

ORDINANCE NO. 9-2023

AN ORDINANCE BY THE COUNCIL OF THE CITY OF NEW PHILADELPHIA, OHIO TO ENACT CODIFIED ORDINANCE CHAPTER 1343 VACANT PROPERTY REGISTRATION, WITH REGARDS TO THE REGISTRATION AND MAINTENANCE OF VACANT RESIDENTIAL, COMMERCIAL AND INDUSTRIAL PROPERTIES AND DECLARING AN EMERGENCY.

WHEREAS, the Council of the City of New Philadelphia, Ohio has determined there is a need to ensure the health, safety, and welfare of our citizens and safety forces by requiring the registration and maintenance of vacant residential, commercial and industrial properties within the City.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NEW PHILADELPHIA, OHIO, THAT:

SECTION 1. The Council of the City of New Philadelphia, Ohio hereby adopts and enacts attached Codified Ordinance Chapter 1343 Vacant Property Registration as an addition to the Codified Ordinances of the City of New Philadelphia.

SECTION 2. This Ordinance is hereby declared to be an emergency measure and its immediate passage is necessary in order to preserve, protect and maintain the health, safety and welfare of the citizens of the City of New Philadelphia, Ohio.

SECTION 3. This Ordinance shall take effect and be in force immediately upon its passage.

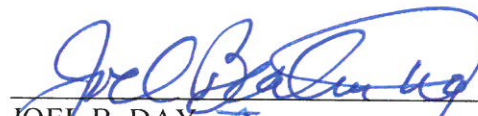
PASSED: Dec 28, 2023

  
DONALD C. KEMP  
PRESIDENT OF COUNCIL

ATTEST:

  
JULIE COURTRIGHT  
CLERK OF COUNCIL

APPROVED:

  
JOEL B. DAY  
MAYOR

SPONSORED BY: PUBLIC WORKS AND ECONOMIC DEVELOPMENT COMMITTEE

**CHAPTER 1343**  
**VACANT PROPERTY REGISTRATION**

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**1343.01 PURPOSE.**

The purpose of this chapter is to establish a program for identifying and registering vacant residential, commercial and industrial buildings and structures; to determine the responsibilities of the owners of vacant buildings and structures; to preserve and protect the City of New Philadelphia's residential and commercial districts from becoming blighted through the lack of adequate maintenance; and to speed the rehabilitation of the vacant buildings and structures. The City of New Philadelphia finds that the presence of properties exhibiting evidence of vacancy poses special risks to the health, safety, and welfare of the community and therefore require heightened regulatory attention. Shifting the cost of burden from the general citizenry to the owners of the vacant buildings and structures will be the result of this chapter.

**1343.02 DEFINITIONS.**

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

(a) "City Building Code" means Chapter 13 of the Codified Ordinances of the City of New Philadelphia.

(b) "Days" means consecutive calendar days.

(c) "Evidence of vacancy" means any condition that on its own or combined with other conditions present would lead a reasonable person to believe the property is vacant. Such conditions include, but are not limited to, significantly below standard utility usage, overgrown and/or dead vegetation, accumulation of newspapers, circulars, flyers and/or mail, accumulation of trash, junk, and/or debris, broken or boarded up windows, abandoned vehicles, auto parts or materials, the absence of window coverings, such as curtains, blinds, and/or shutters, the absence of furnishings and/or personal items consistent with habitation or occupation, statement(s) by neighbors, delivery agents, or governmental agency employee(s) that the property is vacant.

(d) "Government agency" means any public entity having authority over property or residents of the City, including but not limited to the City of New Philadelphia Service Director or designee, the East Central Ohio Building Authority, the New Philadelphia City Health Department, the New Philadelphia Police Department, the New Philadelphia Fire Department, or the Tuscarawas County Sheriff's Office.

(e) "Commercial and/or Industrial" 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. There is a rebuttable presumption that a structure located on a parcel of real property classified by the Tuscarawas County Auditor

according to its principal use as "commercial" or "industrial" pursuant to Ohio R.C. § 5713.041 and O.A.C. 5703-25-10 is non-residential property.

(f) "Owner" Any person or company, in whose name the property is titled, and any person, agent, servicing company, firm, third party, financial institution or bank that has an interest in the property as a result of an assignment, sale, mortgage, transfer of a mortgage, or similar instrument or having an agreement with any one of the above for the purpose of securing and/or managing the property, and includes any lienholder or assignee whether the title record indicates ownership and includes all lessors, or land installment contract sellers or buyers.

(g) "Secured by other than normal means" means a structure secured by means other than those used in the design of the building.

