

**RESOLUTION #04-24**  
**PL #03-24**

By Alderman Bennion, Seconded by Alderman McCall

**TO AMEND THE CITY OF OLEAN CODE OF ORDINANCES TO INCLUDE SECTION 6-30 AND SECTIONS 6-275 THROUGH 6-284 FOR VACANT BUILDING REGISTRATION, RULES, AND REGULATIONS**

Resolved, that the City of Olean Code of Ordinances is hereby amended to include the following:

Sec. 6-30. - Vacant building registry.

- (a) Legislative findings and purpose. It is the finding of the city council that buildings which remain vacant and not maintained are unsightly, unsafe and have a negative impact on their surroundings by contributing to the decline of neighborhoods and business development within the city. Many buildings, once boarded, remain so for many years. The purpose of this section is to establish a program for identifying and registering vacant buildings; to establish the responsibilities of owners of vacant buildings and structures; and to expedite the rehabilitation of vacant properties.
- (b) Definitions. Unless otherwise expressly stated, the following terms shall, for the purpose of this section, have the meanings indicated:

**City.** The City of Olean, New York.

**Code.** The Code of Ordinances of the City of Olean, New York.

**Enforcement officer.** Any duly authorized city employee of the code enforcement office (hereinafter "enforcement officer").

**Owner.** The person, persons, or entity shown to be the owner or owners according to the records of the city's 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, administrator, trustee, lessee, other person, firm, corporation or entity in control of the premises. A municipal entity and a not for profit corporation formed pursuant to section 1411 of the Not-For-Profit Corporation Law shall not be considered an owner for purpose of this section. Any such person shall have joint and several obligations for compliance with the provisions of this section.

**Secured by other than normal means.** A building secured by means other than those used in the design and approved plans for the building.

**Unoccupied.** A building or portion thereof which lacks the habitual presence of human beings who have a legal right to be on the premises, including buildings ordered vacated by an enforcement officer. In determining whether a building is unoccupied, the enforcement officer may consider these factors, among others: (i) whether lawful residential or business activity has ceased; (ii) the percentage of the overall square footage of the occupied to

unoccupied space or the overall number of occupied and unoccupied units; (iii) whether the building is substantially devoid of contents or the minimal value of fixtures or personal property in the building; (iv) whether the building lacks utility services; (v) whether the building is subject to a foreclosure action; (vi) whether the lawful occupants are residing temporarily elsewhere; (vii) the duration of vacancy; and (viii) the presence or reoccurrence of Code violations.

**Unsecured.** A building or portion of a building which is open to entry by unauthorized persons without the use of tools, the opening(s) to said building being less than 40 feet above ground level.

**Vacant building.** A building, a portion of a building, or a structure which is any one or more of the below:

- a. Unoccupied and unsecured as determined by an enforcement officer;
- b. Unoccupied and an unsafe building as determined by an enforcement officer;
- c. Unoccupied and enforcement officer has issued an order to correct code violations;
- d. Illegally occupied; or
- e. Unoccupied for a period of time exceeding 90 consecutive days, except buildings listed or offered for sale and residential buildings whose lawful occupants are residing temporarily elsewhere but not for more than five consecutive months.

(c) Vacant building registration and fees.

(1) The owner of a vacant building shall register with the code enforcement office no later than 30 days after any building becomes a "vacant building", as defined above, or no later than 30 days after being notified by an enforcement officer of the requirement to register. An enforcement officer may identify vacant buildings through his/her routine inspection process as well as through notification by residents, neighborhood associations and other community groups that a building may be eligible for inclusion on the registry. A notice to register will be served upon, or sent by first class mail to, the owner, and any registered property manager, and to the property address. Notice will be deemed received by the owner and property manager, as the case may be, upon personal delivery or five days after service by first class mail. The city shall post a notice to register at the property and the city may post notices on the city's website to provide additional notice to the public. However, the city's failure to post such notices on the city's website shall not constitute a defense to any enforcement proceeding or collection of fines.

