

As referred by the Streets and Sidewalk Committee on September 30, 2019.

ORDINANCE NO. 2019-27

**AN ORDINANCE ENACTING CHAPTER 1343 OF THE CODIFIED ORDINANCES
PROVIDING FOR THE REGISTRATION OF VACANT BUILDINGS**

WHEREAS, vacant and abandoned structures are unsightly, attract criminal activity, and are a threat to the public safety and the National Fire Protection Association (NFPA) statistics indicate that more than ten civilians die and 6,000 firefighters are injured each year operating in nearly 31,000 fires in vacant and abandoned buildings; and

WHEREAS, the purpose of this new Chapter is to establish a program to identify, register, and inspect vacant buildings within the City of St. Marys that may present a fire hazard, that may provide temporary occupancy for transients, that may detract from private or public efforts to rehabilitate or maintain surrounding buildings, and that may present a hazard to the health, safety, and welfare of the public; and

WHEREAS, through an effective registration, inspection, identification, and monitoring program, buildings can be kept secure from trespassers and provide safe entry of police and firefighters in the event of an emergency; and

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ST. MARYS, OHIO, THAT:

Section 1. That new Chapter 1343 of the Codified Ordinances (Registration of Vacant Buildings) of the City be enacted as follows:

**CHAPTER 1343
REGISTRATION OF VACANT BUILDINGS**

- 1343.01 Purpose.
- 1343.02 Definitions.
- 1343.03 Obligation of Owners and Persons in Control.
- 1343.03 Designation as a Vacant Building
- 1343.04 Obligations of Owners of Dangerous Buildings
- 1343.05 Registration
- 1343.06 Registration Fees
- 1343.07 Inspection.
- 1343.08 Vacant Building Plan-- Commercial and Industrial Vacant Building
- 1343.09 Vacant Building Maintenance Standards.
- 1343.10 Notice of Violation.
- 1343.11 Effecting Compliance.
- 1343.12 Appeals.
- 1343.13 Notice
- 1343.14 Interpretation of Chapter.
- 1343.15 Penalty.

CROSS REFERENCES

Ohio Fire Code - see Ohio Administrative Code Section 1301:7-7

Power to enact further and additional regulations - see Ohio R.C. 3781.01

Removal of unsafe buildings - see Ohio R.C. 715.26(B), 715.261; Dangerous Buildings; Chapter 1339 of the Codified Ordinances

1343.01 PURPOSE.

This Chapter is adopted to establish a program for identifying and registering vacant buildings within the City that may present a fire hazard, that may provide temporary occupancy by transients, that may detract from private and/or public efforts to rehabilitate or maintain surrounding buildings, and that may present a hazard to the health, safety and welfare of the public. Through a registration, inspection, and monitoring process that vacant buildings will be kept weather tight and secure from trespassers, will provide safe entry to police officers and firefighters in times of emergency, will not impede private and/or public efforts to rehabilitate or maintain surrounding buildings, and will not otherwise present a public hazard so that the health, safety, and welfare of the public is served by these regulations.

1343.02 DEFINITIONS.

Unless otherwise expressly stated, the following terms shall for the purpose of this chapter, have the following meanings:

(a) "Authorized agent" means a person that resides within Auglaize County, Ohio, who shall be authorized in writing by the owner or person in control of a vacant building to be responsible for the security and maintenance of the building and property, who shall have access to the building and property and who shall be available at all times during business and non-business hours in the case that an emergency occurs requiring immediate response and/or to make immediate repairs.

(b) "Commercial or Industrial Building" means any structure, or part thereof, that is used, or designed to be used for any private or public manufacturing, industrial, or commercial business purposes whether or not legally zoned for such use. It shall also mean an residential structure containing more than three (3) units.

(c) "Residential" shall mean any building not deemed a Commercial or Industrial Building.

(d) "Evidence of Vacancy" means any condition that on its own or combined with other conditions present would lead a reasonable person to believe the building is vacant. Such conditions and indicators include, but are not limited to the following:

1. In the case of a Commercial or Industrial Building for a time period over ninety (90) days, no evidence of occupation by an owner, lessees, or other person in lawful possession and evidence that substantially all lawful manufacturing, industrial, or commercial business operations has ceased and the building is devoid of content.
2. In the situation of a Residential Building, absence of occupation for period of time over ninety (90) days as substantiated by reports from governmental employee(s) and/or statements by neighboring property

owners, delivery persons, U.S. Postal Service employees, and/or governmental employee(s) that the building is vacant. Occupation shall not include illegal occupation including trespassing or vagrancy.

