

CITY OF KEEGO HARBOR
2025 Beechmont, Keego Harbor, Michigan 48320 (248) 682-1930

ORDINANCE NO. 418

**ORDINANCE TO AMEND CITY OF KEEGO HARBOR MUNICIPAL CODE,
CHAPTER 5, BUILDING AND BUILDING REGULATIONS, ARTICLE XI,
VACANT PROPERTY REGISTRATION AND MAINTENANCE**

THE CITY OF KEEGO HARBOR ORDAINS:

Section 1:01

ARTICLE XI. VACANT PROPERTY REGISTRATION AND MAINTENANCE

Section 5.312. Purpose.

The purpose of this ordinance is to help protect the health, safety and welfare of the citizens by preventing blight, protecting property values and neighborhood integrity, avoiding the creation and maintenance of nuisances and ensuring safe and sanitary maintenance of dwellings, commercial and industrial buildings.

Due to a number of reasons including but not limited to mortgage fraud, foreclosures, bankruptcies, etc, many homes and buildings become vacant and unsupervised. This causes properties to become attractive nuisances. Vacant properties have a negative impact on surrounding properties and neighborhoods. Potential buyers are deterred by the presence of nearby vacant abandoned buildings. There is an increased instance of unsecured or open doors and windows, broken water pipes, theft of metals and other materials, overgrowth of grass, weeds, shrubs and bushes, illegal dumping and vermin activity at vacant structures. Such neglect devalues properties and causes deterioration in neighborhoods and commercial areas. Further, it is important for the city to be able to contact owners of vacant properties for fire safety and police purposes.

It is the intent of the city, through the adoption of this ordinance requiring the registration and maintenance of vacant and abandoned properties by parties asserting a collateral or other legal or other interest in such properties, to establish a mechanism to protect residential neighborhoods and commercial districts from becoming blighted through the lack of maintenance and to provide for the security of abandoned properties. Nothing in this division shall be construed as waiving, relieving or otherwise excusing an owner of property from compliance with applicable property maintenance rules, regulations, and all other codes and ordinances of the city. Such owner or owners shall at all times remain responsible and liable therefore.

Section 5.313. Scope.

The provisions of this ordinance shall apply to all residential, commercial, and office structures and all vacant land.

Section 5.314. Conflicting provisions.

If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The city hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 5.315. Definitions.

For the purposes of this ordinance, certain words and phrases are defined as follows:

Abandoned means a property that is vacant and is under a current complaint for foreclosure or notice of foreclosure and/or notice of trustee's sale, 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.

Accessible property means a property that is accessible through a compromised/breached gate, fence, wall, etc.

Accessible structure means a structure/building that is unsecured and/or breached in such a way as to allow access to the interior space by unauthorized persons.

Agreement means any agreement or written instrument that provides that title to residential property shall be transferred or conveyed from one owner to another owner after the sale, trade, transfer, or exchange.

Assignment of rents means an instrument that transfers the beneficial interest under a mortgage from one lender/entity to another.

Buyer means any person, co-partnership, association, corporation, or fiduciary who agrees to transfer anything of value in consideration for property described in an agreement of sale, as defined in this subsection.

Dangerous building means any building/structure that is in violation of any condition referenced in Chapter 5, Section 7 of this Code.

Days means consecutive calendar days.

Deed in lieu of foreclosure/sale means a recorded document that transfers ownership of a property from the trustor to the holder of a mortgage upon consent of the beneficiary of the mortgage.

Default means the failure to fulfill a contractual obligation, whether monetary or conditional.

Distressed means a property that is under a current notice of default and/or notice of trustee's sale and/or pending tax assessor's lien sale or has been foreclosed upon by the trustee or has been conveyed to the beneficiary/trustee via a deed in lieu of foreclosure/sale.

Evidence of vacancy means any condition that on its own or combined with other conditions present would lead a reasonable person to believe that the property is vacant. Such conditions include, but are not limited to any one or combination of the following: overgrown and/or dead vegetation, accumulation of newspapers, circulars, flyers and/or mail, past due utility notices and/or disconnected utilities, accumulation of trash, junk and/or debris, the absence of window coverings such as curtains, blinds and/or shutters, the absence of furnishings and/or personal items consistent with residential habitation, statements by neighbors, passersby, delivery agents, government employees that the property is vacant.

Foreclosure means the process by which a property, placed as security for a real estate loan, is sold at auction to satisfy the debt if the borrower defaults.

Local means within 40 road/driving miles distance of the subject property.