(h) "Unoccupied" means a building that is not being used for occupancy authorized by the owner. The term "unoccupied" shall only be applicable to multi-unit structures when more than half (1/2) of the units or more than half (1/2) of the available space are not currently occupied by a tenant or tenants. The term "unoccupied" shall apply to structures being used for storage purposes that are not designated a warehousing facility with a document of title.

(i) "Unsecured" means a building or portion of a building which is open to entry by unauthorized persons without the use of tools or ladders.

(j) "Utilities" means water, sanitation, natural or propane gas, and electricity services.

(k) "Vacant" means residential, commercial or industrial building (excluding government-owned buildings) that is:

- (1) Unoccupied and unsecured; or
- (2) Unoccupied and secured by other than normal means; or
- (3) Unoccupied and an unsafe building as determined by any government agency; or
- (4) Unoccupied and having utilities disconnected; or
- (5) Unoccupied and having an existing violation of the City Building Code; or
- (6) Illegally occupied, other than during a pending dispute between landlord and tenant, but including loitering and vagrancy; or

(7) Unoccupied for a period of time over thirty (30) days and having an existing violation of any provision of the New Philadelphia Codified Ordinances, the Ohio Revised Code, or the Ohio Administrative Code issued by any Government Agency. The Service Director or designee may provide an additional thirty days if positive discernible steps are being taken to eliminate the unoccupied status, and in no instance beyond ninety (90) days, if positive discernible progress is being made to occupy the premises. During any extensions granted by any subsection of this ordinance, the property shall be maintained by the owner. That maintenance includes the roof, windows, doors, all exterior and the grounds. The owner shall maintain the entire premises, keeping the bushes and trees trimmed, the lawn mowed, the tree lawn mowed, bushes and hedges, and other plants trimmed and maintained in a non-overgrown status, and all other necessary maintenance to alleviate any nuisance, hazard, or unkempt appearance. or

(8) Unoccupied for a period of time over sixty (60) days; or

(9) Unoccupied and abandoned by the property owner for any period of time.

### **1343.03 VACANT PROPERTY/BUILDING REGISTRATION.**

(a) An owner of a structure which meets the definition of "vacant" residential, commercial, or industrial property as set forth in this chapter shall register such structure with the New Philadelphia Service Director or designee upon the earliest of the following events:

- (1) Not later than ninety (90) days after it becomes vacant; or
- (2) Not later than thirty (30) days of being notified by the New Philadelphia Service Director or designee of the requirement to register based on evidence of vacancy; or

(3) Not later than thirty (30) days of the issuance of an order to vacate by the New Philadelphia Service Director or designee under New Philadelphia Codified Ordinance Section 1355.07.

(b) The registration shall be submitted on forms provided by the New Philadelphia Service Director or designee and shall include the following information provided by the owner:

(1) The name(s), address(es), phone number(s) and email address(es) of the owner or owners;

(2) If the owner does not reside in New Philadelphia or within forty-five (45) miles of the City of New Philadelphia corporate limits, a property agent, manager or caretaker residing in or doing business within the State and within said 45-mile radius shall be designated and identified by name, address, email address, and telephone number. By designating an authorized agent under the provisions of this section, the owner is consenting to the service of any and all notices required or allowed under this Chapter upon said agent;

(3) The names and addresses of all known lien holders and all other parties known or believed upon information to have a claim of ownership interest in the building;

(4) A telephone number where a responsible party can be reached at all times during business and non-business hours; and

(c) All applicable laws and codes shall be complied with by the owner. The owner shall notify the Department of Public Service

of any changes in the information of their vacant building registration within 30 days of the change. If the plan or timetable for the vacant building is revised in any way, the revision(s) must be in writing and must meet the approval of the New Philadelphia Service Director or designee.

(d) The owner and subsequent owners or banks/agents shall keep the building secure and safe and the building and grounds properly maintained in accordance with all applicable Property Maintenance Codes set forth in Chapter 1327 of the New Philadelphia Codified Ordinances.

(e) A new owner(s) shall register or re-register the vacant building with the Department of Public Service within 90 days of any transfer of an ownership interest in the vacant building if the building continues to remain vacant after transfer. If fees were paid upon or prior to the transfer of an ownership interest, the new owner(s) will not be required to pay for re-registering the property until such time that the registration fee is due based on the original date of vacancy. This does not mean they do not have to register within 90 days as specified above.

(f) The failure of the owner of the vacant building to obtain a deed for the property or to file the deed with the County Recorder shall not excuse the property owner from registering the property.

(g) Failure of the owner or any subsequent owners to maintain the building and premises that result in remedial action taken by the City shall be subject to any applicable penalties provided by the law.

(h) The registration and all associated processes must be completed in its entirety annually for as long as the property remains vacant.