3. No or significantly below standard utility usage (water, electric or gas);
4. Delinquent real estate taxes;
5. Accumulation of newspapers, circulars, flyers and/or mail, accumulation of trash, junk, and/or debris, abandoned vehicles, automobile parts or materials.
6. More than one notice of a violation of Section 561.01 of the Codified Ordinances of St. Marys relating to overgrown weeds and grass.
7. Evidence of infestation by rodents.
8. Broken or boarded up windows or the absence of window coverings, such as curtains, blinds, and/or shutters.
9. Absence of furnishings, and/or personal items consistent with habitation or occupation.
10. Defective roofs as evidenced by loss of shingles, holes in the roof or use of temporary coverings covering such defects resulting in leakage on the interior.
11. Signage that is significantly outdated.
12. Evidence that the interior is not heated during winter months.
13. Evidence that the structure is not secured from trespassers;
14. Visible graffiti.

(e) "Fire Chief" means the Fire Chief of the City of St. Marys or his or her designee.

(f) "Fire Code" means Part Fifteen of the City of St. Marys's Codified Ordinances.

(g) "Fire Department" means the Fire Department of the City of St. Marys.

(h) "Code Enforcement Officer" means that person appointed by the Chief of Police of the City to enforce violations of the Code relating to property offenses.

(i) "Key box" means a secure device with a lock operable only by a fire department master key, and containing building entry keys and other keys that may be required for access in an emergency.

(j) "Owner" means any person who, alone, or jointly or severally with others, shall have the legal or equitable title to a property, and shall include executors, administrators, trustees or guardians of the estate of the owner, and any purchaser or assignee under a certificate of sale pursuant to a mortgage foreclosure

as evidenced by the signature of the judge upon the confirmation of sale, whether or not the deed has been filed with the Auglaize County Recorder's Office. The term "owner" shall also include partnerships, corporations, and other unincorporated associations. Any individual owner, regardless of whether he or she shares ownership responsibility with any other person, any general partner of a partnership, and any officer of a corporation or unincorporated association, shall have direct and personal responsibility and liability for compliance with the provisions of this Chapter.

(k) "Person" means an individual, partnership, association, syndicate, company, firm, trust, corporation, government corporation, department, bureau, agency, or any entity recognized by law.

(l) "Person in control" means the owner of the property; a mortgagee or vendee in possession; a receiver; an executor; a trustee; and any person, public or private entity, lessee or holder of a lesser estate in the property, and/or its duly authorized agent(s), with the authority to bring a building or property into compliance with the provisions of this Chapter, including but not limited to any mortgagee that has filed an action in foreclosure on the particular property at issue, based on breach or default of a mortgage agreement, until title to the property is transferred to a third party.

(m) "Property" means not only the vacant residential, commercial or industrial building and any other structures of any kind or nature located on the lot, but also the entire parcel of land surrounding the vacant commercial or industrial building, including, but not limited to, fences, walkways, walls, and appurtenances.

(n) "Vacant Building" in this chapter means both a Commercial or Industrial Building and Residential Building which has been designated a Vacant Building by the Director of Public Service and Safety pursuant to Section 1343.03.

1343.03 DESIGNATION AS A VACANT BUILDING

(a) Upon information supplied by the Fire Chief, the Code Enforcement Officer, or other information received from City officials, the Director of Public Service and Safety may designate a Commercial or Industrial Building as a Vacant Building provided that such building has three (3) of the conditions and indicators of evidence of vacancy as set forth in Section 1343.02 (d), one of which must satisfy Section 1343.02 (d) (1).

(b) Upon information supplied by the Chief of Police, the Code Enforcement Officer, or other information received from City officials, the Director of Public Service and Safety may designate a Residential Building as a Vacant Building provided that such building has five (5) of the indications or conditions of evidence of vacancy as set forth in Section 1343.02 (d) (2).

