sale the real property to satisfy a debt or claim. For the purposes of this Section a notice of foreclosure and/or a notice of trustee's sale, a pending tax sale, and/or properties that have been the subject of a foreclosure sale where the title was retained by the beneficiary of a mortgage involved in the foreclosure, and/or that have transferred under a deed in lieu of foreclosure/sale shall all constitute the foreclosure properties.

(d) *Owner:* Means any person or entity with legal or equitable ownership or possessory interest in any real property. The owner shall include, but not be limited to: a bank, credit union, trustee or financial institution which is in possession (in whole or in part) of the real property, foreclosing a lien or mortgage interest in the affected property, but may or may not have legal or equitable title.

(e) *Securing:* Means such measures as may be directed by the Department of Community and Neighborhood Services that render the property inaccessible to unauthorized persons, including, but not limited to the repairing of fences and walls, chaining or padlocking of gates, the repair of doors, windows, and other openings.

Sec. 19-3.3. Registration.

(a) An owner of a vacant or abandoned structure in the City shall register the structure with the Department of Community and Neighborhood Services within fifteen (15) days after 1) the structure becomes subject to foreclosure or 2) the date of notice by the Department of Community and Neighborhood Services that the structure has been declared a vacant or abandoned structure, whichever is earlier.

(b) Once a vacant or abandoned structure has been properly registered by the owner, such registration shall be valid and effective until January 10 of the following year and shall be renewed annually thereafter until the property has become occupied and a Certificate of Compliance has been issued.

(c) *Registration Information:*

- (1) For each vacant or abandoned structure required to be registered, the owner(s) shall register with the Department of Community and Neighborhood Services on a form provided by the department and shall provide the following information:
 - a. Address of the vacant or abandoned structure;
 - b. Date on which the structure became vacant or abandoned;
 - c. Legal name of the owner(s) and date(s) of birth;
 - d. Address(s), telephone number and e-mail address of owner(s);
 - e. Name, address, telephone number and e-mail address of any agent or representative authorized by the owner to handle the affairs of the structure, if employed. If such an agent or representative is utilized, he/she must reside within a three (3) hour driving radius of the City of Holland.
 - f. Telephone number(s) of owner for contact purposes,

- g. Such additional information as required by the Department of Community and Neighborhood Services.
 - h. A statement allowing authorized city staff to enter the premises for inspection purposes.
- (2) *Requirement to keep information current.* If at any time the information contained in the registration is no longer valid, the property owner has ten (10) days to file a new registration containing current information. There shall be no fee to update the current owner's information.
- (3) *Fee; administrative late charge.* An administrative late charge as established by a resolution adopted by City Council shall be paid by the owner if registration of a vacant or abandoned structure does not comply with the provisions of this division.
- (4) *Penalty.* In addition to any fee or other sanction that may be imposed, any person who violates a provision in Sections 19-3-1 to 19-3-6 shall be guilty of a class III municipal civil infraction and subject to the civil fines set forth in the schedule of civil fines in Section 2-118 of the Holland City Code and shall be subject to any other relief that may be imposed by a court for such conduct, which shall also be considered a nuisance per se. The City shall further be entitled to recover all costs and reasonable attorney fees incurred as a consequence of having to prosecute any enforcement action necessitated by a person's violation of such Sections.
- (e) *Fees.* All fees applicable to this chapter shall be set from time to time by resolution of the City Council and shall include at a minimum:
- 1) *Annual registration fee.* Shall be the fee charged to the owner at the time of registration of the vacant or abandoned structure;
 - 2) *Failure to register fee.* Shall be the fee charged to the owner for failing to register the vacant or abandoned structure as required by this Section;
 - 3) *Monthly monitoring fee.* Shall be the fee charged to the owner for periodic inspections by the enforcing officer to assure continuing compliance with the duties set forth in Section 19-3.4. A non-refundable payment of the first three (3) months of monitoring fees shall be prepaid by the owner at the time of registration;
 - 4) *Certificate of Compliance fee.* Shall be the fee charged to the owner for a Certificate of Compliance as described in Section 19-3.6;
 - 5) *Inspection fee.* Shall be the fee charged to the owner for any inspection

requested by the owner or necessitated by the owner's failure to comply with the maintenance and security duties as set forth in Section 19-3.4;

- 6) Administrative charges shall also be charged to the owner for search warrant, title search, boarding and securing, debris/rubbish removal, and prosecution preparation.

Sec. 19-3.4. Duty to maintain and secure.

(a) An owner of a vacant or abandoned structure shall comply with the all of the following maintenance and security requirements:

- 1) The property on which the structure is located shall be in compliance with Section 19-11 for grass and vegetation maintenance.
- 2) The property shall be kept free of dry brush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspapers, circulars, flyers, notices, except those required by federal, state, or local law, discarded items, including but not limited to, furniture, clothing, large and small appliances, printed material, unapproved signage, containers, equipment, construction materials, or other inappropriate materials;
- 3) The property and structure shall be maintained free of graffiti;
- 4) Pools, spas, and other water features shall be covered by a safety cover approved by the State construction code and shall comply with the minimum security fencing and barrier requirements of applicable Building and Housing and Property Maintenance Codes.
- 5) The property and structure shall be maintained in a secure manner so as not to be accessible to unauthorized persons. Secure manner includes, but it not limited to, the closure and locking of windows, doors, gates and any other openings of such size that may allow a child or other person to access the interior of the property and/or structures.
- 6) The structure shall be properly winterized so as to prevent bursting of pipes unless the buildings are served by a heating system that requires the use of water for heating or fire suppression.
- 7) The structure shall be maintained in accordance with applicable Sections of Chapter 14 of this Ordinance Code, including, but not limited to Sections 14-4.7; 14-4.8 and 14-4.9.

