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Vacant Residential Building Registration

Department of Neighborhoods

Stephanie Beebe (2605)

Amending Chapter 1767 of the Toledo Municipal Code "Vacant Residential Building Registration" to Include and Create a "Residential Rental Properties Registration" located in the City of Toledo; and declaring an emergency.

SUMMARY & BACKGROUND:

The City of Toledo desires to create a Residential Rental Property Registry under Toledo Municipal Code Chapter 1767. The database will be maintained with the Lucas County Auditor's Office utilizing the software database AREIS. The Residential Rental Registry will work in tandem with the City's Residential Rental Lead Safety Ordinance as adopted in TMC Chapter 1760.

NOW THEREFORE, Be it ordained by the Council of the City of Toledo:

SECTION 1. That Toledo Municipal Code Chapter 1767 currently titled "Vacant Residential Building Registration" be and hereby is amended to "Vacant Residential Building Registration and Residential Rental Properties Registration."

SECTION 2. That the current Section 1767.01 "Definitions" which reads as follows is hereby repealed:

The following definitions shall apply to this Chapter:

(a) "Boarded" means a sheet or sheets of plywood or similar material covering all exterior doors, other than a storm door and all exterior windows in accordance with any rules and regulations issued by the Director of the Department of Neighborhoods under subsection 1767.05(b) of this chapter.

(b) "Exterior maintenance and major systems" mean the safe and lawful maintenance of the facade, windows, doors, roof,

and other parts of the exterior of the building and the maintenance of its major systems consisting of the roof, the electrical and plumbing systems, the water supply system, the sewer system, and the sidewalk, drive-way, if any, area of the lot, as applicable and as enforced by the Toledo-Lucas County Health Department, Department of Neighborhoods, and the Department of Economic and Business Development particularly in connection with Part Thirteen (Building Code) and Part Seventeen (Health Code) of this section of this code.

(c) "Foreclosure" means the filing of a complaint in a court of competent jurisdiction and obtaining a judgment of foreclosure against a lien on property and the subsequent sale of the property through sheriff's auction which may cause the occupants of the property to vacate.

(d) "Inspection" means a physical investigation at a property to obtain evidence of occupancy or vacancy and/or to verify compliance with this chapter and any other applicable code or law. Interior inspections are not required. A curbside or "drive-by" property inspection is not sufficient.

(e) "Occupied" means that one or more persons actually conducts a lawful business or resides in all or any part of the building as the licensed business-occupant, or as the legal or equitable owner/occupant(s) or tenant(s) on a permanent, non-transient basis, or maintains continual natural gas service in all or any part of the building, or any combination of the same. For purposes of this section, evidence offered to prove that a building is so occupied may include, but shall not be limited to, the regular receipt of delivery of regular mail through the U.S. Postal Service; proof of continual gas service; a valid city business license, or the most recent, federal, state, or city income tax statements indicating that the subject residential building is the official business or residence address of the person or business claiming occupancy; or current lease.

(f) "Open". A building shall be deemed to be "open" if any one or more exterior doors other than a storm door is broken, open and/or closed but without a properly functioning lock to secure it, or if one or more windows is broken or not capable of being locked and secured from intrusion, or any combination of the same.

(g) "Parcel" means a parcel of real property identified as an individual parcel or tract of land by the Lucas County Auditor, through the Auditor's Real Estate Information System, or otherwise.

(h) "Person" means all persons or entities set forth in subsection 1726.01(b)(1) and all persons required to register under section 1767.02.

(i) "Registrant" means any person who holds legal or equitable title to the building, is a mortgagee, a land installment contract vendee/vendor-in-possession, assignee of rents, receiver, executor, administrator, trustee, lessee, agent, or any other person, firm, corporation, limited liability company, partnership, trust or other business association that is directly or indirectly in control of a building subject to the provisions of this section, and as set forth below including, but not limited to any mortgagee that has filed an action in foreclosure on the particular premises at issue, until title to the premises is transferred to a third party. Under this definition, there may be more than one registrant of a building and any owner as defined under Section 1726.01. "Registrant" does not include the State of Ohio or a political subdivision of the State of Ohio, including, but not limited to, the Lucas County Land Reutilization Corporation, the Lucas County Treasurer or the City of Toledo.