(c) Once a building has been designated as a Vacant Building as set forth above, the Director of Public Service and Safety shall give notice of such designation in a manner as set forth in Section 1343.10 below.

1343.04 OBLIGATIONS OF OWNERS AND PERSONS IN CONTROL.

(a) Upon designation by the Service Safety Director, no owner or person in control of a Vacant Building shall fail to do any of the following:

(1) Register the building with the Fire Department in accordance

with the requirements of this Chapter as provided in Section 1343.05.

- (2) Designate an authorized agent if the owner of personal in control of the Vacant Building does not reside within Auglaize County, Ohio, or a contiguous county.
- (3) Submit a Vacant Building Plan which shall be approved by the Fire Chief in accordance with Section 1343.07 of this Chapter.
- (4) At all times maintain the property in accordance with the Vacant Building Maintenance Standards set forth in Section 1343.09 of this Chapter.
- (5) In the case of a Vacant Building which is a Commercial or Industrial Building, the owner shall acquire or otherwise maintain general liability insurance covering such building in an amount of not less than one million dollars (\$1,000,000). The insurance policy shall provide for written notice to the Fire Chief within thirty (30) days of any lapse, cancellation, or change in coverage.
- (6) In the case of a Residential Building, the owner must acquire or maintain general liability insurance covering such building in an amount of not less than two hundred fifty thousand dollars (\$250,000.00). The insurance policy shall provide for written notice to the Fire Chief within thirty (30) days of any lapse.

1343.05 REGISTRATION.

(a) All Vacant Buildings located within the City that have been designated by the Safety Service Director as a vacant building shall be registered by the owner or person in control thereof with the Fire Department within thirty (30) days of such designation. Registration must be renewed on an annual basis as of the date of the initial designation.

(b) Registration shall be made on forms provided by the Fire Chief and verified by the owner or person in control of the vacant building and shall contain all of the following:

- (1) The name, address, and telephone number of the owner or person in control;
- (2) The name, address, and telephone number of the authorized agent, if required;
- (3) The names, addresses, and telephone numbers of all known lien holders and all other parties with any legal interest in the vacant commercial or industrial building and property;
- (4) If the Vacant Building is for sale, the name, address, and telephone number of the company and the realtor or agent responsible for marketing the property;
- (5) The address of the Vacant Building and the permanent parcel tax identification number of the land on which the vacant

commercial or industrial building is located;

- (6) The reason for the vacancy and the estimated length of time the building is expected to remain vacant;
- (7) A certificate of general liability insurance in the amount required by Section 1343.04; and
- (8) If the Vacant Building is a Commercial or Industrial Vacant Building, a Vacant Building Plan in accordance with Section 1343.08.

(c) No person shall furnish false information to the Fire Department in the Registration Form.

(d) Registration shall be valid for one (1) year from the same of the initial designation.

(e) No person, including but not limited to, an owner, person in control, purchaser, real estate agent, or realtor, shall participate in a transfer of title to, or disburse proceeds from a transfer of title to, a vacant building without complying with a transfer of the vacant building registration to the person taking title. Subsequent to the closing, there shall be no proration of the annual registration or refund thereof. The registration period shall commence for the new owner as of the time of the new owner takes title unless the building is no longer deemed a vacant building. A new fee and registration form shall be required at that time.

(f) No owner or person in control of a Vacant Building shall fail to notify the Fire Department and file an amended registration form within seven (7) days of any change in the registration information required by this section.

1343.06 REGISTRATION FEES.

(a) The annual registration fee for a Residential Vacant building shall be Two Hundred fifty Dollars (\$250.00).

(b). The annual registration fee for a Vacant Commercial and Industrial Building registration shall be a minimum of Four Hundred Dollars (\$400.00) and may be increased above that amount. The amount of the increase shall be reasonably related to the administrative costs of the Vacant Commercial and Industrial Building registration process and for the costs incurred by the City in monitoring the Vacant Commercial or Industrial Building site. The amount in excess of the minimum annual registration fee amounts shall be reasonably related to the costs incurred by the City for hazard abatement, repair and/or demolition of vacant commercial and industrial buildings in addition to the continued administrative costs. Money collected under this section shall be used exclusively for the administration and enforcement of this Chapter.