Sec. 19-3.5. Violations, Inspections, Abatement.

(a) *Inspection – frequency.* Periodic inspections, not less than once every 30 days shall be conducted by the enforcing officer to assure continuing compliance with the duties set forth in Section 19-3.4. A fee determined by resolution of the City Council shall be established to offset the cost of monitoring the property and vacant or abandoned structures. A non-refundable payment of the first three (3) months of monitoring fees shall be prepaid by the owner at the time of registration.

(b) *Notice--Service.* Notice of any cited violations or demand for abatement shall be served upon the registered owner of record by first class mail and by posting a copy thereof in a conspicuous place or on or about the structure affected by the notice.

(c) *Same--Contents.* Whenever the enforcing officer determines that there has been or is a violation of this Section 19-3.4, or that there are reasonable grounds to believe that there has been or is a violation of any duties otherwise required by Sections 19-3.1 to 19-3.6, he shall give notice of such violation or alleged violation to the person responsible therefore. Such notice shall:

- 1) Be in writing;
- 2) Include a description of the real estate sufficient for identification;
- 3) Specify the violation which exists and the remedial action required; and
- 4) Indicate the time in which correction is required.

(d) *Duty of owner, etc., to secure and maintain.* It shall be the duty of the owner of any premises within the city to inspect, secure and maintain the premises as often as may be necessary to comply with the provisions of Section 19-3.4 this Code.

(e) *Abatement by city; charging cost.* If the owner fails to secure or maintain the premises as required under Section 19-3.4 this Code, such failure shall constitute a hazardous and nuisance condition. Within seventy-two (72) hours after the notice to abate has been provided, an enforcing officer may abate the nuisance without giving further notice. The enforcing officer may abate the offending condition by arranging for city employees or private contractors to secure and board the structure, remove rubbish and debris from the premises, or make repairs to maintain the building(s) and premises to conform to Section 19-3.4. The cost of abating the nuisance condition(s) may be charged against the premises and the owner in accordance with the provisions of chapter 15 of the Holland City Charter. The cost shall be the standard hourly rate for labor and machinery used by the City of Holland or the reasonable cost incurred by a private contractor, whichever is appropriate, plus an administrative fee as provided by

the master fee resolution adopted by the city council from time to time.

(f) *Emergency abatement by city; charging cost.* An enforcing officer may abate a public nuisance under Section 19-3.4 of this Code, without giving notice, if the public health or safety requires immediate abatement. The cost of abating the nuisance may be charged against the premises and the owner in accordance with the provisions of chapter 15 of the Holland City Charter. The cost shall be the standard hourly rate for labor and machinery used by the City of Holland or the reasonable cost incurred by a private contractor, whichever is appropriate, plus an administrative fee as provided by the master fee resolution adopted by the city council from time to time.

(g) *Appeal of assessment.* An owner assessed for abatement costs may appeal the assessment to the Director of Community and Neighborhood Services or his designee. On appeal, the director shall determine:

- (1) Whether the property and/or structure was in violation of Section 19-3.4 of this Code;
- (2) Whether the city provided notice as required by subsection (b) of this Section before the city abated the condition (except for emergency abatements); and
- (3) Whether the costs assessed against the owner were properly calculated.

An appeal shall be filed within twenty-one (21) days after the city serves notice on the property owner that the costs will be assessed against the owner and the premises.

Sec. 19-3.6. Prohibition on Transfer or Occupancy after Registration.

(a) A registered vacant or abandoned structure shall not be occupied by any person until both of the following conditions have been satisfied:

- (1) All outstanding fees required by Section 19-3.3 have been paid; and
- (2) A Certificate of Compliance has been issued by the Department of Community and Neighborhood Services after inspection.

a. A Certificate of Compliance shall only be issued after a complete inspection of the property and structure have been conducted and all violations are corrected in accordance with the applicable requirements of the State Construction Code and Chapter 14 of City Housing Code.

b. A Certificate of Compliance shall further be valid for no more than thirty (30) days after its issuance and shall thereafter terminate.

c. Should any structure for which a Certificate of Occupancy has been issued remain vacant and unoccupied for a period of more than 30 days after the issuance of such certificate, no occupancy of such structure may thereafter occur until the owner complies with the provisions of subsection (a)(2)a. of this provision and any additional fees have been paid.

(b) No real property on which a registered vacant or abandoned structure is located shall be sold or transferred without first being inspected by the Department of Community and Neighborhood Services.

Section 3. If any section, subsection, sentence, clause or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance.

Section 4. All other provisions of Chapter 19 shall remain in full force and effect.

Ordinance Adoption Date: June 15 2011

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