

ORDINANCE 2015- 100

AN ORDINANCE TO ESTABLISH CHAPTER 1357 OF THE CODIFIED ORDINANCES OF THE VILLAGE OF MILLERSBURG, OHIO, ESTABLISHING A VACANT BUILDING ENFORCEMENT PROGRAM.

WHEREAS, the Council of the Village of Millersburg has determined that it is necessary to promote and protect the public health, safety, and general welfare of the residents of the Village of Millersburg by providing for the regulation of vacant buildings within the Village.

NOW THEREFORE, BE IT ORDAINED by the Council of Millersburg, Ohio, that

Section 1: Chapter 1357 of the Codified Ordinances of the Village of Millersburg, Ohio, is hereby established to read as follows and shall be, and the same is hereby enacted to become effective as soon as authorized by law:

CHAPTER 1357 VACANT BUILDING ENFORCEMENT PROGRAM

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1357.02 DUTIES OF OWNER

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1357.01 SCOPE AND DEFINITIONS.

(a) This Chapter applies to any building in the following zoning districts as designated by the Codified Ordinances of Millersburg: (1) Downtown Business District (DB), (2) Village Business District (B-1), (3) Highway Business District (B-2), (4) Special Use District (SU), (5) Industrial District (I), (6) Medical Services Overlay District (MSO), (7) any property for which a conditional use has been granted.

(b) "Vacant building" shall be defined for the purposes of this Chapter as a building which is not occupied by its owner, lessee or other person in lawful possession, or at which substantially all lawful business operations have ceased, or which is substantially devoid of content. Special event, short term, and seasonal commercial lessees or occupants of 90 days or less are excluded from the provisions of this chapter and shall not be used in determining the length of vacancy for any building in the designated District.

1357.02 DUTIES OF OWNER.

(a) The owner, lessee, or party in control of any vacant building, or a mortgagee that has filed and is currently maintaining an open foreclosure action regarding a vacant building shall maintain the vacant building as follows:

- (1) Grass and weeds shall be kept at a maximum height of eight (8) inches. Shrubbery must be kept trimmed and neat and kept from encroaching on or touching the building.

(2) All building exteriors shall have adequate weather protection, including paint, siding, and or similar finishes in good condition.

(3) All buildings and grounds must be secured against trespassers and rodents. This includes maintaining all exterior doors, windows and yard fencing in a good and secured condition. No boards, plywood or similar means or materials may be used to secure windows and doors. Doors, and/or windows that are deemed insecure shall be secured by their replacement with similar, new doors or window units equipped with locking hardware.

(4) Roofs on all buildings shall be in good, weather tight condition with no leakage.

(5) Any accumulated trash or debris must be removed from the property immediately.

(6) Graffiti, tagging or similar markings must be immediately removed or painted over with an exterior grade paint that matches the exterior color of the structure.

(7) Pools and spas shall be drained and kept dry. Properties with pools and spas must comply with the minimum security fencing requirements of the Village.

(b) Adherence to this section does not relieve the owner or agent in control of the property of any obligations set forth in any covenants, conditions, restrictions, homeowners' association rules and regulations and/or codified ordinances or building codes which may apply to the property.

(c) The owner, agent, lessee, party in control, or mortgagee in foreclosure of any vacant building agrees to grant unrestricted access to the vacant building; after receiving 48 hours' notice from the Village of Millersburg, for inspections and appraisals as necessary.

(d) Registration Required.

(1) The owner, agent, lessee, or party in control of any vacant building, or a mortgagee that has filed a foreclosure action that is currently pending regarding any vacant building shall register the building with the Village Administrator and maintain the registration up to date.

(2) An application for registration of a vacant building shall include all of the following information on forms provided by the Village:

- A. The name of the owner, agent, lessee or party in control of the property and/or foreclosing entity submitting the registration application;
- B. Physical and mailing address of the applicant as well as the address of the vacant property;
- C. A contact name, telephone number and email address for the applicant;
- D. In the case of an applicant whose name or business address is located outside Holmes County, the applicant shall provide the name and mailing address of a local property management company as well as the contact name, telephone number and email address of the person responsible for the security,

maintenance, and marketing of the property;
E. The fee required by this Chapter.