(c) The annual registration fee for a Vacant Commercial or Industrial Building shall be based on the duration of time the building has been vacant regardless of a change in ownership. The owner of a vacant commercial or industrial building shall pay an annual registration fee of four hundred dollars (\$400) for the first year the building remains vacant. For every consecutive year that the building remains vacant, the annual registration fee shall be assessed at double the previous year's registration fee amount for a maximum annual registration fee equaling the five (5) year registration fee of six thousand four hundred dollars (\$6,400) which shall

be the registration fee for the fifth and all consecutive, subsequent years of vacancy.

(d) The registration fee shall be paid in full prior to the issuance of any building permits. The Fire Chief shall refund the vacant commercial or industrial building registration fee paid if the subject building is brought into compliance with standards of the Ohio Building Code and re-occupied within one year of payment of the annual registration fee. The refund shall be for the amount of the registration fee paid during the year in which the building was approved for re-occupancy. Registration fees paid in previous years shall not be refunded.

(e) If a registration form is filed late, an additional late fee shall be paid in addition to the annual registration fee and shall be equal to the annual registration fee or one thousand dollars (\$1,000), whichever is less.

(f) All delinquent registration fees shall be paid by the owner prior to any transfer of an ownership interest in the Vacant Commercial or Industrial building.

(g) If an owner or person in control of a Vacant Commercial or Industrial Building or a purchaser fails, neglects, or refuses to pay a registration fee within the time ordered pursuant to this section, then the Fire Chief shall so notify the City Auditor. The City Auditor shall certify the registration fee to the County Auditor. In addition to the registration fee, an interest rate equal to the current rate of interest charged by the City on special assessments shall be imposed by the City for the life of the registration fee, added to the registration fee, and collected as provided in this section. The City Auditor shall then certify the amount of the registration fee, including interest, to the County Auditor. The County Auditor shall enter the amount on the tax duplicate of the County as a special assessment against the person's real estate that is subject to the registration fee.

1343.07 INSPECTION.

(a) If the Fire Chief deems it necessary, at the time of registration, the owner or person in control shall arrange for an inspection of the property by the Fire Chief in the presence of the owner, person in control, or authorized agent of the owner having responsibility for security and maintenance of the property for the purpose of determining the structural integrity of the building, that it will be safe for entry by fire fighters and police officers in times of emergency, and that it complies with the requirements of this Chapter.

(b) If the owner or person in control fails or refuses to consent to and arrange for an inspection, the Fire Chief shall obtain a search warrant from a court of competent jurisdiction to authorize inspection of the property.

1343.08 VACANT BUILDING PLAN- COMMERCIAL OR INDUSTRIAL VACANT BUILDINGS

(a) The owner or person in control of a Vacant Commercial or Industrial building shall submit a Vacant Building Plan that shall be approved by the Fire Chief. The Vacant Building Plan shall be selected from and include the minimum requirements from one (1) of the three (3) following categories:

- (1) Demolition. If the Vacant Commercial or Industrial Building is to be demolished, the Vacant Building Plan shall include a proposed time frame for demolition which shall include a commencement date within thirty (30) days of approval of the proposed

demolition time frame and shall not exceed one (1) year in duration.

- (2) Secured Structure. If the Vacant Commercial or Industrial Building is to remain vacant, the Vacant Building Plan shall be submitted within thirty (30) days of the designation of a Vacant Building and completed within sixty (60) days of said submission or a time as extended by the Fire Chief, and shall contain the following:
 - A. A plan for fire alarm and fire protection as required by the Fire Chief.
 - B. A plan of action to remedy any public nuisance existing in the building or on the property.
 - C. A lighting plan for the exterior of the building and property, walkways adjacent thereto, parking or loading areas and night-time illumination of areas and walkways of the building and property which may be vulnerable to vandalism and vagrancy as determined by the Chief of Police.
 - D. A regular maintenance plan for all exterior lighting and illumination fixtures.
 - E. A plan for the maintenance of all structural openings, such as windows, doors, areaways and other openings to avoid the necessity of boarding up. Windows, doors, areaways, and other openings that are located on the first floor and facing the street shall not be papered, soaped, blacked out, or boarded up, and to avoid the appearance of vacancy, a form of display shall be set up that shall be approved by the Fire Chief or designee.
 - F. A plan of action to maintain the vacant commercial or industrial building and property in compliance with the Vacant Building Maintenance Standards set forth in Section 1343.08 of this Chapter and applicable State Building Codes.
- (3) Rehabilitation. If the vacant commercial or industrial building is to be returned to lawful occupancy or use, the Vacant Building Plan shall include a rehabilitation time frame for the building and property. The rehabilitation time frame shall not exceed twelve (12) months. The Fire Chief may grant an extension of time upon receipt of a written statement from the owner detailing the reasons for the extension. All applicable laws shall be complied with and all required permits shall be obtained. The building shall be kept secured and in compliance with the Vacant Building Maintenance Standards as provided in Section 1343.09 of this Chapter at all times during rehabilitation.

