

## **18.520 ABANDONED/VACANT NONRESIDENTIAL STRUCTURE ORDINANCE**

### **CITY OF MOUNT CLEMENS, MICHIGAN**

#### **18.521 – Sec. 01 PURPOSE.**

The purpose of this section requiring the registration of all abandoned and/or vacant nonresidential structures and the payment of registration fees is to assist the city government in protecting the public health, safety and welfare, to monitor the number of abandoned and/or vacant nonresidential structures in the city, to assess the effects of the condition of those structures on nearby businesses and the neighborhoods in which they are located, particularly in light of fire safety hazards and unlawful, temporary occupancy by transients, including illicit drug users and traffickers, and to require the owners of such abandoned and/or vacant nonresidential structures to register and pay required fees, and to promote substantial efforts to rehabilitate such abandoned and/or vacant nonresidential structures. The provisions of this ordinance are applicable to the owners of such nonresidential structures, as set forth herein and are in addition to and not in lieu of any and all other applicable city ordinances, state statutes and/or codes.

#### **18.522 – Sec. 02 DEFINITIONS.**

The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Abandoned or Vacant Nonresidential Structure* means a nonresidential structure in which all lawful activity has ceased, or reasonably appears to have ceased for thirty (30) days or more and meets any of the following criteria:

- (a) Provides a location for loitering, vagrancy, unauthorized entry or other criminal activity;
- (b) Has been boarded for at least 30 days;
- (c) Has taxes in arrears for a period of time exceeding 365 days;
- (d) Has utilities disconnected or not in use;
- (e) Is not maintained in compliance with any City of Mount Clemens Ordinance.

*Lawful activity* means that for which the structure was built or intended to be used. No building shall be used primarily for storage of personal or business items, unless such use has been previously approved by the City.

*Owner* means any person, agent, firm, partnership or corporation having a legal interest in the property.

*Secured* means all accessible means of ingress and egress to the abandoned and/or vacant structure, including but not limited to all exterior doorways and windows being locked so as to prevent unauthorized entry.

*Structure* means that which is built or constructed.

*Temporarily secured* means all accessible means of ingress and egress to the abandoned and/or vacant structure, including but not limited to all exterior doorways and windows are covered with plywood (or other appropriate material) that has been nailed or bolted in place so as to prevent unauthorized entry.

**18.523 – Sec. 03 APPLICABILITY AND ADMINISTRATION.**

(a) This ordinance shall apply to all abandoned and/or vacant structures, as defined herein, which are now in existence or which may hereafter be constructed or converted from other uses.

(b) The City Manager or his/her designee is authorized to administer and enforce the provisions of this ordinance.

**18.524 – Sec. 04 REGISTRATION REQUIRED.**

(a) The abandoned and/or vacant structure property owner shall have thirty (30) days in which to register from the date written notice is issued to the property owner. Written notice shall be issued to the abandoned and/or vacant structure property owner by means of personal service, or by first class mail to his/her last known address, and by posting on the property.

(b) The city manager or his/her designee may consider evidence that the property is listed for sale or lease for fair market value and for a reasonable length of time for purposes of extending the length of time before the property must be registered.

(c) Upon the issuance of notice by the city to register an abandoned and/or vacant property, and prior to the issuance of a certificate of registration for any abandoned and/or vacant building, owner shall register with the city manager or his/her designee and provide the following information:

- (1) The address and legal description of the property.
- (2) The current name, physical address, mailing address, telephone number and email information for any owner(s) with an ownership interest in the property. Corporations or corporate entities shall submit the same information pertaining to their registered agent.
- (3) The contact information for a local manager of the properties and/or improvements located on said property, as applicable.
- (4) A written comprehensive plan of action detailing a timeline for correcting violations, rehabilitation, and maintenance while abandoned and/or vacant, and future use(s) of the structure. Said plan of action must be updated every six (6) months.
- (5) A complete floor plan of the property for use by first responders in the event of a fire or other catastrophic event.
- (6) Written notice to the city, including a copy of the deed, of a change in:
  - a. Ownership of the property;
  - b. Contact information for the owner or the designated manager. Written notice must be provided to the city no later than thirty (30) days after said changes have occurred.
  - c. Continued annual registration of the property by the abandoned and/or vacant structure property owner until said structure is deemed occupied and in compliance with all relevant code requirements by the city.