(2) The registration shall be submitted on forms provided by the enforcement office, shall include the following information and shall be notarized:

- a. A description of the premises, including the street address, approximate age and square footage of the building, number of stories, and the most recent use of the building.
  - b.
    - (i) Name, principal residence address, principal business address, telephone number and email address of each owner.
    - (ii) If the owner is an association, partnership, limited liability partnership, joint tenancy, tenancy in common, tenancy by the entirety or other entity, the name of each and every owner, partner or general partner and addresses.
    - (iii) If the owner is a corporation or a limited liability company, the principal place of business of the corporation or company must be provided and the name, title and residence address of all officers, directors, managing or general agents must be included.
  - c. The street number of the building.
  - d. If applicable, the name of the owner's designated agent with the agent's principal residence address, principal business address, telephone number and email address.
  - e. If said owner's principal place of business or actual place of residence is not located in the City of Olean, or within 20 miles of the City of Olean, the owner must designate on the registry form a person 25 years of age or older who resides in or has a place of business within 20 miles of the City of Olean as owner's agent whom the owner authorizes to make decisions regarding the management and maintenance of the building and upon whom service of legal process and all notices may be served or delivered. The owner's designation of an agent shall authorize and empower the agent to make such decisions on behalf of the owner.
  - f. It shall be the responsibility of the owner to properly register any change of address, agent or any other registration information which occurs after the filing of the registry within 60 days of the date of change.
  - g. The owner shall specify the address to which all notices, violations and invoices are to be delivered.
  - h. The names and addresses of all known lien holders. Each address must include a street address.
  - i. For purposes of this subsection (c)(2), a post office box shall not be accepted as the owner's or agent's address.
  - i. A vacant building plan as described in subsection (3) below.
- (3) The owner 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 proposals for the building:
- a. If the building is to be demolished, a demolition plan indicating the proposed time frame for demolition, which demolition must

be completed no later than six months from the date of the submission of the plan.

- b. If the building is to remain vacant, a plan for the securing of the building in accordance with standards provided in section 6-30(D) below, together with the procedure that will be used to maintain the property and a statement of the reason(s) why the building will be left vacant; or
- c. If the building is to be returned to a permitted occupancy or use, rehabilitation plans, if required, for the building. The time period to complete the rehabilitation plans shall not exceed 365 days from the date of submission and the plan shall include progress benchmarks at four-month intervals, unless the code enforcement office grants an extension for good cause shown, upon receipt of a written statement from the owner submitted prior to the expiration of the time period detailing the reasons for the extension. Any repairs, improvements or alterations to the property must comply with any applicable zoning, historic preservation and building codes. The building must be secured in accordance with section 6-30(d) below during the rehabilitation period.

(4) The owner shall comply with all applicable laws and codes. The owner shall notify the code enforcement office of any changes in information supplied as part of the vacant building registration within 60 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 be approved by the code enforcement office.

(5) The owner and any subsequent owner shall keep the building secured and safe and the building and grounds properly maintained as provided in section 6-30(d) below.

(6) Failure of the owner or any subsequent owner to maintain the building and premises as required herein shall be grounds for the city to remediate the building and bill the costs of same to the owner as provided in section 6-277 of this chapter, or revoke the rehabilitation plans, or both, and the owner shall be subject to fees and penalties as provided herein.

(7) The owner shall notify the code enforcement office of any transfer of ownership within 60 days of the date of transfer. The new owner 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.

(8) Vacant building registration fees.

- a. The owner shall pay no registration fee if the owner registers the building no later than 30 days after the building becomes

