

[Print](#)

## Battle Creek Code of Ordinances

## **CHAPTER 1456**

### **Vacant or Abandoned Structures**

---

- 1456.01 Findings.
- 1456.02 Definitions.
- 1456.03 Registration.
- 1456.04 Registration exemptions.
- 1456.05 Administrative fee.
- 1456.06 Monitoring and securing structures.
- 1456.07 Right of entry and inspection.
- 1456.08 Reuse and occupancy.
- 1456.09 Responsibility for violations.
- 1456.10 Change in and/or transfer of ownership of dwelling.
- 1456.99 Penalty.

#### **1456.01 FINDINGS.**

The City Commission determines that the presence of vacant or abandoned structures creates an element of community blight. It is recognized that blight lowers property values, leads to deteriorating housing conditions, undermines the quality of neighborhood life, affects the public health, safety and general welfare and can also result in human injury and criminal activities. It is also determined that vacant and unoccupied structures occupy an inordinate amount of City administrative and ordinance enforcement resources. As such, the City Commission finds the prolonged presence of vacant or abandoned structures to be unacceptable to the citizens of Battle Creek.

(Ord. 22-05. Passed 9-20-05; Ord. 04-2016. Passed 5-17-16.)

#### **1456.02 DEFINITIONS.**

(a) "Accessory building" means a subordinate structure on the same premises as the main residential structure or commercial structure, the use of which would be naturally and normally incidental to that of the main structure, whether or not the main structure is abandoned or vacant, such as, but not limited to, a garage, barn, or storage shed.

(b) "Owner" means any person or entity with a legal or equitable ownership interest in the structure.

(c) "Secured" means a building that is not open to casual entry and trespass pursuant to Section 1456.06.

(d) "Monitoring" means the exterior inspection of a property to determine if the property meets International Property Maintenance Codes and is not open to casual entry.

(e) "Vacant or abandoned structure" means any building which has been used or was intended for use as a residential dwelling or commercial structure, in whole or in part, including an accessory building, which has become vacant or abandoned for a period of at least 60 consecutive days for residential structures and 180 consecutive days for commercial structures and which also meets at least one of the following conditions:

- (1) Is open to casual entry or trespass;
- (2) Is fire damaged to an extent which prohibits safe human occupancy;
- (3) Is the site of loitering or vagrancy;
- (4) Demonstrates a lack of property maintenance and upkeep as evidenced by one or more current violations of the International Property Maintenance Code;
- (5) Is under notice for existing violation(s) of City ordinances;
- (6) Is a residential structure secured for at least 60 days with plywood boarding or its equivalent, or a commercial structure secured for at least 180 days with plywood boarding or its equivalent;
- (7) Has taxes in arrears to the City for a period of time exceeding 365 days;
- (8) Has the utility heat source of gas and/or electric disconnected or discontinued;
- (9) Is under a condemnation notice or legal order to vacate;
- (10) Is structurally unsound; or
- (11) Is a potential hazard or danger to persons.

(Ord. 22-05. Passed 9-20-05; Ord. 04-2016. Passed 5-17-16.)

### **1456.03 REGISTRATION.**

(a) Owners of vacant or abandoned structures shall register such properties with the City annually and pay an initial registration fee. The duty to register a vacant or abandoned structure shall not require prior notice to the owner by the City. Registration of an abandoned structure does not preclude the City from taking appropriate actions to secure the property or to issue orders to repair or abate dangerous, hazardous or unlawful conditions or from acting to eliminate an imminent hazard to public health and safety.

(b) For each vacant or abandoned structure each owner shall register with the City and provide the following information on a vacant or abandoned structure registration form available from the City:

- (1) The address of the abandoned structure;
  - (2) The legal names of all owners of the property and each owner's date of birth;
  - (3) The complete mailing address of all owners;
  - (4) Telephone numbers and email addresses of each owner;
  - (5) Proof of identification of each owner;
  - (6) The name, address and telephone number of any local agent or representative authorized by the owner to handle the affairs of the property;
  - (7) The reason for vacancy of the property;
  - (8) The estimated length of time the property is expected to remain vacant; and
  - (9) Plans, if any, for restoration, reuse or removal with an accompanying timeline and work schedule.
- (c) An owner shall notify the City and file an amended form within seven days of any change in the registration information required by this section.