(3) Registration shall remain valid for 12 months from the date of issuance. The owner, agent, lessee or party in control, or mortgagee in foreclosure, shall renew the registration upon expiration for as long as the property remains vacant.

(4) The owner, agent, lessee, party in control, or mortgagee in foreclosure of any vacant building, shall inspect the property at least one time each month on the interior and exterior of the property to verify that the requirements of this section, the codified ordinances of the village, and any other applicable laws are being met. A written report of such inspections shall be provided to the village upon request.

1357.02 EXEMPTIONS

- a) Waivers exempting compliance with the provisions of this Chapter can be obtained in writing on a form provided by the Village under the following circumstances as long as the property is kept in safe, secure, and habitable condition in the owner's absence:
- (1) Buildings substantially damaged by fire, vandalism, natural disaster, or act of God; provided cleanup, repair or demolition is initiated within 90 days from the date of the fire.
 - (2) An owner or the estate of a deceased owner who is actively attempting to sell the property; provided however the sale price must be at or below the fair market value of the property according to a Certified General Appraiser meeting the education and licensure requirements of the state of Ohio.
 - (3) An owner or the estate of a deceased owner who is actively attempting to rent or lease the property at fair market value provided the advertisement for rental/lease is published in a newspaper of general circulation or other commonly used media outlet for such listings.
 - (4) Village Council may grant exemptions from the requirements of this Chapter for special circumstances at their discretion.

1357.04 CERTIFICATE REQUIRED

- (a) The owner, agent, or party in control of any vacant building, shall apply for and obtain a certificate of inspection from the Village Administrator within sixty (60) days of the premises becoming a vacant building and annually thereafter.
- (b) Upon selling, transferring or conveying an interest in property or entering into an agreement to sell, transfer or otherwise convey an interest in such property the owner shall provide the Certificate of Inspection to the purchaser or transferee. The Certificate of Inspection shall list thereon all known violations of Village Ordinances found as a result of an exterior and interior inspection.
- (c) The owner shall deposit in escrow a statement signed by the purchaser or transferee acknowledging receipt of the Certificate of Inspection, and such statement shall list thereon the date the certificate was given to the purchaser or transferee.

1357.05 CERTIFICATE OF INSPECTION APPLICATION; INSPECTION; AND ISSUANCE

An application for a Certificate of Inspection required by this Chapter shall be made upon forms supplied by the Village Administrator.

- (a) The Village Administrator shall cause a general exterior and interior inspection for the building to be made.
- (b) The Certificate of Inspection shall contain the following information:
 - (1) The street address or other identifying characteristics of the dwelling structure;
 - (2) The name and address of the owners; lessee or party in control;
 - (3) The authorized use and occupancy of the building;
 - (4) The listing of all known violations of the building code existing at the time of such inspection
- (c) Once a Certificate of Inspection is issued, it shall be valid for a period of one year from the date of the inspection required herein, and that certificate of inspection is only good for one transfer. In the event of resale within the one year period, the certificate shall be transferred to any subsequent bona fide purchaser and shall be valid for the remainder of that period.

1357.06 FEES

- (a) The fee for a Certificate of Inspection shall be two hundred dollars (\$200.00).
- (b) There shall be no fee for one re-inspection requested by the same owner within twelve months from the date of the initial inspection to verify correction of violations stated within the certificate of inspection. All subsequent re-inspections may be billed at twenty-five dollars (\$25.00) per inspection.
- (c) In the event of resale within the one-year period, this certificate shall be transferred to any subsequent bona fide purchaser and shall be valid for the remainder of that period.
- (d) The owner of a vacant building shall pay an annual fee of eight hundred dollars (\$800.00) for the first year the building remains vacant. For every consecutive year that the building remains vacant, the annual fee will be assessed at double the previous year's fee amount for a maximum annual fee equaling the four-year fee of six thousand four hundred (\$6400) to be used for the fourth and for all consecutive, subsequent years of vacancy.
- (e) The first annual fee shall be paid at the time the building is registered.
- (f) Absent a showing of good cause, if the building is not registered within the timeframe required herein, or the registration is not renewed within thirty days (30) after the expiration of one year from the date of the previous registration, a penalty shall be paid in addition to the annual registration fee. The penalty shall be equal to one half of the current annual fee or one thousand dollars (\$1000), whichever is less.
- (g) Registration fees generated by this section shall be deposited into a fund to be established for the benefit of property owners within the affected area at Village

Council's discretion.