- a "vacant building", as defined above, or no later than 30 days after being notified by an enforcement officer of the requirement to register. If the owner fails to timely register the building, the owner shall pay at the time of registration a fee of \$50.00.
- b. If the building remains continuously vacant pursuant to section 6-30(c)(3)b. above for one year or more from the date of registry, the owner shall pay to the city on each annual anniversary date the following annual vacant building fee until the building is demolished or rehabilitated: First anniversary date, \$500.00; each anniversary date thereafter, the fee for the immediately preceding year plus \$100.00; but in no event shall the annual fee exceed \$1000.00.
  - c. If the building is to be returned to a permitted use pursuant to section 6-30(c)(3)c. above and if the rehabilitation plan has not been completed by the deadline stated in the rehabilitation plan or the extension date granted by the enforcement officer, unless the delay was due to an event outside the control of the owner, the owner shall pay to the city on the deadline date the following vacant building fee until the building rehabilitation is completed: \$500.00 on the first deadline date; on each annual anniversary date of the initial deadline date, the fee for the immediately preceding year plus \$100.00, but in no event shall the annual fee exceed \$1000.00.
  - d. If the owner of a vacant building fails to register and pay the fees in a timely manner, then the owner shall be subject to the penalty set forth in section 6-30(i) below.
  - e. All delinquent fees shall be paid by the owner prior to any transfer of an ownership interest in any vacant building. The owner shall give a purchaser or grantee written notice that the building being transferred is a vacant building under this section. If the fees are not paid prior to transfer, the new owner shall pay the annual fee no later than 30 days after the date of transfer and subsequent annual fees shall be due on the new anniversary date.
  - f. The vacant building registration fees and annual vacant building fees as set forth in section 6-30(c)(8)a., b. and c. above are to be delivered, by mail or in person, to the Olean Code Enforcement Office, Room 212, 101 East State Street, Olean, New York 14760. A late charge of one and one half percent per month shall be assessed on any invoice which is unpaid after 30 days from the date of the demand for payment or an invoice. Delinquent, unpaid registration and annual vacant building fees shall be a lien on the real property on which the building is situated and shall be added as a separate line item on the property owner's real property tax bill.
  - g. If a building permit, other than one to solely replace or repair a roof, is issued for the vacant building to be restored to a permitted use, the annual vacant fee coming due, pursuant to section 6-30(c)(8)c. above, after the date of the issuance of the building permit shall be waived if the restoration of the building is completed in accordance with the provisions of section 6-30(c)(3)c. above. If the owner fails

to comply with said provisions, the owner shall pay the annual vacant fee which would have been due pursuant to section 6-30(c)(8)c. had it not been initially waived. In no event shall more than two years of the annual vacant fee be waived. The amount of the annual vacant fee coming due after the waiver of one or two annual vacant fees shall be in accordance with section 6-30(c)(8)c. calculated as though there had been no prior waiver of the annual vacant fee. No building permit shall be issued unless all unpaid delinquent registration fee and annual vacant fees have been paid in full.

- (9) The code enforcement office shall include in the file any written statements from community organizations, other interested parties or citizens regarding the history, problems, status or blighting influence of a vacant building.

(d) Maintenance.

- (1) The owner of a vacant building shall take such steps and perform such acts as may be required to ensure that the building and its grounds remain safe and secure and do not present a hazard to the adjoining property or the public. Owners shall be responsible for maintaining their buildings and structures so that they do not become an unoccupied hazard. In any building or floor area that is vacant or about to become vacant, there will be at least one access which meets the approval of the enforcement office.
- (2) The owner shall protect and maintain the exterior of the building as follows:
  - a. Exterior walls, including foundations, shall be maintained so that water does not penetrate into basements, cellars, or other interior areas. All exterior walls and foundations must be free of holes and crevices.
  - b. Exterior doors, windows, skylights and similar openings shall be maintained weather tight.
  - c. Exterior stairs, porches, entrance platforms, fire escapes and railings thereon shall be maintained in a safe and sound condition.
  - d. Roofs shall be maintained in a weather tight condition.
  - e. Exterior surfaces shall be maintained in good condition. Surfaces not inherently resistant to deterioration shall be treated with a protective coating of paint or other suitable preservative.
  - f. Glass coverings for windows and doors shall not consist of any substance sprayed onto the glass doors or windows. All enclosures shall be properly fitted and be of such material and surface that they are neither unsightly nor materially detract from the general

appearance of the building or the neighborhood and, when possible, are secured by normal means.

- g. The covering for broken doors and cracked or broken windows shall consist of replacement glass, plexiglass, plywood or similar materials finished and maintained in accordance with the provision of section 6-279(g) of this Code.
- h. Windows that are not cracked or broken may be covered with interior blinds, curtains, or shades.
- i. The premises shall be kept free of insects and vermin.
- j. Any excavations, swimming pools, or other conditions creating an attractive nuisance must be filled in or properly enclosed.

(3) In addition to the standards prescribed above, vacant commercial and retail buildings shall comply with the following standards:

- a. Any and all first floor windows shall be replaced by glass or plexiglass, which coverings shall be maintained.
- b. All exterior signs, awnings, lighting systems and supporting framework, if not removed, shall be maintained in a non-deteriorated and safe condition.