(Ord. 22-05. Passed 9-20-05; Ord. 04-2016. Passed 5-17-16.)

#### **1456.04 REGISTRATION EXEMPTIONS.**

Registration under Section 1456.03 shall not be required for the following:

- (a) Temporary Absence. A dwelling that is unoccupied for a period of 180 days or less each year if the owner submits a request for exemption in writing to the Inspections Division that the dwelling will remain unoccupied for a period of 180 consecutive days or less each year. An owner who has given the notice prescribed by this division shall notify the Inspections Division not more than 30 days after the dwelling no longer qualifies for this exception. As used in this division, "dwelling" means a dwelling such as a vacation or seasonal home that is occupied by the owner or a member of the owner's family during part of a year.
- (b) A building under active construction or renovation and having a valid trade permit(s) at the time of initial inspection shall be exempt from registration until the expiration of the most recent permit, or in the event of an extension, no longer than one year, whichever occurs first.
- (c) A building which has suffered fire damage or damage caused by extreme weather conditions shall be exempt from the registration requirement for a period of 90 days after the date of the damage if the property owner submits a request for exemption in writing to the Inspection Division.
- (d) A building that is for sale and listed with a licensed State of Michigan Realtor shall be exempted for a period of 12 months from the start of vacancy, provided that the owner or agent submits a request for exemption in writing to the Inspection Division with proof of such listing and for sale status. Proof may include a realtor contract or multiple listing service listing number with summary sheet.

(Ord. 22-05. Passed 9-20-05; Ord. 04-2016. Passed 5-17-16.)

**1456.05 ADMINISTRATIVE FEE.**

(a) An owner of a vacant or abandoned structure, whether registered or not, shall pay a vacant or abandoned structure registration fee and a monthly administrative monitoring fee, the amounts of which shall be established by City Commission resolution, for the time during which such structure remains a vacant or abandoned structure.

(b) Fees under this section shall be established to support the services rendered by the City in the course of its duties related to vacant or abandoned structures. Fees shall be as determined in the fee, bond and insurance schedule as approved from time to time by the City Commission. Failure to register a vacant or abandoned structure or pay the administrative monitoring fee shall be cause for penalties to be assessed and are criminal violations of this chapter.

(c) The monthly administrative monitoring fee shall be invoiced for all months during which the structure was a vacant or abandoned structure for 15 days or more. However, the monthly administrative monitoring fee for a vacant or abandoned property shall be suspended for a maximum period of six months from the date on which an initial building, electrical, mechanical, or plumbing permit issues for work the premises.

(d) A late fee, in an amount to be established by the City Commission, shall also be payable by an owner of a vacant or abandoned structure when the monthly administrative monitoring fee is not timely paid.

(e) If any portion of the fees required by this chapter are not paid or are overdue, the City may:

(1) Direct the City Assessor to add the amount due to the next tax roll of the City as a single lot assessment under these Codified Ordinances and collect said sum in the same manner as provided by law for collection of taxes and special assessments;

(2) The City shall keep an accurate account of all costs incurred for the monitoring conducted with respect to each lot or parcel of land in carrying out the provisions of this chapter. Such costs shall constitute a lien upon the lot or land. A copy of the account of all unpaid costs incurred under this chapter shall be transmitted to the City Treasurer for collection. The Treasurer shall add to all such accounts 10% of the amount of all such expenditures, to cover notice requirements, overhead and other administrative costs. If the account is not paid in full within 60 days after the date the Treasurer mails the same to the owner by first-class mail, a finance charge of 1.5% shall be added on the remaining unpaid balance. That portion of the account remaining unpaid as of January 1 and June 1 of the year of services rendered shall then be collected under the procedures of a special lot assessment as set forth in Chapter 216 of the Administration Code;

(3) Filing suit against the owner for entry of civil money judgment; or

(4) Any other means available by law.