(j) "Residential Building" means any building or structure that has at least one residential unit within it for the purpose of Chapter 1767.

(k) "Secure" means maintaining the exterior shell of a vacant and unoccupied structure in a closed condition which prevents the unwarranted entry by the public. Exterior walls, foundations, roof, doors, windows, door and window frames, cornices, siding, masonry, porches, trim, balconies, decks, exterior staircases and accessory structures shall be made whole, covered, closed, locked, blocked, anchored or otherwise put in a physical state of closure which prevents access into, onto or through the structure.

(l) "Unimproved" means that no building or structure is located on a parcel.

(m) "Utilities" include natural gas service, electrical service, and water service for the purpose of Chapter 1767.

(n) "Vacant " means any residential building or structure, as defined in subsection 1726.01(f), in which no person or persons actually conducts a lawfully licensed business or lawfully resides or lives in any part of the building as the legal or equitable owner(s) or tenant-occupant(s) on a permanent, non-transient basis. A structure may be deemed vacant when there is evidence of conditions, taken separately or as a whole, that would lead a reasonable person to conclude that the property was vacant, including, but not limited to, evidence of overgrown or dead vegetation, accumulation of newspapers, circulars, flyers, mail, past due utility notices, or other means of notice by publication, the accumulation of junk, litter, trash, or debris, absence of windows or window treatments, absence of furnishings and personal items, statements of neighbors, delivery agents or similarly situated persons that the property is vacant.

(Ord. 138-15. Passed 3-31-15.)

And replaced with the following:

1767.01. Definitions.

The following definitions shall apply to this Chapter:

(a) "Agent" means the individual designated by the owner as the person authorized by the owner to perform any duty imposed upon the owner by the terms of this chapter.

(b) "Boarded" means a sheet or sheets of plywood or similar material covering all exterior doors, other than a storm door and all exterior windows in accordance with any rules and regulations issued by the Director of the Department of Neighborhoods under subsection 1767.05(b) of this chapter.

(c) "Dwelling Unit", as defined in this Section, means (1) any residential unit constructed as a single family home and built prior to 1978, and (2) any residential unit constructed as a duplex and built prior to 1978, (3) any residential unit, or other unit modified to be a residential unit consisting of between one and four residential units built prior to 1978. May also be referred to as "rental unit" within this Section.

(d) "Exterior maintenance and major systems" mean the safe and lawful maintenance of the facade, windows, doors, roof, and other parts of the exterior of the building and the maintenance of its major systems consisting of the roof, the electrical and plumbing systems, the water supply system, the sewer system, and the sidewalk, drive-way, if any, area of the lot, as applicable and as enforced by the Toledo-Lucas County Health Department, Department of Neighborhoods, and the Department of Economic and Business Development particularly in connection with Part Thirteen (Building Code) and Part Seventeen (Health Code) of this section of this code.

(e) "Foreclosure" means the filing of a complaint in a court of competent jurisdiction and obtaining a judgment of foreclosure against a lien on property and the subsequent sale of the property through sheriff's auction which may cause the occupants of the property to vacate.

(f) "Immediate Family" for the purpose of this Chapter includes father, mother, brother, sister, spouse, child, mother-in-law, father-in-law, daughter-in-law, son-in-law, stepmother, stepfather, grandmother, grandfather and grandchild.

(g) "Inspection" means a physical investigation at a property to obtain evidence of occupancy or vacancy and/or to verify compliance with this chapter and any other applicable code or law. Interior inspections are not required. A curbside or "drive-by" property inspection is not sufficient.

(h) "Lead-Safe Certificate" is a certificate issued by the Health Department that indicates that a Residential Rental Property has been certified as lead-safe pursuant to TMC Chapter 1760.

(i) "Occupied" means that one or more persons actually conducts a lawful business or resides in all or any part of the building as the licensed business-occupant, or as the legal or equitable owner/occupant(s) or tenant(s) on a permanent, non-transient basis, or maintains continual natural gas service in all or any part of the building, or any combination of the same. For purposes of this

section, evidence offered to prove that a building is so occupied may include, but shall not be limited to, the regular receipt of delivery of regular mail through the U.S. Postal Service; proof of continual gas service; a valid city business license, or the most recent, federal, state, or city income tax statements indicating that the subject residential building is the official business or residence address of the person or business claiming occupancy; or current lease.