(4) The owner shall protect and maintain the interior of the building as follows:

- a. Structural members shall be maintained to resist and prevent deterioration.
- b. Unheated attics, spaces below flat roofs, and crawl spaces shall be ventilated to minimize deterioration.
- c. Ceilings, walls, floors and stairways shall be maintained in a safe and sound condition.

(5) The owner shall maintain the premises as follows:

- a. The owner shall not permit garbage and refuse to accumulate.
- b. Buildings and structures shall be maintained free of insects, vermin and rodent harborage and infestation.
- c. Chimneys, smokestacks, flues, gas vents, smoke pipes and connectors shall be maintained structurally safe and smoke tight.
- d. If the building is to be demolished, then, within ten days of registering the building as a vacant building, all fuel gas, water, and utilities must be disconnected at the mains and water pipes drained. If the building is going to be rehabilitated, then the building must be heated or winterized to avoid freezing pipes; fuel gas pipe systems must be maintained gastight, safe and operative condition, and water pipes must be maintained to avoid leaks and/or breakage.
- e. Fuel tanks will be maintained so as not to be a hazard or shall be discontinued in a manner consistent with New York State Uniform Fire Prevention and Building Code.
- f. The domestic water supply system of the building will be connected to an approved source, will not be subject to contamination and will

not be connected to unsafe water supplies; alternatively, the system shall be disconnected at the main and completely drained.

- g. Stormwater drainage systems shall be maintained so as to function properly and shall be kept free from obstructions, leaks and defects. Sewage systems shall be similarly maintained or shall be sealed so as to prevent accumulation of sewage gases in buildings.
  - h. Electrical fixtures, devices, wiring and systems shall be maintained in safe working condition in a manner which shall avoid a potential source of ignition or shock; alternatively, the service shall be discontinued at the supply.
  - i. Elevators, dumbwaiters and escalators shall be maintained or taken out of service, in accordance with ANSI A17.1.
  - j. The owner shall provide for snow and ice removal on the premises and adjoining sidewalks and shall comply with Section 21-5 of the City code of ordinance.
- (6) Whenever the owner of a vacant building fails to comply with a notice from an enforcement officer to take steps and perform acts as are required of the owner to ensure that a building and the premises remain safe and secure and do not present a hazard to adjoining property, the city may enter onto the building and the property and take steps and perform acts to render the building and the premises safe, secure and free from hazards to adjoining property and the public. These acts may include but not be limited to removal of dangerous conditions, properly replacing or boarding up windows and doors, shutting off utilities, capping plumbing to prevent leakage of water or sewer gas, or removing flammable or otherwise hazardous material and debris. The owner shall be personally liable to the city for all expenses incurred by the city in rendering the building and premises safe and secure. In addition, the city's expenses shall be a lien on the real property on which the building is situated and shall be added as a separate line item on the property owner's real property tax bill. This liability shall be in addition to any fines or penalties imposed pursuant to section 6-30(i) below.
- (e) Demolition surety.
- (1) If the vacant building plan submitted pursuant to section 6-30(c)(3)a. above provides for the building to be demolished, the owner shall deposit or deliver to the city a surety in an amount sufficient to cover the costs of demolishing the building.
  - (2) If the vacant building plan submitted pursuant to section 6-30(c)(3)b. and c. above provides for the building to remain vacant or for the building to be returned to a permitted occupancy and use, and the owner fails to secure and maintain the building in accordance with the standards set forth in section 6-30(d) above and the violation or violations of such standards has continued for more than one year or the

owner fails to return the building to occupancy and use within the time period provided in the rehabilitation plan and any extension thereof, then the city may require the owner to deposit or deliver to the city auditor a surety in an amount sufficient to cover the costs of demolition. If, after expiration of 18 months from the date of submission of the vacant building plan, there are outstanding violations of the standards set forth in section 6-30(d) above or the building rehabilitation plan has not been substantially completed, the city may issue an order directing the owner to demolish the structure. In the event such an order is issued, the owner shall be entitled to a hearing held in accordance with the procedure set forth in section 6-275(f) of this chapter.

