

1302.01 VACATIONS.

(A) The Building Official shall be authorized to order any building or portion of any building vacated, or if it is vacant to remain vacated for one or more of the reasons set out below.

(1) When a building is occupied, or any work, operation or construction is performed therein or thereon in violation of any of the provisions of the Deer Park Building Code, International Property Maintenance Code, Deer Park Zoning Code, or any other applicable provisions in the Codified Ordinances for the City of Deer Park .

(2) When one or more of the following has occurred:

a. The building is unfit for occupancy as it fails to meet the minimum standards set out by City ordinances before a Certificate of Occupancy can be granted,

b. The building is unfit for human habitation because it fails to meet the minimum standards set out in the International Property Maintenance Code (IPMC), or

c. The doors, windows, and other openings into the building are boarded up or otherwise secured by means other than the conventional method used in the original construction and design of the building.

(3) When the owner, agent, or tenant fails or refuses to comply with any lawful order issued by the Building Official.

(4) When the building is vacant and unoccupied for the purpose which it was erected and for which purpose a certificate of occupancy may have been issued for a period of at least six months. This provision shall not be applicable to unoccupied buildings that are being actively marketed for sale or lease.

(5) When it is determined by the Building Official and the Fire Chief that a building constitutes an immediate hazard to the public health and/or safety.

(B) If, after service of any lawful order from the Building Official, the owner, agent, contractor or other person responsible for the work or violation refuses to comply with such order or does not comply within the period stated in the order of notice, such failure to comply shall constitute a misdemeanor of the first degree.

1302.02 VACANT BUILDINGS AND STRUCTURES DECLARED A PUBLIC NUISANCE.

Buildings which remain vacant and unoccupied for any appreciable period of time become an attractive nuisance to children, a harbor for rodents and vermin, an invitation to vagrants, and criminals as a temporary abode, and an increased fire hazard, and the unkept grounds surrounding such property invite the dumping of garbage and rubbish thereon. The use and maintenance of property in such condition and manner endangers the public health and safety and constitutes an unreasonable use and condition to the annoyance, discomfort, and repose of a considerable number of the public, is detrimental to the public good and common welfare, and renders a considerable number of the public insecure in the use and enjoyment of their property, and thus constitutes a nuisance condition.

1302.03 VACATION NOTICES.

(A) Every order of vacation shall be in writing stating the reason for the order or vacation and directing that the building or portion of the building, if it is occupied, be vacated by a specified time and shall be served upon the owner, agent or tenant by personal service, priority

mail with delivery confirmation, or certified mail with return receipt requested. In addition to providing service to the owner, agent or tenant, the Building Official shall post a notice of vacation in a conspicuous place on the building. After the posting of such notice or order of vacation, it shall be unlawful to occupy or permit the occupancy of the premises or any portion thereof until the provisions of law and the orders issued by the Building Official are complied with.

(B) When it shall appear to the Building Official that the reasons for the order of vacation have ceased to exist and that the building or portion of the building and the occupancy thereof are in substantial compliance with law, he shall rescind the vacation order in writing.

1302.04 VACATED BUILDINGS, STRUCTURES, OR DWELLING UNITS NOT TO BE RENTED.

When any person, being the owner, agent or having control of a building, structure, or dwelling unit, fails to comply with an order of vacation issued by the Building Official and allows the building, structure, or dwelling unit to be occupied by persons other than himself, such person shall be in violation of Section [1302.03](#) unless he can show that the property is being occupied without his knowledge or consent. Proper service of an eviction notice and the good faith maintenance of forcible entry and detainer proceedings against occupants shall be prima facie evidence of lack of knowledge and consent. The penalty for violation shall be as provided in Section [1302.99](#).

1302.05 SECURING OF BUILDINGS AND STRUCTURES.

(A) If a vacant or vacated building or structure is open to access by trespassers and/or the elements, the Building Official may order any openings secured to prevent trespassers and/or the elements from entering such building. The securing of such doors, windows and other openings shall be maintained as long as the building is vacant or until the windows, doors and other openings are repaired in an approved manner.

(B) If, after service of an order to secure a building or structure, the owner or agent fails to comply with that order of the Building Official within the time allowed by that order, or fails to maintain the building or structure secure from entry, the Building Official may at any time thereafter proceed under Section [1302.06](#) to secure the building and restore the premises to a safe condition.