(Ord. 22-05. Passed 9-20-05; Ord. 04-2016. Passed 5-17-16.)

**1456.06 MONITORING AND SECURING STRUCTURES.**

(a) The City will monitor property on a monthly basis to verify compliance with this chapter and the International Property Maintenance Code.

(1) An owner of a vacant or abandoned property that has been monitored for a minimum of one year and having no exterior violations during that time may request in writing to have monitoring conducted quarterly and monitoring fees adjusted accordingly.

(2) A vacant or abandoned property under quarterly monitoring that is found to have two or more exterior violations within a rolling calendar year, or receives a citation for any exterior code violation(s), will revert back to monthly monitoring.

(b) A vacant or abandoned structure must be secure from casual entry and trespass as outlined herein. A property owner shall repair or replace unsecured doors and windows or install plywood boarding or its equivalent over all points of entry on an abandoned structure such that all exterior openings suitable for animal or human entry are secured. If securing is done using exterior grade plywood or its equivalent it must be completed as follows:

(1) Any first story and ground accessible points of entry shall be secured by use of exterior grade plywood or its equivalent, of at least one-half inch thickness, cut to the size of the opening and secured by the use of two-inch long screws.

(2) Any entry points above the first story or not accessible from ground level, such shall be secured by use of exterior grade plywood or its equivalent of at least one-half inch thickness, cut to the size of the opening and secured by the use of 16 penny common nails or two inch long screws.

(3) Any bare wood surface shall be painted the same or similar color of the surrounding surface.

(c) A City order to secure a vacant or abandoned structure shall be complied with by the owner within 72 hours. If the securing has not been completed or does not comply with the requirements for securing the structure under this chapter, the City may secure the structure and the City shall bill the owner of record for all costs incurred, including service fee and administrative costs. The amount so billed shall constitute a personal debt of the owner and may be recovered in the same manner as permitted for the recovery of fees under this chapter.

(Ord. 22-05. Passed 9-20-05; Ord. 04-2016. Passed 5-17-16.)

#### **1456.07 RIGHT OF ENTRY AND INSPECTION.**

(a) If the owner has failed to secure a property and it has been secured by the City, the City may enter or reenter the structure to conduct necessary inspections to insure compliance with the requirements of this chapter and to determine if there are any emergency or hazardous conditions.

(b) The City is hereby authorized to make an inspection of a lot or parcel of land upon receiving a complaint of a nuisance under this chapter, or upon his or her own initiative. The power to inspect shall include the authority to enter upon such lot or parcel of land at reasonable times and under reasonable conditions as provided under the International Property Maintenance Code.

(Ord. 22-05. Passed 9-20-05; Ord. 04-2016. Passed 5-17-16.)

#### **1456.08 REUSE AND OCCUPANCY EXEMPTIONS.**

(a) The Certificate of Occupancy is suspended at the time a property is deemed a vacant or abandoned structure as defined in this chapter. No structure that is vacant or abandoned shall be reoccupied until inspected and found to be in compliance with the International Property Maintenance Code except where otherwise specified herein. The Certificate of Occupancy is revoked once a property has been vacant or abandoned for more than 24 months as defined by this chapter.

(b) Occupancy of a residential property can be obtained by one of the following:

(1) If the owner intends to occupy the property as their primary residence and the property has not been vacant or abandoned for more than six months an International Property Maintenance Code inspection is not required. The Certificate of Occupancy shall be reinstated once notification of principal residence exemption is provided to the City and all outstanding registration and monitoring fees have been paid.