(3) The surety required herein shall be in one of the following forms, subject to the review and approval of the corporation counsel:

- a. Cash;
- b. Irrevocable letter of credit; or
- c. Insurance bond.

The surety shall be released or returned to the owner only upon the correction of all outstanding violations of section 6-30(d) above or upon substantial completion of the rehabilitation plan.

(4) In the event the owner refuses, fails or neglects to comply with the demolition order issued under subsection (2) above, the city may enter upon such property and demolish or cause to be demolished the vacant building. The city first shall recover the city's cost for demolition by executing upon any demolition surety posted pursuant to this section. The owner shall be personally liable for all demolition costs incurred by the city in excess of the surety bond amount in accordance with section 6-277 of this chapter. Any costs incurred by the city shall be a lien on the real property on which the building is situated and said costs shall be added as a separate line item on the property owner's real property tax bill.

(f) Exemptions.

A building which has suffered fire damage or damage caused by extreme weather conditions shall be exempt from the registration requirement for a period of 90 days after the date of the fire or extreme weather event if the property owner submits a request for exemption in writing to the code enforcement office. This request will include the following information supplied by the owner:

(1) A description of the premises, including the street address, approximate age and square footage of the building, number of stories, and the most recent use of the building.

(2) The reason for an exemption.

(3) The names, principal residence address, principal business address, telephone number and email address of each owner. If the owner is an association, partnership, limited liability partnership, joint tenancy, tenancy in common, tenancy by the entirety or other entity, the name of each and every owner, partner or general partner and addresses. If the owner is a corporation or a limited liability company, the principal place of business of the corporation or company must be provided and the name, title and principal residence address of all officers, directors, managing members must be included. A post office box is not acceptable.

(4) A statement of intent to repair and reoccupy the building in an expedient manner, or the intent to demolish the building.

(g) Inspections.

By registering a vacant building, an owner consents to an enforcement officer inspecting the premises for the purpose of enforcing and assuring compliance with the provisions of this section. Upon the request of the enforcement officer, an owner will provide access to all interior portions of a vacant building in order to permit a complete inspection. Nothing contained herein, however, shall diminish the owner's right to insist upon the procurement of an administrative 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 an administrative 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. In the case of an emergency, this paragraph shall not apply.

(h) Annual reports

Annually, the code enforcement office shall send to the city council a list of all buildings in the city declared vacant under the provisions of this section, as well as a list of all previously declared vacant buildings which are no longer subject to the provisions of this section. This information may be published on the city's website.

(i) Penalties for offenses.

(1) In addition to the penalties provided by section 1-8 of this Code of Ordinances, a person violating any provision of this section 6-30 or providing false information to the enforcement officer will be subject to the following fines: (i) such person shall be subject to a fine of not less than \$250.00 and not more than \$1000.00 or imprisonment not exceeding six months, or both such fine and imprisonment; or (ii) such person shall

be subject to a civil penalty of \$500.00 per day for each day the person is in violation of any provision of this section.

- (2) The term "person" as used in this subsection shall include the owner, occupant, mortgagee or vendee in possession, assignee of rents, receiver, executor, administrator, trustee, lessee, agent or any other person, firm, corporation or other entity directly or indirectly in control of the building or part thereof.
- (3) Each day a violation exists shall be deemed to constitute a separate offense.

(j) Separability.

The provisions of this section shall not infringe, impair or diminish in any way the right of the city to declare a building unsafe and to demolish it pursuant to section 6-275 of the City's Code.

Sec. 6-275. - Generally.

- (a) Buildings endangering health, safety or welfare of the public. All buildings or structures, or any part or parts thereof, or any excavations made below the surface of the ground which become or are abandoned, dilapidated, deteriorated, decayed or unattractive from any cause, so as to endanger the health, safety or welfare of the public, shall be repaired, demolished or removed in accordance with the terms of this division.
- (b) Inspection and report by the Code Enforcement Officer. The code enforcement officer or his representative shall cause an inspection of any premises alleged to be in violation of subsection (a) of this section to be made and he shall thereafter prepare and file in his office a report of such inspection.
- (c) Determination of code enforcement officer. When it shall be determined by the code enforcement officer or his representative that a building or structure, or any part thereof, is not in compliance or conformity with the provisions of subsection (a) of this section, he shall immediately serve notice upon the owner and all other persons having an interest in such property or structure as hereinafter provided.
- (d) Contents of notice by the code enforcement officer. The notice set forth in subsection (c) of this section shall contain:
  - (1) A description of the premises;
  - (2) A statement of the particulars in which the building or structure is unsafe or dangerous;