(j) "Open". A building shall be deemed to be "open" if any one or more exterior doors other than a storm door is broken, open and/or closed but without a properly functioning lock to secure it, or if one or more windows is broken or not capable of being locked and secured from intrusion, or any combination of the same.

(k) "Owner" means any legal entity or person who has legal title to the Residential Rental Property as shown on the records of the Lucas County Auditor.

(l) "Parcel" means a parcel of real property identified as an individual parcel or tract of land by the Lucas County Auditor, through the Auditor's Real Estate Information System, or otherwise.

(m) "Person" means all persons or entities set forth in subsection 1726.01(b)(1) and all persons required to register under section 1767.02.

(n) "Registrant" means any person who holds legal or equitable title to the building, is a mortgagee, a land installment contract vendee/vendor-in-possession, assignee of rents, receiver, executor, administrator, trustee, lessee, agent, or any other person, firm, corporation, limited liability company, partnership, trust or other business association that is directly or indirectly in control of a building subject to the provisions of this section, and as set forth below including, but not limited to any mortgagee that has filed an action in foreclosure on the particular premises at issue, until title to the premises is transferred to a third party. Under this definition, there may be more than one registrant of a building and any owner as defined under Section 1726.01. "Registrant" does not include the State of Ohio or a political subdivision of the State of Ohio, including, but not limited to, the Lucas County Land Reutilization Corporation, the Lucas County Treasurer or the City of Toledo.

(o) "Residential Building" means any building or structure that has at least one residential unit within it for the purpose of Chapter 1767.

(p) "Residential Rental Property" means a "Dwelling Unit," as defined by this Chapter/Section, or any part of a "Dwelling Unit" being used or occupied, or intended to be used or occupied as a private residence, including attached structures such as porches or stoops, occupied by any person or persons other than the owner and/or members of the Owner's "Immediate Family," as defined by this Chapter/Section, regardless of whether or not the owner occupies another unit in the structure.

(q) "Secure" means maintaining the exterior shell of a vacant and unoccupied structure in a closed condition which prevents the unwarranted entry by the public. Exterior walls, foundations, roof, doors, windows, door and window frames, cornices, siding, masonry, porches, trim, balconies, decks, exterior staircases and accessory structures shall be made whole, covered, closed, locked, blocked, anchored or otherwise put in a physical state of closure which prevents access into, onto or through the structure.

(r) "Unimproved" means that no building or structure is located on a parcel.

(s) "Utilities" include natural gas service, electrical service, and water service for the purpose of Chapter 1767.

(t) "Vacant " means any residential building or structure, as defined in subsection 1767.01(j), in which no person or persons actually conducts a lawfully licensed business or lawfully resides or lives in any part of the building as the legal or equitable owner(s) or tenant-occupant(s) on a permanent, non-transient basis. A structure may be deemed vacant when there is evidence of conditions, taken separately or as a whole, that would lead a reasonable person to conclude that the property was vacant, including, but not limited to, evidence of overgrown or dead vegetation, accumulation of newspapers, circulars, flyers, mail, past due utility notices, or other means of notice by publication, the accumulation of junk, litter, trash, or debris, absence of windows or window treatments, absence of furnishings and personal items, statements of neighbors, delivery agents or similarly situated persons that the property is vacant.

SECTION 3. That the current Section 1767.08 “Appeals” which reads as follows is hereby repealed:

The person required to file a vacant residential building registration statement of a vacant residential building shall have the right to appeal the imposition of the vacant residential building registration fees to the Board of Nuisance Abatement/ Housing Appeals by filing an application in writing with Board of Nuisance Abatement/Housing Appeals the applicable one hundred dollar (\$100.00) non-refundable filing fee no later than thirty (30) calendar days from the filing date of the vacant residential building registration statement or January 30th of the year, whichever is later. The person required to file a vacant residential building registration statement shall have the right to appeal the imposition of the Notice of Liability to the Board of Nuisance Abatement/Housing Appeal by filing an application in writing with the Board of Nuisance Abatement/Housing Appeals with the applicable fifty dollar (\$50.00) filing fee within thirty (30) calendar days from the date of Notice of Liability.

