

ORDINANCE # _____ of 2019

AN ORDINANCE TO ADD A NEW CHAPTER TO THE CODE OF THE CITY OF ONEONTA DESIGNATED AS CHAPTER 93 ENTITLED "VACANT BUILDING REGISTRATION"

BE IT ORDAINED by the Common Council of the City of Oneonta as follows:

Section 1.

§ 93-1 Purpose.

The purpose of this article is to establish a program for identifying and registering vacant residential buildings to determine the responsibilities of owners of vacant buildings and structures and to speed the rehabilitation of vacant properties.

§ 93-2 Definitions.

Unless otherwise expressly stated, the following terms shall, for the purpose of this article, have the meanings indicated in this section.

ENFORCEMENT OFFICER

A duly authorized representative of the Code Enforcement Office.

OWNER

Those shown to be the owner on the records of the City of Oneonta Assessor's Office, those identified as the owner or owners on a vacant building registration form, a mortgagee in possession, a mortgagor in possession, assignee of rents, receiver, executor, trustee, lessee, land contract vendee, other person, firm or corporation in control of the premises. Any such person shall have a joint and several obligations for compliance with the provisions of this chapter.

SECURED BY OTHER THAN NORMAL MEANS

A building secured by means other than those used in the design of the building.

UNOCCUPIED

A building which is not being used for any occupancy authorized by the City of Oneonta Code Enforcement Office.

UNSECURED

A building, or portion of a building, which is open to entry by unauthorized persons without the use of tools or ladders.

VACANT BUILDING

A building, or portion of a building, which no occupant lawfully resides or no tenant is in lawful possession, or any building otherwise not being used for any lawful occupancy.

§ 93-3 Registration required.

A. The owner shall register with the Code Enforcement Office not later than 30 days after any building located in the City of Oneonta becomes a vacant building, as defined by this chapter, or not later than 30 days after being notified by the Code Enforcement Office of the requirement to register the building. The Code Office may identify vacant buildings through its routine inspection process as well as through notification by residents and business owners that a

building may be required to be registered as a vacant building with the Code Enforcement Office.

B. The registration shall be submitted on forms provided by the Code Enforcement Office and shall include the following information provided by the owner:

- (1) A description of the premises.
- (2) The names and addresses of the owner or owners.
- (3) If the owner does not reside in the City of Oneonta or within the postal zip code areas designated by the Code Enforcement Office, the name and address of the agent designated to act on behalf of the owner as required by the City Code.
- (4) The names and addresses of all known lien holders and all other parties with an ownership interest in the building.
- (5) A telephone number where a responsible party can be reached at all times during business and non-business hours.
- (6) A vacant building plan as described in Subsection C.

C. The owners shall submit a vacant building plan, which must meet the approval of the Code Enforcement Office. The plan, at a minimum, must contain information from one of the following three choices for the property:

- (1) If the building is to be demolished, a demolition plan indicating the proposed time frame for demolition.
- (2) If the building is to remain vacant, a plan for the securing of the building, along with the procedure that will be used to maintain the property and a statement of the reasons why the building will be left vacant.
- (3) If the building is to be returned to appropriate occupancy or use, a rehabilitation plan for the property; the rehabilitation plan shall not exceed 365 days, unless the Enforcement Officer grants an extension upon receipt of a written statement from the owner detailing the reasons for the extension. Any repairs, improvements, or alterations to the property must comply with any applicable zoning, housing, building, and historic district regulations. The building must be secured during the rehabilitation.

Incomplete registration. Failure to provide a vacant building plan will result in an incomplete registration.

D. The owner shall comply with all applicable laws and codes. The owner shall notify the Enforcement Officer of any changes in information supplied as a part of the vacant building registration within 30 days of the change. If the plan or timetable for the vacant building is revised in any way, the revisions must be in writing and must meet the approval of the Enforcement Officer.

E. The owner and subsequent owners shall keep the buildings secured and safe and the building and ground properly maintained as provided in the Property Maintenance Code of New York State. All exterior boarding material used to cover over openings, including doors and windows, shall follow the procedures described in Appendix A "Boarding Standard" found in the Property Maintenance Code of New York State.

F. Failure of the owner or any subsequent owners to maintain the building and premises that results in remedial action taken by the City shall be grounds for revocation of the approved plan and shall be subject to any applicable penalties by the law.

G. New owners shall register or reregister the vacant building with the Code Enforcement Office within 30 days of any transfer of an ownership interest in a vacant building. The new owners shall comply with the approved plan and timetable submitted by the previous owner until any proposed changes are submitted and approved by the Code Enforcement Office.

§ 93-4 Exemptions.

A. A one-to-three unit residential vacant building which is unoccupied for less than ninety days is exempt from registration.