(3) An order of the code enforcement officer or his representative requiring the same to be repaired, demolished or removed;

(4) A statement that if such owner so served shall fail to commence to repair, demolish or remove such building or structure within 15 days from the service of such notice, the city may repair, demolish or remove such building or structure and that all costs and expenses incurred by the city in connection with the proceedings to repair, demolish or remove such building or structure, including the cost of actually repairing, removing or demolishing the same, will be assessed against the land on which such building or structure is located; and

(5) The place and time of the hearing as provided in subsection (f) of this section.

(e) Service of notice by the code enforcement officer.

(1) The notice set forth in subsections (c) and (d) of this section by the code enforcement officer shall be served in either of the following manners:

a. Personally upon the owner and all other persons having an interest in such property or structure;

b. By registered mails in a securely fastened, postpaid wrapper, addressed to the owner and to all persons having an interest in such property or structure at his last known address as shown by the records of the city assessors or clerk of the county.

(2) If such notice is served pursuant to subsection (e)(1)b of this section, the code enforcement officer shall cause a copy of the notice to be posted on the premises involved.

(f) Hearing before the fire chief.

(1) The notice aforementioned shall also contain the time and place at which a hearing will be granted before the fire chief or his representative to the owner and such other persons having an interest in the property or structure described in the notice, at which time and place the owner and such other persons having an interest in the property or structure shall be afforded the opportunity to present testimony and evidence regarding the conditions of the property with reference to those particulars contained in the notice set forth in subsections (c) and (d) of this section which are alleged by the code enforcement officer to endanger the health, safety or welfare of the public; the time of such hearing shall be specified on the date no sooner than five days after the service of the notice and no later than the tenth day after service thereof.

(2) If the owner or any person having an interest in the property or structure involved submits evidence at such hearing before the fire chief or his representative, the fire chief or his representative shall thereafter make a further determination which shall:

- a. Affirm his original determination;
- b. Modify the specifications of his original determination; or
- c. Vacate the original notice.

In the event that the fire chief or his representative shall affirm or modify his original determination, notice thereof shall be served upon those who appeared at the hearing in the manner prescribed by subsection (e) of this section within three days after the hearing, and the order to repair, remove or demolish in the original notice shall remain in full force and effect subject only to those specifications modified pursuant to this section.

- (g) Filing of notice in county clerk's office.

(1) The code enforcement officer or his representative shall file a copy of the notice provided for under subsection (e) of this section in the office of the county clerk within three days after service under subsection (e) of this section is complete. Such notice shall be filed by such clerk in the same manner as a notice of pendency pursuant to Civil Practice Law and Rules § 65, and shall have the same effect as a notice of pendency as therein provided, except as otherwise provided in this section. A notice so filed shall be effective for a period of one year from the date of filing; provided, however, that it may be vacated upon the order of a judge or justice of a court of record or upon the consent of the counsel of the city. The clerk of the county shall mark such notice and any record or docket thereof as cancelled of record upon the presentation and filing of such consent or of a certified copy of such order.

(2) Where the code enforcement officer or his representative determines to vacate the original notice pursuant to subsection (f) of this section, the counsel of the city shall forthwith file a consent thereto pursuant to subsection (g)(1) of this section.

- (h) Records to be kept of abandoned, dilapidated buildings.

The code enforcement officer or his representative shall keep in his office a record of all buildings not in compliance with subsection (a) of this section, with additional information showing the action taken by him, from time to time, relative to each property and by not later than April 1 of each year report to the council all premises upon which work has been performed by the city, the name of the owner, the expense incurred in the repair, demolition or removal that is unpaid, whereupon the council shall order the assessment against such premises for the several sums so reported.

- (i) Emergency.