(2) If the property has been vacant or abandoned for more than six months but less than 25 months or the property is going to be occupied by anyone other than the owner an International Property Maintenance Code inspection must be conducted. If there are no violations at the time of inspection the Certificate of Occupancy is reinstated and the property can be occupied. If violations are present at the time of inspection but none of which are health, safety, or welfare, a Temporary Certificate of Occupancy may be issued and the property may be occupied providing a follow-up reinspection is conducted to verify that all violations have been corrected. Once all violations have been corrected, and all outstanding registration and monitoring fees have been paid, the full Certificate of Occupancy will be reinstated.

(3) If the property has been vacant or abandoned for more than 24 months an all-trade safety inspection must be conducted to include inspection of electrical, mechanical, plumbing, and building as defined by State Codes. If there are no violations at the time of inspection, the Certificate of Occupancy will be reinstated and the property can be occupied. If violations are present at the time of inspection but none of which are health, safety, or welfare, a Temporary Certificate of Occupancy will be issued and the property may be occupied providing follow up reinspection is conducted to verify that all violations have been corrected. Once all violations have been corrected, and all outstanding registration and monitoring fees have been paid, the full Certificate of Occupancy will be reinstated.

(c) Occupancy of a commercial property can be obtained by one of the following:

(1) If the property has been vacant for more than 180 days but less than 25 months an International Property Maintenance Code inspection must be conducted. If there are no violations present at the time of inspection the Certificate of Occupancy is reinstated and the property can be occupied. If violations are present at the time of inspection but none of which are health, safety, or welfare a Temporary Certificate of Occupancy will be issued and the property may be occupied providing follow up reinspection is conducted to verify that all violations have been corrected.

(2) If the property has been vacant for more than 24 months an all-trade safety inspection must be conducted to include electrical, mechanical, plumbing, and building as defined by State Codes. If there are no violations at the time of inspection the Certificate of Occupancy is reinstated and the property can be occupied. If violations are present at the time of inspection but none of which are health, safety, or welfare, a Temporary Certificate of Occupancy may be issued and the property occupied providing follow up reinspection is conducted to verify that all violations have been corrected. Once all violations have been corrected, and all outstanding registration and monitoring fees have been paid, the full Certificate of Occupancy is reinstated.

(Ord. 22-05. Passed 9-20-05; Ord. 04-2016. Passed 5-17-16.)

#### **1456.09 RESPONSIBILITY FOR VIOLATIONS.**

All nuisance, housing, building and related code violations will be cited and noticed to the owner of record and shall become the owner's responsibility to bring in compliance. If the owner sells or otherwise disposes of the property to another party, the new owner shall not be entitled to any extension of time to correct or address such violations as existed at the time of sale, transfer or conveyance of the property.

(Ord. 22-05. Passed 9-20-05; Ord. 04-2016. Passed 5-17-16.)

#### **1456.10 CHANGE IN AND/OR TRANSFER OF OWNERSHIP OF DWELLING.**

(a) Change in Ownership of Dwelling. The City shall immediately issue a new order to repair or correct conditions to any person assuming ownership or the status of responsible party for any dwelling which has been cited in a notice of violation. A responsible party who has failed to comply with such an order shall not be relieved of the responsibility of having violated any of the provisions of the International Property Maintenance Code by transferring title to another person.

(b) Transfer of Ownership. It shall be unlawful for the owner of any dwelling unit or structure who has received a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of such dwelling unit or structure to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the code official and shall furnish to the code official a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of the compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order of notice of violation.

(Ord. 22-05. Passed 9-20-05; Ord. 04-2016. Passed 5-17-16.)

#### **1456.99 PENALTY.**

(a) A person who violates or fails to comply with the requirements of this chapter is guilty of a Class D civil infraction and shall be fined not more than one hundred dollars (\$100.00) per day for each offense.

(b) In addition to any other penalty provided for in this section, this chapter may be enforced by suit for injunction, action for damages, or any equitable relief appropriate to the enforcement of this chapter.

(Ord. 22-05. Passed 9-20-05; Ord. 04-2016. Passed 5-17-16.)