#### **18.525 – Sec. 5 REGISTRATION FEES.**

(a) Abandoned and/or vacant nonresidential structure property owners shall be responsible for an annual registration and inspection fee for each vacant property after the initial partial year of registration, for which no fee shall be due. Said fee shall be billed annually by the City and shall be based upon the duration of the vacancy as determined and established from time to time by resolution of the City Commission.

(b) After the owner is given notice of the amount of the registration fee due, and the owner fails to pay the amount due, said amount shall constitute a debt due and owing to the City, and are hereby made a lien on the premises. Whenever any such fee(s) shall be delinquent for six months, the City official in charge of collection thereof shall certify such delinquency to the City assessor and such fee(s) shall be entered upon the next tax roll as a charge against such premises, and shall be collected and the lien thereof enforced in the same manner as special assessments against such premises.

(c) Property which has been devastated by a catastrophe such as fire or flood has thirty (30) days to register from the date of the disaster but may be exempt from the fees. This exemption is for the duration of one year from the date of the catastrophe; thereafter all applicable fees are due.

(d) Where the owner of the property has obtained a building permit and is progressing in an expedient manner to prepare the premises for occupancy, the owner must register the property and is otherwise subject to this article but may be exempt from the registration fees.

#### **18.526 – Sec. 6 PROPERTY MANAGER OR AGENT.**

(a) Abandoned and/or vacant structure property owners must designate a local manager for said properties and include the relevant contact information for the designated manager upon registering the property with the city. The property manager shall serve as agent for the property owner for purposes of accepting legal service; however, the abandoned and/or vacant property owner remains personally liable in criminal prosecutions for code violations.

(b) The property manager or agent must be available at the number listed at all times in the event of an emergency or catastrophe and must reside within a one-hour driving radius of the City.

#### **18.527 – Sec. 7 STANDARD OF CARE FOR ABANDONED AND/OR VACANT PROPERTY.**

The standard of care, subject to approval by the City Manager or his/her designee, shall include, but is not limited to:

(a) *Window, skylight and door.* Every window, storefront, skylight and exterior door part, including but not limited to the frame, the trim, window screens and hardware shall be kept in sound condition and good repair. All broken or missing windows shall be replaced with glass and secured in a manner so as to prevent unauthorized entry. All broken or missing doors shall be replaced with appropriately sized doors which shall be secured to prevent unauthorized entry. All glass shall be maintained in sound condition and good repair. All exterior doors, door assemblies and hardware shall be maintained in good condition and secured. Locks at all exterior doors, exterior attic access, windows, or exterior hatchways shall tightly secure the opening. Windows and doors shall not be secured by plywood

or other similar means mounted on the exterior except as a temporary securing measure, and the same shall be removed within a period of time designated by the city manager or his/her designee.

(b) *Structure.* All structural members and foundation shall be maintained free from deterioration, and shall be capable of safely supporting the imposed loads.

(c) *Exterior walls.* All exterior walls shall be kept in good condition and shall be free from holes, breaks, and loose or rotting materials. Exterior walls shall be maintained weatherproof and properly surface-coated where necessary to prevent deterioration.

(d) *Roof and drainage.* The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent accumulation, dampness or deterioration. Roof drains, gutters and downspouts shall be maintained in good repair, and operational.

(e) *Interior and exterior areas.* The property must be kept free of junk, trash, debris and combustible materials.

(f) *Vegetation and landscaping.* Shall be maintained in good and healthy condition.

(g) *Premises identification.* The property shall have address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Numbers shall be a minimum of four (4) inches high with a minimum stroke width of one-half (0.5) inch.