1357.07 ESCROW DEPOSIT REQUIRED PRIOR TO SALE.

- (a) If all violations listed on the Certificate of Inspection are not corrected prior to transfer of title, an escrow account shall be established by a party to the transfer, in an amount not less than one thousand dollars (\$1,000) and equal to 100 percent of the estimated cost of repairs, shall be deposited therein to pay for the cost to correct all remaining violations. No party to a transfer of a vacant building shall authorize or accept such transfer without ensuring compliance with this section.
- (b) The amount to be held in escrow shall be determined by a party of the transfer procuring written estimates from at least two companies capable of performing the work, which are currently registered to do business in Holmes County. The amount deposited into escrow shall be 100 percent of the higher of the two estimates.
- (c) If the parties establishing the escrow can demonstrate to the Village Administrator that after a good faith effort he/she is unable to obtain written estimates, the Village Administrator shall establish the amount to be placed in escrow.

1357.08 CORRECTION OF VIOLATIONS

Any violations found upon inspection of the premises shall be corrected prior to issuance of the certificate of occupancy. Violations that cannot be corrected due to seasonal conditions shall not preclude the issuance of a certificate of occupancy provided that issuance of such certificate shall be upon written acknowledgment of all violations an agreement to correct all violations within 6 months of the inspection date. In addition written notice must be received by the Village that funds are being held in an escrow account in a sufficient amount to correct all violations, but in no case less than \$1000. Such account shall be held by an independent escrow agent and shall be closed only upon written notice by the Village Administrator.

1357.09 DISPERSAL OF FUNDS BY ESCROW AGENTS

- (a) No person acting in the capacity of an escrow agent in any real estate transaction involving the sale or transfer of a vacant building shall disperse any funds held in escrow in compliance with section 1357.07 unless there has been compliance with section 1357.08.
- (b) Funds shall be dispersed only upon written authorization from the Village Administrator as follows:
 - (1) The Village Administrator or his/her designee may authorize the release of funds from the escrow agent established per 1357.07 as payment in full to a contractor as each violation is corrected, provided the amount due does not exceed the written estimates; or
 - (2) The Village Administrator or his/her designee may authorize a release of funds from the escrow account established per section 1357.07 as payment in full to a contractor as each violation is corrected, provided that when the amount due does exceed the written estimates such release can only be made upon the Village Administrator's or his/her designee's written finding that sufficient funds will remain in escrow to correct all

other remaining violations.

1357.10 CERTIFICATE OF OCCUPANCY

At the request of the owner of property or his/her agent, the Village shall issue a letter or other written document signed and dated by the Village Administrator stating that all violations listed on the Certificate of Inspection have been completed to the Village's satisfaction, and the property is eligible for occupancy. No vacant building can be occupied until this certificate of occupancy is obtained.

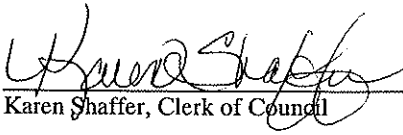

1357.99 PENALTY

- (a) Any person who violates any provision of this chapter is guilty of a fourth degree misdemeanor. Every day that a violation continues shall constitute a separate and distinct offense.
- (b) Unpaid registration fees and fines shall be an assessment on the property enforceable in the same manner as assessments for delinquent property taxes.

Section 2. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in those formal actions were in meeting open to the public, in compliance with law.

Reading 1 1-12-15 Reading 2 1-26-15 Reading 3 2/9/15

This ORDINANCE passed at a regular meeting of Village Council on the 9 day of Feb., 2015.

Attest:  Karen Shaffer, Clerk of Council  President of Council