(i) The registration required by this Chapter shall be for the period January 1 through December 31 of each year and shall be renewed annually for as long as the residential, commercial or industrial property remains subject to the registration requirement of this Chapter.

(j) Failure to register any vacant residential, commercial or industrial property pursuant to subsection (a) hereof, or failure to renew any registration by March 1 pursuant to subsection (i) hereof, will result in a late fee in an amount that is one-half the required registration fee of the respective year, which shall be in addition to the required registration fee for the vacant residential, commercial or industrial property.

#### **1343.04 INSPECTIONS.**

(a) In accordance with New Philadelphia Codified Ordinances Chapter 1355, the City of New Philadelphia shall have the authority and the duty to inspect residential, commercial and industrial properties externally subject to this Chapter for compliance and to issue citations for any violations of the City Building Code.

(b) The New Philadelphia Service Director or designee shall make all of the required inspections, or shall accept reports of inspection by approved agencies or individuals. All reports of such inspections shall be in writing and be certified by a responsible individual. The Service Director or designee is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority.

(1) External inspections of vacant residential, commercial or industrial property shall be conducted a minimum of twice per year to ensure the compliance of property maintenance codes.

(2) Any inspection that is to take place within 30 days of a previous inspection may or may not be conducted at the discretion of the Service Director or designee.

#### **1343.05 VACANT BUILDING FEES.**

The fees shall be reasonably related to the administrative costs for registering and processing the vacant building owner registration form and for the costs incurred by the City in monitoring the vacant building site. The annually increased fee amounts shall be reasonably related to the costs incurred by the City for demolition and hazard abatement of or repairs to vacant buildings, as well as the continued normal administrative costs stated above.

(a) The owner of a vacant residential building shall pay an annual fee of one hundred fifty dollars (\$150.00) 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 five-year fee of two thousand four hundred dollars (\$2,400.00) to be used for the fifth and for all consecutive, subsequent years of vacancy.

(b) The owner of a vacant commercial building shall pay an annual fee of three hundred dollars (\$300.00) 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 five-year fee of four thousand eight hundred dollars (\$4,800.00) to be used for the fifth and for all consecutive, subsequent years of vacancy.

(c) The first annual fee shall be paid at the time the building is registered. If the fee is not paid, the owner shall be subject to prosecution as prescribed in section 1343.08 of this Chapter.

(d) The fee shall be paid in full prior to the issuance of any building permits unless the property owner is granted an exemption.

(e) All delinquent fees shall be paid by the owner prior to any transfer of an ownership interest in the vacant building. A hold may be placed on the activation of utilities (water, sewer and electric) until all delinquent fees have been paid.

(f) Late fees shall be paid in addition to the annual registration fee and will be equal to one-half of the respective annual fee for the vacant residential, commercial or industrial property.

#### **1343.06 ENFORCEMENT.**

(a) Whenever the Service Director or designee determines that there has been a violation of this chapter or has grounds to believe that a violation has occurred, a notice of violation shall be

given to any owner of the vacant residential, commercial or industrial property in the following form:

- (1) In writing;
- (2) Including a description of the real estate sufficient for identification;
- (3) Including a statement of the violation or violations and why the notice is being issued;
- (4) Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the vacant residential, commercial or industrial property into compliance with the provisions of this chapter; and
- (5) Inform the owner of the right to appeal pursuant to this section.

(b) If the notice of violation or order is not complied with, the Service Director or designee in conjunction with the Law Director may institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful condition of the property in violation of the provisions of this chapter or of the order or direction made pursuant thereto.

(c) Any notice or order issued pursuant this chapter may be appealed to the City's Board of Zoning Appeals pursuant to New Philadelphia Codified Ordinances Chapter 1355 upon the payment to the New Philadelphia Service Director or designee of a Thirty-five Dollar (\$35.00) deposit for each property requested for appeal. Checks shall be made payable to the City of New Philadelphia. The appeal must be filed within thirty (30) calendar days of service of the notice of the assessment of the fee or fine, and any appeal received after this period will not be accepted.

(d) The imposition of one penalty for any violation shall not excuse the violation, or authorize the continuance of the violation.

(e) Any charge levied pursuant to this Chapter is hereby made a lien upon the property charged therewith shall be certified to the Tuscarawas County Auditor, who shall place the same on the tax duplicate with the interest, costs, and penalties allowed by law, and shall be collected as other normal taxes are recovered.

(f) Any violation of this chapter shall be deemed a strict liability offense.

#### **1343.07 EXEMPTIONS.**

(a) A building under active construction/renovation and having a valid building permit(s) shall be exempt from registration until the expiration of the longest running, currently active building permit(s).