1343.09 VACANT BUILDING MAINTENANCE STANDARDS.

All Vacant Buildings and property within the City shall be maintained in accordance with the following Vacant Building Maintenance Standards:

(a) Exterior openings, except those prohibited by Section 1343.08(a) (2) (E) which cannot be secured by locking an existing door or window shall be boarded, secured, and protected from intrusion by birds, vermin, and trespassers in accordance with the United States Fire Administration's National Arson Prevention Initiative Board Up Procedures, hereby incorporated by reference as if fully set forth herein. A copy of the United States Fire Administrations' National Arson Prevention Initiative Board Up Procedures shall be kept on file with the Fire Department.

(b) A Vacant Building shall be protected from further deterioration by not allowing the Evidences of Vacancy to increase.

(c) A Vacant Building and the property on which it is located shall be kept clean, safe, sanitary, and free from public nuisance in accordance with Chapter 1321 of the Codified Ordinances of the City of St. Marys.

(d) A Vacant Building shall display a hazardous identification placard that is readily visible from normal access points of the building pursuant to the St. Marys Fire Department and Task Force Vacant and Abandoned Building Project in accordance with the International Association of Arson Investigators (IAAI) Vacant/Abandoned Building marking System.

(e) A key box shall be installed on each Vacant Building in the City in case immediate access to the interior of the building by fire department personnel is necessary for life-saving or firefighting purposes. Each key box shall be of a type that is approved by the Fire Chief. The key box shall be installed in accordance with manufacturer's recommendations and shall be installed in a location approved by the Fire Chief. The cost of purchase and installation of each key box shall be paid by the owner. Each key box shall contain keys to gain access to all areas of the building including the roof and basement. The person in control of the building shall immediately notify the Fire Chief and provide the new key when a lock is changed or rekeyed. The key to such lock shall be secured in the key box.

1343.10 NOTICE OF VIOLATION.

(a) Content. Whenever the Fire Chief determines that there is a violation of the provisions of this Chapter, he shall give notice of such violation to the person or persons responsible therefore and order compliance, as herein provided. Such notice and order shall:

- (1) Be in writing;
- (2) Include a description of the real estate sufficient for identification;
- (3) Include a statement of the violation or violations, refer to the sections and divisions violated and order remedial action which will effect compliance with the provisions of this Chapter;
- (4) Include a correction order allowing a reasonable time to bring the property into compliance with the provisions of this Chapter;
- (5) State the right of the violator to file an appeal of the notice and

order in the manner as provided in Section 1343.12 of this Chapter; and

- (6) Include a statement that any action taken by the City on such property shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

(b) Service. A notice of violation shall be deemed to be properly served if one (1) or more of the following methods are used:

- (1) By personal delivery to the person in control or the authorized agent of said person; or
- (2) By certified mail, return receipt requested, to the person in control or designated authorized agent at the last known address of such person. If the certified mail is returned unclaimed, then service shall be sent by ordinary mail and the mailing shall be evidenced by a certificate of mailing. If the certified mail is returned undeliverable, a copy shall be posted in a conspicuous place in or on the property found in violation.