B. Where a vacant building is being actively marketed for sale it is exempt from registration.

C. The Code Enforcement Officer may grant the owner of a single family residence an exemption from registration on an annual basis if the owner can provide proof that the following conditions do not exist at the property and there is a local agent as described by the City of Oneonta Building Construction Code and who has been approved by the Code Enforcement Officer:

- 1.** Unoccupied and unsecured.
- 2.** Unoccupied and secured by other than normal means.
- 3.** Unoccupied and is unsafe as determined by the Code Enforcement Office.
- 4.** Unoccupied and for which the Code Officer has issued an order to correct two or more code violations or has authorized the remediation of two or more violations in a twelve-month period.

D. A property that is undergoing active renovation under a valid building permit with an approved rehabilitation plan is not required to register as a vacant property.

§ 93-5 Inspections Required.

A. An owner at the time of registration, or re-registration, of such building shall schedule an interior inspection of the property in its entirety with the Code Enforcement Office. This inspection must be conducted within seven days of said registration. The interior inspection will be conducted annually until the building is no longer vacant.

B. An owner shall have all utilities turned off (electric, natural gas and water) and provide the Code Enforcement Office documentation and proof of such. The utilities shall remain off until such time that the building is going to be made ready to be reoccupied and all required permits or certificates have been obtained.

C. An owner shall winterize said building by having all necessary water, drain and heating lines emptied of all sitting water and provide to the Code Enforcement Office documentation all piping, appliances and fixtures are protected from freezing.

§ 93-6 Registration fees; building file.

A. Fees.

- (1)** The owner of a vacant building for the first year shall pay a fee of \$500. The fee shall increase in the second year of registration (as determined by this statute) to \$1,000, the third year to \$1,500 and for the fourth and all subsequent years, \$2,000. The fee herein is related to the administrative costs for registering and processing the vacant building owner registration forms and for the costs of the City in monitoring the vacant building site.

(2) The first annual fee shall be paid no later than 60 days after the building owner has been notified by the Code Enforcement Officer that the building is subject to the requirements of this chapter.

(3) The fee, and any administrative fees accrued by the property owner, may be relieved as against the real property, and must be paid in full prior to the issuance of any building and demolition permits related to the premises.

(4) All delinquent fees shall be paid by the owner prior to any transfer of an ownership interest in any vacant building. If the fees are not paid prior to any transfer, the new owner shall pay the annual fee no later than 60 days after the transfer of ownership, and subsequent annual fees shall be due as set forth herein.

B. The Code Enforcement Office shall include in the file any property-specific written statements from community organizations, other interested parties or citizens regarding the history, problems, status or blighting influence of a vacant building.

§ 93-7 Enforcement.

A. Failure to register. After 30 days from the date of notice if a property fails to submit a vacant property to the vacant property registry the registry fee shall be imposed and shall be added to the tax bill.

B. Failure to disconnect utilities, winterize and perform required interior inspection. Failure to perform the inspections herein and provide documentation of utility disconnects and winterization shall be subject to an administrative fee. This fee shall be determined by resolution of the Common Council.

§ 93-8 Inspection and right of entry.

The Code Office shall inspect any premises in the City for the purpose of enforcing and assuring compliance with the provisions of this chapter. Upon the request of the Code Enforcement Office, an owner may provide access to all interior portions of an unoccupied building in order to permit a complete inspection. Nothing contained herein, however, shall diminish the owner's right to insist upon the procurement of a search warrant from a court of competent jurisdiction by the Enforcement Officer or his or her designee in order to enable such inspection, and the Enforcement Officer shall be required to obtain a search warrant whenever an owner refuses to permit a warrantless inspection of the premises after having been advised of his or her constitutional right to refuse entry without same.

§ 93-9 Penalties for offenses.

Any violation of any provision of the vacant building registry shall be punishable as a violation under this Code or under any other appropriate state law, statute, or regulation.

§ 93-10 Appeals.

Any person wishing to dispute any finding under this provision may appeal to the Board of Public Service. Appeals must be submitted to the Code Enforcement Office, and must be received by the Code Enforcement Office within 30 days of the date of the vacant property notification. Appeals must be submitted in writing and must clearly state the basis for the appeal and why the factual determination of the code enforcement officer was either incorrect, without factual basis or why compliance created undue hardship to an owner-occupied property. Any appeal filed without written allegations of specific incorrect facts or incorrect procedures on the part of the City, its employees or agents, or without documentary showing of financial hardship

to an owner occupied property, shall be dismissed without further hearing. A claim of ignorance of the provisions of the statute shall not constitute a basis for a valid appeal.

§ 93-11 Partial invalidity.

If any section of this chapter shall be held unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to affect, impair, or invalidate the remainder of this chapter.

Section 2.

This act shall take effect immediately.