Mortgage means by which an interest in land is created by a written instrument providing security for the performance of a duty or obligation or the payment of a debt.

Neighborhood standard means those conditions that are present on a simple majority of properties within a 300-foot radius of an individual property. A property that is the subject of a neighborhood standard comparison, or any other abandoned property within the 300-foot radius, shall not be counted toward the simple majority.

Out of area means in excess of 40 road/driving miles distance of the subject property.

Owner means the one who has the right to possess, use, and convey something, i.e. the owner, occupant or successor to title by foreclosure, sheriff's sale or by court order.

Property means any unimproved or improved real property or portion thereof, situated in the city, and includes the buildings or structures located on the property regardless of condition.

Secure or *secured* means such measures as may be directed by the city building official or his or her designee that render the property inaccessible to unauthorized persons, including but not limited to the repairing of fences and walls, chaining/padlocking of gates, and the repair or boarding of doors, broken windows and/or other openings. In the case of broken windows, securing means the re-glazing or boarding of the window. Boarding is temporary until the re-glazing is completed. In addition, "secure" or "secured" means closing and locking windows, doors (walk-through, sliding and garage), gates and any other opening of such size that it may allow a person to access the interior of a property and/or structure(s).

Vacant means a building/structure that is not legally occupied.

Vacant property means:

- (1) An unimproved lot or parcel of real property that is not legally or currently used or occupied;
- (2) An improved lot or parcel of real property with at least one building or structure that is not legally or currently used or occupied; or
- (3) A vacant tenant space that is located on the first floor in a multi-tenant building which is visible from a street or alley.
- (4) Vacant property does not mean property that is temporarily unoccupied while the residents are away on vacation, personal matters or business of a temporary nature or is not intended by the owner to be left vacant.
- (5) The decision as to whether a property is vacant within the criteria of this division shall be made by the building official.

Section 5.316. Registration of vacant and/or abandoned property.

(a) An owner of a vacant property in the city shall be responsible for registering that property with the building department by complying with the affidavit and registration and inspection fee requirements in this division within the times in this section.

(b) A vacant property shall be registered within 90 days of the vacancy.

(c) An abandoned property shall be registered within 30 days of the vacancy or ten days of the inspection described in Section 5.319.

Section 5.317. Registration.

Owners who are required to register their properties pursuant to this division shall do so by submitting a copy of a driver's license and completing an application provided by the city, containing the information specified in this section. The application information may be provided by an agent for an owner provided the agent's written authorization from the owner is provided with the application, and shall contain the following information:

- (1) The name of the owner of the property.
- (2) A mailing address of the owner of the property where mail may be sent that will be acknowledged as received by the owner. A Post Office Box (P.O. Box) is not acceptable. If certified mail/return receipt requested is sent to the address and the mail is returned marked "refused" or "unclaimed" or if ordinary mail sent to the address is returned for whatever reason, then such occurrence shall be prima facie proof that the owner has failed to comply with this requirement.
- (3) The name of an individual or legal entity responsible for the care and control of the property. Such individual may be the owner, if the owner is an individual, or may be someone other than the owner with whom he/she has contracted.
- (4) A current address, telephone number, facsimile number, and email address where communications may be sent that will be acknowledged as received by the individual responsible for the care and control of the property. If certified mail return receipt requested is sent to the address and the mail is returned

marked refused or unclaimed, or if ordinary mail sent to the address is returned for whatever reason, then such occurrence shall be prima facie proof that the owner has failed to comply with this requirement.

Section 5.317 A. Registration, inspection and other fees.

Registration and inspection fees shall be paid at the time of submitting the registration application. There shall also be a fee for the filing of any additional or new owner's application.

For properties that are not registered within the required time, an additional fee for the added cost of the city's expenses in having to determine ownership, which may include, but is not limited to, title searches, shall be assessed and immediately payable. The payment of all fees required under this division is secured by a lien against the property which may be placed on the tax roll for collection in the same manner and subject to the same interest and penalties applicable to delinquent special assessments. All fees are established by the schedule of fees, charges, bonds, and insurance as adopted by the city council.

Section 5.318. Requirement to keep information current.

If at any time the information contained in the application is no longer valid, the property owner has ten days to file a new application containing current information. There shall be no fee to update a registered owner's current information.

Section 5.319. Annual inspections.