And hereby replaced with the following:

1767.08 Appeals

- (a) The person required to file a vacant residential building registration statement of a vacant residential building shall have the right to appeal the imposition of the vacant residential building registration fee to the Nuisance Abatement Housing Appeals Board by filing an application in writing with the Nuisance Abatement Housing Appeals Board and the applicable fifty dollar (\$50.00) filing fee no later than thirty (30) calendar days from the filing date of the vacant residential building registration statement or January 30th of the year, whichever is later. The person required to file a vacant residential building registration statement shall have the right to appeal the imposition of the Notice of Liability to the Nuisance Abatement Housing Appeals Board by filing an application in writing with the Nuisance Abatement Housing Appeals Board with the applicable fifty dollar (\$50.00) filing fee within thirty (30) calendar days from the date of the Notice of Liability.
- (b) Notice of Violations of the rental registry may be appealed to the Nuisance Abatement Housing Appeals Board by filing an application in writing with the Nuisance Abatement Housing Appeals Board with the applicable fifty dollar (\$50.00) filing fee within thirty (30) calendar days from the date of Notice of Violation.

SECTION 4. A new Section, entitled 1767.09 “Residential Rental Registration Required:”

1767.09 Residential Rental Registration Required

- (a) Owners of one or more Rental Units and/or Rental Property located within the City of Toledo shall comply with all requirements of the Lucas County Residential Rental Property Registration program enabled by Ohio Revised Code Chapter 5323 through the Department of Neighborhoods and the Lucas County Auditor’s Office by June 30, 2021.
- (b) There is no fee associated with registration.
- (c) A late fee and civil fines as set forth in TMC 1726.99 shall be instituted for failure to comply with the registration requirements of this Section and shall be paid by the Owner or Responsible Agent who is responsible for correcting the violations. Notice shall be accompanied by a statement of the cost incurred, and in the event the same is not paid within thirty (30) days after the mailing of the notice, then such amount shall be certified to the County Auditor for collection of the same as other taxes and assessments are collected.
- (d) Nothing in this chapter prohibits the Nuisance Abatement Housing Appeals Board from taking testimony as to the financial condition of any person required to register residential rental buildings who appeals pursuant to TMC 1767.08, and the laws of the State of Ohio and to reduce the amount of the fine.
- (e) Payment of any fine authorized under this code section may be enforced by means of a civil action or any other

method provided for by the Ohio Revised Code or the Toledo Municipal Code.

Be and hereby is enacted;

SECTION 5. That the current Section 1767.99 "Penalty" which reads as follows is hereby repealed:

- (f) (a) All fines for citations and non-compliance fees issued in accordance with Chapter 1767 shall be deposited in the Nuisance Abatement Trust Fund, which fines and fees shall be used by the Department of Neighborhoods for purposes not inconsistent with this chapter, with the exception of court costs which will be deposited as required by law.
- (g) (b) Whoever violates Chapter 1767 shall in addition to any other civil fine be guilty of a misdemeanor third degree on the first offense, a misdemeanor of the second degree for a second subsequent offense or a misdemeanor of the first degree for a third subsequent offense.

(Ord. 138-15. Passed 3-31-15.)

And hereby replaced with the following:

1767.99. Penalty for Vacant Residential Building Registry

- (f) (a) All fines for citations and non-compliance fees issued in accordance with the Vacant Residential Building Registry of Chapter 1767 shall be deposited in the Nuisance Abatement Trust Fund, which fines and fees shall be used by the Department of Neighborhoods for purposes not inconsistent with this chapter, with the exception of court costs which will be deposited as required by law.
- (g) (b) Whoever violates the Vacant Residential Building Registry of Chapter 1767 shall in addition to any other civil fine be guilty of a misdemeanor third degree on the first offense, a misdemeanor of the second degree for a second subsequent offense or a misdemeanor of the first degree for a third subsequent offense.

SECTION 6. That this Ordinance is declared to be an emergency measure and shall be in force and effect from and after its passage. The reason for the emergency lies in the fact that it is necessary for the immediate preservation of the public peace, health, safety, and property, and to ensure prompt implementation of the terms of the residential rental registry.

Vote on emergency clause: yeas _____, nays _____.

Passed: _____, as an emergency measure: yeas _____, nays _____.

Attest: _____
Clerk of Council

President of Council

Approved: _____

Mayor

I hereby certify that the above is a true and correct copy of an Ordinance passed by Council _____.

Attest: _____
Clerk of Council