1302.06 SECURING OF BUILDINGS OR STRUCTURES BY THE BUILDING OFFICIAL.

(A) The Building Official may secure and barricade any building whenever:

(1) The building or structure has been deemed unsafe or unsanitary pursuant to Section [1301.07](#), and the owner has failed to bring the building into compliance with the Building Official within the time provided, but the building has not been determined as threatening to collapse or posing other immediate peril; or

(2) The owner or person responsible has failed to comply with an order of the Building Official to secure the building or structure issued pursuant to Section [1302.05](#).

(B) Whenever a building or structure is subject to being secured pursuant to this section the Building Official shall:

(1) Serve the building owner as determined from the official land records of Hamilton County by personal delivery, by certified mail return receipt requested, or by priority mail with delivery confirmation with a notice of intent to secure.

(2) The Building Official shall also post a copy of the notice of intent to secure on the building.

(3) The notice of intent to secure shall set forth the street address of the building and the date of intended entry on the premises in order to secure the building.

(C) Upon service of notice of intent to secure the premises pursuant to Section [1302.06\(b\)](#) and upon the failure of the owner to secure the premises within the time specified in the order, the Building Official shall cause it to be secured through any available public agency or contract or arrangement by private persons.

(D) Any person who owns any interest in a building other than a lien shall be jointly and severally liable for the costs incurred by the Building Official pursuant to [1302.06](#) and for service of notice.

(E) The owner or owners shall be billed directly by priority mail with delivery confirmation certified mail, return receipt requested, or by posting a copy of the bill upon the building if the Building Official is unable to contact the owner for the cost. The bill for the cost shall be paid within thirty days after receipt of the bill.

(F) If the costs are not recovered, the Building Official shall recover all costs, including administrative and related costs incurred from the persons liable for such costs by either of the following:

(1) The Council Clerk shall certify the total cost together with a property description of the lands to the County Auditor who shall place the costs upon the tax duplicate. The costs are a lien upon such lands from and after the date of entry. The costs shall be collected as other taxes and returned to the City.

(2) The City may also commence a civil action to recover the total costs from the owner in a court of competent jurisdiction.

1302.07 OBLIGATIONS OF OWNERS OF VACATED BUILDINGS OR STRUCTURES.

(A) The owner of a building or structure kept vacant by the owner, or ordered in whole or in part vacated or kept vacant by the Building Official, shall apply for a Vacant Building Maintenance License. The owner shall also cause the premises to conform to the minimum standards of safety and structural integrity set forth in Section [1302.09](#).

(B) The owner of a building or structure kept vacant or ordered in whole or in part vacated or kept vacant by the Building Official shall acquire or otherwise maintain general liability insurance in an amount of not less than \$300,000 for buildings designed primarily for use as residential units, including buildings containing no more than four dwelling units. For any other building, including, but not limited to, buildings designed for manufacturing, industrial, storage, or commercial uses, including buildings containing five or more dwelling units, the owner shall acquire or maintain not less than \$1,000,000 of general liability insurance. Any insurance policy acquired after an order to vacate or keep the building vacant shall provide for written notice to the Building Official within thirty (30) days of any lapse, cancellation, or change in coverage. Upon request, the owner shall provide evidence of the insurance to the Building Official.

(C) An owner who keeps a property vacant or is subject to Section [1302.01](#) shall apply for a Vacant Building Maintenance License and obtain liability insurance in the amount required by subsection (b) within 30 days from the date of issuance of the initial order to vacate the building or portion thereof. The owner shall cause the premises to conform to the minimum standards of safety and structural integrity set forth in Section [1302.09](#) within 60 days from the date of the issuance of the initial order to vacate the building or portion thereof. The Building Official may

extend the time in writing, upon the owner showing good cause for extension. Any such extensions of time shall not exceed a total of 180 days, following the expiration of the 60 day period.

(D) If the owner of a building kept vacant or ordered vacated or kept vacant by the Building Official fails to comply with Section [1302.07\(b\)](#) or Section [1302.09](#) or fails to renew the license as provided in Section 1325.10 prior to the annual renewal date or due date, the Building Official may charge the owner or person in control with failure to comply with orders pursuant to Section [1302.99](#) and take other action as authorized by this Chapter. The annual renewal date shall be the anniversary of the date that the building or portion thereof was initially ordered to be vacated or kept vacant.