- (a) If the vacant property includes vacant, abandoned or unoccupied buildings, the owner(s) of that property are also responsible for immediately obtaining and paying for the city's safety and maintenance inspection of the building and property, obtaining necessary permits, making required repairs and obtaining inspections from the city annually thereafter until a certificate of occupancy has been issued and the building is lawfully occupied, to ensure the buildings are safe, secured and well-maintained. Any such fees for inspections or permits related to the building and/or property shall be established by the schedule of fees, charges, bonds and insurance, as that schedule may be adopted and amended from time to time. The owner or the owner's agent shall demonstrate that all water, sewer, electrical, gas, HVAC and plumbing systems, exterior finishes and walls, concrete surfaces, accessory buildings and structures, roofing, structural systems, foundation, drainage systems, gutters, doors, windows, parking areas, signage, driveway aprons, service walks, sidewalks and other public areas are sound, operational or properly disconnected. No certificate of occupancy will be issued until all Code requirements are met.
- (b) Any trustee who holds a mortgage on a property located within the city, shall perform an inspection, to the extent permitted by law or under the mortgage of the property that is the security for the mortgage, upon default by the trustor, within five days after either the filing of a complaint for foreclosure (if foreclosure is by judicial action) or publishing a notice of foreclosure (if foreclosure is by advertisement). If the property is found to be vacant or shows evidence of vacancy, it is, by this

division, deemed abandoned and the trustee shall, within ten days of the inspection, register the property in accordance with this division and be subject to the provisions of this division.

Section 5.320. Maintenance and security requirements.

All owners are responsible for compliance with the requirements of this section, and the most current edition of the International Property Maintenance Code, which applies to all vacant property from the time of vacancy, including the time between vacancy and when registration is required.

- (1) Property shall be kept free from weeds, grass more than eight inches high, 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, signage, containers, equipment, construction materials or any other items that give the appearance that the property is abandoned.
- (2) Property shall be maintained free of graffiti, tagging, or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior of the structure.
- (3) All property shall be landscaped and properly maintained. Landscaping includes, but is not limited to, grass, groundcovers, bushes, trees, shrubs, hedges or similar plantings. Maintenance includes, but is not limited to, regular watering, irrigation, cutting, pruning, mowing, snow and ice removal of required landscaping and driveways, parking areas, private walkways, and public walkways.
- (4) Pools, spas and other water features shall be kept in working order so that the water remains clear and free of pollutants and debris or drained and kept dry and free of debris. In either case, properties with pools and/or spas must comply with the minimum security fencing and barrier requirements of applicable construction, building and property maintenance codes and ordinances.
- (5) Property shall be maintained in a secure manner so as not to be accessible to unauthorized persons. Secure manner includes, but is not limited to, the closure and locking of windows, doors, gates and any other opening of such size that may access the interior of the property and/or structures. Broken windows must be repaired or replaced within 14 days. Boarding up of open or broken windows is prohibited except as a temporary measure.
- (6) Window treatments such as draperies and/or blinds on windows facing a street in residential structures shall be installed and/or maintained in a manner so as not to contribute to the appearance of vacancy. Other window openings in residential structures may be subject to this requirement as determined by the code official.
- (7) Windows in commercial buildings or spaces shall be maintained in a clean and clutter free condition. When the interior of a vacant commercial building or space is not in "move-in condition" as determined by the code official, it shall be blocked from public view by screening installed on or adjacent to the storefront windows subject to administrative approval by the planning department.

For the purposes of this section, "move-in condition" means a building or space that is maintained in a clean finished condition, free from debris, construction material, loose wires, open electrical boxes, missing fixtures, etc.

- (8) Owners shall inspect or cause the inspection of vacant property on a weekly basis to verify compliance with this section and other applicable laws. If the property is owned by a person other than an individual and/or the trustee owner is located out of area, a local property management company, or a company approved by the building official, shall be contracted to perform weekly inspections to verify that the requirements of this section and any other applicable laws are being met. The owner shall notify the city in writing of the name, address and telephone number of any property management company, as well as the name, address and telephone number of the contact person at the property management company who is actually responsible for maintaining the property. The local property management company shall inspect the property at least on a weekly basis to determine if the property is in compliance with the requirements of this section, shall create and maintain a written record of the inspections and provide written notice to the owner, any person registered as responsible for the care and control of the property and city of any areas of noncompliance.

Section 5.321. Right of entry.

If the owner has failed to secure a property and it has been secured by the city, the city and/or its contracted agent, may enter or re-enter the structure to conduct necessary inspections to assure compliance with the requirements of this Code and to determine if there are emergency or hazardous health and safety conditions in existence.

Section 5.322. Re-occupancy.