In case of emergency which, in the opinion of the code enforcement officer or his representative involves imminent danger to human life or health, he may cause such building, structure or portion thereof to be made safe or

removed. For this purpose he may at once enter such structure or land on which it stands or abutting land or structure, with such assistance and at such cost as may be necessary. Nor shall a contract be required as provided in subsection (j) of this section. He may vacate adjacent structures and protect the public by appropriate barricades or such other means as may be necessary and for this purpose may close a public or private way. In case of such an emergency, the code enforcement officer or his representative shall file a notice as provided under subsection (g) of this section.

(j) Contracts.

If the code enforcement officer or his representative proceeds to execute a notice or order issued by him for the repair, removal or demolition of such building or structure, the city mayor or his representative may let contracts therefor, in accordance with the provisions of any laws, rules, regulations or ordinances of the city or state applicable to the letting of municipal contracts.

(k) Additional penalty.

Any person, firm, partnership or corporation violating this section shall also be liable for the penalty prescribed in section 6-283(a). In addition, any person, firm, partnership or corporation willfully interfering with or causing interference with the administration of this section shall be guilty of a misdemeanor punishable by a fine of not more than \$500.00 or by imprisonment not exceeding 60 days or by both.

Sec. 6-277. - Personal liability.

Any person, firm, partnership or corporation who is the owner, occupant or mortgagee in possession of premises or who shall have exercised dominion and control over said premises, at the time they became abandoned, dilapidated, deteriorated, or decayed, shall be personally liable for the cost of demolition including incidental charges for the plugging of the water and sewer lines in those instances where it is necessary for the city to cause said work to be done. This section shall be applicable notwithstanding any fine or penalty imposed pursuant to the provisions of this chapter.

Sec. 6-278. - Fire insurance proceeds.

The city auditor is authorized, upon the passage of a resolution by the city council, to file with the state superintendent of insurance a notice of intention to claim against the proceeds of any fire insurance policy upon real property (except one- and two-family residential structures) located within the city, upon which there are liens for special ad valorem levies, taxes, special assessments and municipal charges and which have remained undischarged for a period of one or more years.

The proceeds against which a claim has been filed shall be released or returned to the insured, provided that the insured agrees in writing with the city, upon such terms and conditions to guarantee performance of the agreement as the city council

may deem reasonable and necessary, to restore property damaged by fire to at least the same condition that it was in prior to the time that the city's lien arose.

The powers granted by this section shall be in addition to, and not in substitution for, all powers, rights, privileges and authority now existing in the city or hereafter conferred upon it by any provision of law.

Sec. 6-279. - Unsafe buildings and structures.

(a) A building or structure or part of a building or structure, including any service equipment therein or attached thereto or any facilities which are a part thereof, that is dangerous or unsafe structurally or as a fire hazard or otherwise, or is dangerous or detrimental to health or life shall be demolished and removed or made safe and secure.

(b) A vacant building or structure not continuously guarded or boarded up, which is not safe and secure from unauthorized entry or use, shall be deemed dangerous or unsafe and a fire hazard or dangerous or detrimental to health or life.

(c) A vacant building or structure boarded up for a period of one year shall, at the expiration of such period, in the absence of competent and relevant evidence being furnished to the contrary, be presumed to be a fire hazard and dangerous and unsafe.

(d) When in the opinion of the code enforcement officer there is imminent danger of the failure or collapse of a building or structure or any part thereof which endangers life or property, or when a building or structure or part thereof has fallen or collapsed and renders occupancy of the premises dangerous or unsafe, the code enforcement officer shall have the right to require the occupants to vacate the same forthwith and order the demolition of the building or structure or any part thereof. In such cases, the code enforcement officer shall immediately cause a notice to be posted conspicuously at or about such premises, reading substantially as follows: "These Premises are Dangerous and Unsafe and Their Use or Occupancy is Prohibited"; and thereafter no person shall enter upon such premises except for the purpose of making required repairs or of demolishing the unsafe building or structure or part thereof or for the purpose of inspection in connection therewith.

(e) Unsafe buildings or structures shall be removed in accordance with and pursuant to the provisions of state and local law.

(f) The code enforcement officer shall order any owner of any building that is dangerous or detrimental to health to immediately board up the entranceway and windows of such building; and if such owner shall fail to comply within ten days from the date of the order, code enforcement shall have the building boarded up and assess board-up costs against the premises in accordance with section 6-280.