(h) *Overhang extensions and awnings.* Overhang extensions including, but not limited to canopies, marquees, signs, awnings, and fire escapes shall be maintained in good repair and be properly anchored and supported as to be kept in a sound and safe condition.

(i) *Stairways, decks, porches and balconies.* Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage, and capable of supporting the imposed loads.

(j) *Handrails and guards.* Every exterior handrail and guards shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

(k) *Protective treatment.* Exterior surfaces, including but not limited to, doors, door and window frames, porches, balconies, decks and fences, shall be maintained in good condition, weathertight and in such condition so as to prevent the entry of rodents and other pests. All exposed surfaces subject to rust or corrosion, other than decay-resistant woods or surfaces designed for stabilization by oxidation, shall be protected from the elements and against decay or rust by periodic application of weather coating materials such as paint or similar surface treatment. All siding, cladding and masonry joints, as well as those between the building envelope and the perimeter of windows, doors and skylights, shall be maintained weather resistant and watertight.

(l) *Repairs.* All repairs shall be subject to approval by the City. All required permits and final inspections prior to and/or following repairs shall be in accordance with applicable laws and rules.

(m) *Violation.* Failure to maintain the abandoned and/or vacant property to the standard of care specified by the City is a violation of this ordinance.

#### **18.528 – Sec. 8 RE-OCCUPANCY OF ABANDONED AND/OR VACANT PROPERTIES**

An abandoned and/or vacant structure shall not be occupied until a Certificate of Occupancy has been issued by the City, and all violations have been corrected in accordance with the applicable requirements of the Michigan Building/Residential Code, Michigan Electrical Code, Michigan Mechanical Code, Michigan Plumbing Code, International Property Maintenance Code and applicable provisions of

the City of Mount Clemens Code of Ordinances. All mechanical, electrical, plumbing, and structural systems shall be certified by a licensed contractor as being in good repair. In addition, a Certificate of Occupancy shall not be issued until all outstanding costs, assessments and/or liens owed to the City have been paid in full. A Certificate of Occupancy inspection shall be valid for 6 months. All repairs must be completed within 6 months of the initial inspection. Extensions may be approved by the Building Official in conformity with the criteria set forth in the Michigan Building Code.

**18.529 – Sec. 9 JURISDICTION, ENFORCEMENT AND PENALTIES.**

(a) Written notice of violation will precede the issuance of a citation, in which the abandoned and/or vacant property owner will be given a reasonable length of time, as determined by the City Manager or his/her designee, to remedy the violation. Written notice shall be issued to the abandoned and/or vacant structure property owner by means of personal service, or by first class mail to his/her last known address, and by posting on the property.

(b) Failure to register with the city after written notice to the abandoned and/or vacant structure property owner, as is hereinafter specified, is a violation of this ordinance.

(c) That any person violating any provision of this ordinance shall be guilty of a misdemeanor, and upon conviction, shall be subject to a fine of not more than \$500.00 or imprisonment for not more than 90 days, or both. Each and every day's continuance of any violation of the above enumerated sections shall constitute and be deemed a separate offense.

(d) Administrative, civil, and criminal enforcement are alternative remedies which may be sought independently of each other.

**18.530 – Sec. 10 SAVINGS CLAUSE.**

This ordinance shall be cumulative of all provisions of ordinances and of the Code of Ordinances of the City of Mount Clemens, as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event the conflicting provisions of such ordinances or codes are hereby repealed.

**18.531 – Sec. 11 SEVERABILITY.**

If any article, section, subsection, sentence, clause, phrase, or portion of this ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of remaining portions of the ordinance, it being the intent of the City that this ordinance shall be fully severable.

**18.532 – Sec. 12 REPEAL.**

All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

**18.533 – Sec. 13 EFFECTIVE DATE.**

This ordinance shall become immediately effective upon publication.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2019

CITY OF MOUNT CLEMENS,  
a Michigan Municipal Corporation,

By: \_\_\_\_\_  
Barb Dempsey, Mayor

By: \_\_\_\_\_  
Lisa Borgacz, City Clerk