A vacant or unoccupied building or structure on vacant property 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 state construction code and act and building, residential, electrical, mechanical, plumbing, property maintenance and other codes that are part of the state construction code administered and enforced by the city, and other applicable provisions of this Code. 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.

Section 5.323. Sanctions, remedies, and penalties.

- (a) *Municipal civil infraction.* Any person who violates any section of this division shall be responsible for a municipal civil infraction, subject to a fine as provided herein, plus costs and other sanctions for each infraction. Each violation of the division shall be deemed a separate offense.

- (1) For a first offense, a civil fine as set for the in the schedule of fees, charges, bonds, and insurance.
 - (2) For a second offense and any subsequent offense, a civil fine as set forth in the schedule of fees, charges, bonds, and insurance.
- (b) *Injunctive relief.* Activity or conduct in violation of this chapter is declared to be a nuisance per se and the city may commence a civil suit in any competent jurisdiction for an order abating or enjoining the violation.

Section 5.324. Violation/abatement.

Violations of this ordinance may be enforced in accordance with this chapter and as allowed elsewhere in this Code and any remedy in law and equity available to the city. Alternatively, at the sole discretion of the city, the city may issue to the beneficiary/trustee/owner and/or owner of record a notice to abate. The notice to abate shall include:

- (1) The nature and location of the violation;
- (2) The time within which the violation must be abated;
- (3) Notice that the city may act to abate the violation if it is not abated by the owner within a reasonable time stated in the notice, but which may not exceed 15 days;
- (4) Notice that the cost of such action by the city, plus an administrative fee, shall be a personal debt of the owner, which may be assessed as a lien against the property until paid.

Section 5.325. Authorization for city abatement.

Upon failure of an owner to abate a violation as ordered in a notice to abate, the city may abate the nuisance. This abatement may be performed by the city, by a contract vendor, or by other means determined by the city. If the owner fails to abate the nuisance, any costs and/or expenses incurred by the city in order to abate any such violation shall be billed to the property owner, which may be assessed as a lien against the property, including interest thereon, until paid.

Section 5.326. Administrative fees.

The fees necessary for the administration of this division and authorized by the schedule of fees, charges, bonds and insurance as that schedule is amended from time to time by resolution of the city council. Such administrative fees may include the following:

- (1) Notice to abate;
- (2) Search warrant;
- (4) Warning letter;
- (5) Contract Request or Warning of Abatement Action;
- (6) Infraction preparation;
- (7) Civil Infraction Preparation;

- (8) Additional inspections;
- (9) Vending;
- (10) Second and Subsequent Vending;
- (11) Vehicle Removal;
- (12) Second and Subsequent Vehicle Removal;
- (13) Denied Entry; and
- (14) Abatement.

Section 5.327. Charge to owner.

When the city has abated a cited nuisance, the cost of abatement, plus any applicable administrative charges as established by the schedule of fees, charges, bonds and insurance, shall be billed to the property owner. Such billing shall be a personal debt of the owner to the city, which may be assessed as a lien against the property, including interest thereon, until paid.

Section 5.328. Appeals.

Any person aggrieved by any of the requirements of this section may appeal to the City Council, provided that a written application for appeal is filed within 20 days after the day the decision, notice, or order was served. An application for appeal shall be based on a claim that the true intent of this Code or the rules legally adopted have been incorrectly interpreted, the provisions of this Code do not fully apply, the requirements of this Code are adequately satisfied by other means, or the strict application of any requirement of this Code would cause an undo hardship.

Section 2:01. Repealer.

All resolutions, ordinance, orders or parts thereof in conflict in whole or in part with any of the provisions of this Ordinance are, to the extent of such conflict, hereby repealed.

Section 3:01. Savings clause.

Nothing in this division shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

Section 5:01 Effective Date.

This Ordinance shall take effect 30 days from and after approval and publication in a newspaper, general circulation, by the City of Keego Harbor.

Made and This Ordinance shall take effect 30 days from and after approval and publication in a newspaper, general circulation, by the City of Keego Harbor.

Made and passed by the City Council of the City of Keego Harbor this 17th day of March, 2011.

LINDA VOLL, City Clerk

CERTIFICATE OF CLERK

I, LINDA VOLL, being the duly appointed Clerk of the City of Keego Harbor, do hereby certify that the above Ordinance No. _____ is a true copy of the Ordinance adopted by the City Council of the City of Keego Harbor, Oakland County, Michigan, at a regular meeting thereof held on March 17, 2011.