(g) Whenever an owner, either voluntarily or pursuant to an order issued by the code enforcement officer, boards up an entranceway or windows, or both, of a building or structure, the owner shall use or caused to be used a single board for window frames and door frames measuring less than or equal to four feet wide by eight feet long and the exterior side of the board shall be painted the same color as the exterior siding adjacent to the window or door frame and the board shall not extend beyond the exterior frame of the window or door. For a window or door frame greater in size than four feet by eight feet, the owner shall use or cause to be used the minimum number of four-foot by eight-foot boards necessary to cover the opening and the exterior side of said boards shall be painted the same color as the exterior siding adjacent to the window or door frame and the boards shall not extend beyond the exterior frame of the window or door. In the event the owner shall fail to comply with the provisions set forth in this subsection, code enforcement shall have the building boarded up or shall reboard the window or door in the manner herein designated, paint the board up in the color white or gray, and assess the board up or reboard up costs against the premises in accordance with section 6-280

Sec. 6-280. - Recovery of costs.

Cost incurred by the code enforcement office in eliminating or removing nuisances and dangerous and unsafe conditions shall be paid for by the city auditor out of the general fund upon certification of the code enforcement office. Such costs shall be charged against the premises and shall constitute a lien thereon in favor of the city, and the amount of such costs shall be entered on the tax rolls. Such costs may also be recovered in any lawful manner.

## VIOLATIONS AND PENALTIES

Sec. 6-281. - Removal of violations.

Whenever the code enforcement officer has evidence that there exists in any building or structure erected or in course of erection or alteration a violation of any provision of this chapter, or of any of the regulations of the department of buildings, he may in his discretion, authorize the city attorney to institute any appropriate action or proceeding at law or in equity, to restrain, correct or remove such violation; prevent further work upon the building or structure; require its removal; or prevent the occupation or use of the building or structure.

Sec. 6-282. - Notice of violation and service thereof.

Notices of violation of any provision of this chapter and an order to remedy shall be issued by a code officer and shall have his name affixed thereto. A notice of violation and order to remedy shall be served upon the person or duly authorized agent charged with the violation by personal delivery or by registered or certified mail. Such notice shall contain a brief statement of the nature and location of the violation charged, the penalty or penalties that may be incurred, and a direction to the owner requiring that the violation be eliminated by a specified date.

Sec. 6-283. - Punishment for violation of provisions of chapter.

(a) A person who shall construct, alter, remove or maintain a building or structure or any of its appurtenances in violation of any of the provisions of this chapter

shall be guilty of a misdemeanor punishable by a fine of not more than \$1000.00 or by imprisonment not exceeding 15 days or both fine and imprisonment. If such violation shall be removed or in process of removal within ten days after the service of a notice of violation and shall actually be removed within a reasonable time, the liability for all portions of such penalty may cease in the discretion of the work. Whenever it shall be necessary in the opinion of the code enforcement officer in order to carry out or enforce any of the provisions of this article, he may and shall have authority to call on the police department for aid and assistance, and it shall be the duty of the police department, when called upon by the code enforcement officer to cooperate with the codes officer in order to enforce or put into effect any of the provisions of this chapter.

- (b) For the enforcement or recovery of a penalty, an action may be brought in the name of the city in any municipal court or court of record in the city, and no court shall lose jurisdiction of any action by reason of a plea that the title to real estate is involved, provided the object of the action shall be collected and enforced as judgments of the courts in which such action was commenced.

Sec. 6-284. - Violation of chapter.

(a) In case of violation of any of the provisions of this article for which a penalty is not hereinbefore provided, such violation shall be a misdemeanor and punishable by a fine of not more than \$1000.00 or by imprisonment not exceeding 15 days or by both fine and imprisonment.

(b) The code enforcement officer is hereby authorized and empowered to enjoin in courts of competent jurisdiction the violation and threatened violation of any of the provisions of this chapter. In addition to the penalty hereinbefore provided, the code enforcement officer is hereby authorized to collect by action, in any court of competent jurisdiction, the sum of \$1000.00 per day for each and every day that any person violates the provisions of this chapter.

Approved: February 27, 2024