(b) A building which has suffered fire damage or damage caused by extreme weather conditions shall be exempt from registration requirements for a period of 90 days after the date of the fire or extreme weather event if the property owner submits a request for exemption in writing to the Department of Public Service. If active and ongoing efforts are being made to rehabilitate the property, and those efforts continue in a discernible and improving fashion, the Department of Public Service may grant two 90-day extensions. This request shall include the names and addresses of the owner or owners, and a statement of intent to repair and reoccupy the building in an expedient manner, or the intent to demolish the building.

(c) A building that is for sale and listed with a licensed State of Ohio realtor shall be exempted for a period of 6 months for residential properties and 12 months for commercial and industrial properties, from the start of vacancy, provided that the owner or owner's representative submits proof to the Department of Public Service of such listing and for sale status. These periods may be extended for an additional 6 months for residential property and 12 months for commercial or industrial properties, as long as the properties are well maintained and meet all the Part 13 requirements and the curb strip and mowing requirements.

(d) Any owner of a vacant building that has been served a notice of vacant property registration may, within ten calendar days of receipt of such notice, apply for an exemption or appeal the findings of the Department of Public Service to the City's Board of Zoning Appeals pursuant to New Philadelphia Codified Ordinances Chapter 1355 upon the payment to the New Philadelphia Service Director or designee of a Thirty Five Dollar (\$35.00) deposit for each property requested for appeal.

#### **1343.08 METHOD OF SERVICE.**

(a) Any notice or order issued pursuant to this Chapter shall be deemed to be properly served if a copy thereof is:

- (1) Delivered personally to an owner of vacant residential, commercial or industrial property, with service completed upon delivery; or
- (2) Sent by standard, certified or first-class mail addressed to the last known address of any owner of vacant residential, commercial or industrial property, with service completed upon the date of mailing; or
- (3) If the notice or order is returned showing that the mailing was not delivered, a copy shall be posted in a conspicuous place in or about the vacant residential, commercial or industrial property, with service completed upon the date of posting; or
- (4) By a posting on the premises or fence or other enclosure. The Service Director or designee or Department of Public Service shall post said notice physically at same time as the notices in section (a), (b), and (c) above. Other notices shall also be posted by the same means by this department including curb strips, mowing and upkeep ordinances or requirements.

#### **1343.09 CONSTRUCTION.**

(a) This Chapter shall not, in any manner, abrogate any other provisions of the New Philadelphia Codified Ordinances pertaining to the abatement of public nuisances or unsafe buildings. The provisions in this Chapter shall not be construed to abolish or impair existing remedies of the City of New Philadelphia or its officers or departments relating to the remediation, removal, demolition of any structure which is dangerous, unsafe or unsanitary.

(b) Nothing in this chapter shall be construed to waive, relieve or otherwise excuse an owner of property from compliance with all applicable codes, ordinances, statues, or laws and the owner shall at all times remain responsible and liable therefore. Nothing in this chapter shall be construed to prevent the enforcement of other provisions of the Codified Ordinances of the City of New Philadelphia, New Philadelphia Building Code, or the Ohio Revised Code and nothing in this chapter shall be construed to relieve an owner or interested party from duties imposed pursuant to any regulatory code, ordinance, statute, or law of the City or State of Ohio.

(c) Should any provision, section, paragraph, sentence or word of this Chapter be determined or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this Chapter shall remain in full force and effect.

#### **1343.10 PENALTIES.**

(a) Any person failing to comply with a notice of violation or order issued in pursuant to this Chapter shall be deemed liable for a civil infraction as follows:

- (1) If a notice or order is not complied with within thirty (30) days, a Two Hundred Fifty Dollar (\$250.00) fine will be assessed.
- (2) If a second notice or order for the same violation within a one (1) year period is not complied with within thirty (30) days, a Five Hundred Dollar (\$500.00) fine will be assessed.

(3) If a third notice or order for the same violation within a one (1) year period is not complied with within thirty (30) days of the notice, the violator will be charged with a first degree misdemeanor and/or a One Thousand Dollar (\$1,000.00) fine will be assessed.

- (a) The time restraints may be modified by the Service Director or designee due to inclement weather or type of violation.
- (b) Fines can be suspended if the owner(s) submit a plan to the Department of Public Service within 30 days to actively market the property to sell and a maximum of 12 months on the market to have the property sold.

residential property" means private property on which is located one or more structures that are used as a home, residence or sleeping place by one or more persons, if no more than three separate households are maintained in the structure or structures. "Private residential property" does not include any private property on which is located one or more structures that are used as a home, residence or sleeping place by two or more persons, if more than three separate households are maintained in the structure or structures.

"Residential dwelling" means a structure or shelter or the portion of a structure or shelter that is used by one or more humans for the purpose of a habitation.