1343.11 EFFECTING COMPLIANCE.

Upon failure of the owner or person in control of the property in violation to comply with the notice within the period of time stipulated, the Fire Chief shall give notice to the Director of Public Service and Safety if the building or structure is open and unsecure, to proceed to correct any deficiencies with City forces. Upon the completion of such labor, the Director Public Service and Safety shall determine all costs associated thereof, including registration fees, with labor charges incurred at one hundred and fifty dollars (\$150.00) per hour, provided, however, there shall be a minimum fee of not less than one hundred dollars (\$100.00). In the event the City is required to employ outside services for the abatement work, the fee shall be the actual costs of the contract plus fifteen percent (15%) for administration charges. The total labor costs and registration fee shall be forwarded by the Fire Chief to the City Auditor who shall make a return in writing to the Auglaize County Auditor of such total charge which shall be entered upon the tax duplicate of the County and be allocated onto the taxes in accordance with Ohio R.C. 731.54. Further, any delinquent fees associated with this Chapter may also be assessed to the Auglaize County Auditor in accordance with O.R.C. 731.54.

1343.12 APPEALS.

Upon designation of a building as a Vacant Building by the Director of Public Service and Safety, the owner may appeal such designation in the same manner and in the same time limits as an appeal under Chapter 1339 of the Codified Ordinances where there has been the designation of a structure as a Dangerous Building.

1343.13 NOTICE.

Notice shall be in the same manner as provided by the filing of a complaint under the Rules of Civil Procedure of the State of Ohio with initial notice by certified mail, return receipt requested, upon the holder of the current title as recognized by the Auditor of Auglaize County and the tax mailing address accompanying said designation.

1343.14 INTERPRETATION OF CHAPTER.

This Chapter shall not, in any manner, abrogate any of the other provisions of the Codified Ordinances of the City of St. Marys pertaining to the abatement of public nuisances or unsafe buildings.

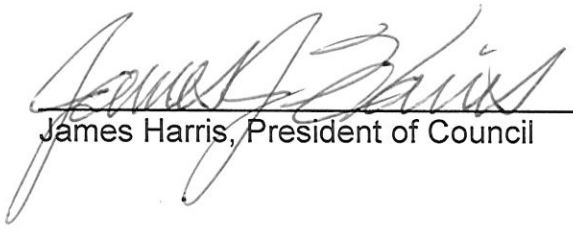
1343.15 PENALTY.

Whoever violates any of the provisions of this Chapter shall be guilty of a misdemeanor of the first degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

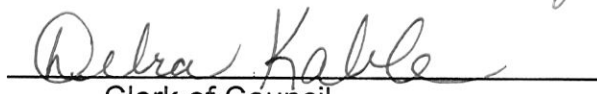
Section 2. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 3. That this Ordinance shall take effect at the earliest date provided by law. for the reasons set forth in the preamble hereto, this Ordinance shall take effect at the earliest time allowed by Law.

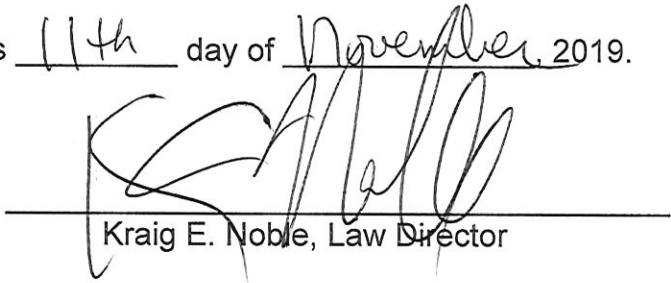
Section 4. That this Ordinance shall take effect at the earliest date provided by law.


James Harris, President of Council

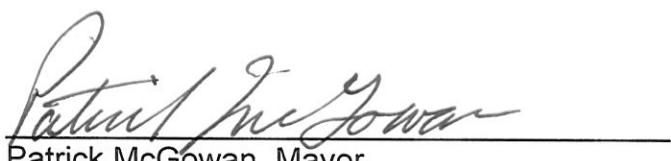
ATTEST:


Clerk of Council

Approved by the Law Director this 11th day of November, 2019.


Kraig E. Noble, Law Director

Approved this 11th day of November, 2019.


Patrick McGowan, Mayor

This Ordinance prepared by Kraig E. Noble, Director of Law, 146 East Spring Street, St. Marys, OH 45885

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