(E) The owner may apply for up to a two year waiver of the license fee if the owner demonstrates with satisfactory proof that the owner has both a development plan and a satisfactory financing commitment in place. The owner will apply for this waiver with the Building Official who will make a recommendation to City Council, which shall determine whether a waiver shall be granted upon each application. During the waiver period, the property shall comply with all applicable provisions of the Deer Park Property Maintenance Code.

1302.08 VACANT BUILDING MAINTENANCE LICENSES.

(A) An application for a Vacant Building Maintenance License shall be made on a form provided by the Building Official and signed by the owner. The application shall disclose all measures to be taken to ensure that the building will be kept weathertight and secure from trespassers, safe for entry by police officers and firefighters in times of emergency, and, together with its premises, free from nuisance and in good order.

(B) At the time of application, the owner shall arrange for a preliminary inspection of the premises by the Building Official in the presence of the owner or an agent of the owner having responsibility for maintenance of the premises. The Building Official shall ensure that:

(1) The building is adequately protected from intrusion by trespassers and from deterioration by the weather in accordance with the vacated building maintenance standards set forth in Section [1302.09](#); and

(2) Allowing the building to remain will not be detrimental to the public health, safety and welfare, will not unreasonably interfere with the reasonable and lawful use and enjoyment of other premises within the neighborhood, and will not pose any extraordinary hazard to police officers or fire fighters entering the premises in times of emergency.

If the inspection reveals that the building is in compliance with the vacated building maintenance standards set forth in Section [1302.09](#) and is adequately protected from intrusion by trespassers and from deterioration by the weather, the Building Official shall issue a Vacant Building Maintenance License.

(C) If the property is not in compliance and upon request by the owner, the Building Official shall, after completing the preliminary inspection, issue a report in writing to the owner specifying the reasons why the premises does not conform with the vacated building maintenance standards set forth in Section [1302.09](#). The Building Official shall then provide time for the owner to bring the property into compliance with Section [1302.09](#). Such time shall not exceed thirty (30) days. Upon conclusion of the time for compliance, the Building Official shall conduct a final inspection to determine if the premises conforms with the vacated building maintenance standards set forth in Section [1302.09](#).

(D) If the owner fails or refuses to consent to and arrange for an inspection, the Building

Official shall apply to a court of competent jurisdiction for an administrative search warrant.

1302.09 VACATED BUILDING MAINTENANCE STANDARDS.

(A) A building or structure shall be deemed adequately protected from intrusion by trespassers and from deterioration by the weather if:

(1) Building openings: Doors, windows, areaways and other openings are weathertight and secured against entry by birds, vermin and trespassers. Missing or broken doors, windows and opening coverings are covered with at least one half inch of CDX plywood, weather protected, tightly fitted to the opening and secured by screws or bolts.

(2) Roofs: The roof and flashings are sound, tight, will not admit moisture, and drained to prevent dampness or deterioration in the walls or interior.

(3) Drainage: The building gutters and downspouts are watertight and entire storm drainage system is adequately sized, installed in an approved manner, functional and discharged in an approved manner.

(4) Building Structure: The building is maintained in good repair, structurally sound, free from debris, rubbish and garbage, and sanitary, and interior floors, walking surfaces and stairs are structurally sound, and interior walls and ceilings are free of loose or hanging plaster and finishes, so as not to pose a threat to the public health or safety.

(5) Structural Members: The structural members are free of deterioration and capable of safely bearing imposed dead and live loads.

(6) Foundation Walls: The foundation walls are plumb, free from open cracks and breaks, and rat-proof.

(7) Exterior Walls: The exterior walls are free of holes, breaks, and loose or rotting materials. Exposed metal and wood surfaces are protected from the elements and against decay or rust by periodic application of weather coating materials, such as paint or similar surface treatment.

(8) Decorative Features: The cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features are safe, anchored, and in good repair. Exposed metal and wood surfaces are protected from the elements and against decay or rust by periodic application of weather coating materials, such as paint or similar surface treatment.

(9) Structure Extensions: All balconies, porches, canopies, marquees, metal awnings, cornices, stairways, fire escapes, standpipes, exhaust ducts and similar features are in good repair, anchored, safe and sound. Exposed metal and wood surfaces are protected from the elements and against decay or rust by periodic application of weather coating materials, such as paint or similar surface treatment.

(10) Chimneys and Towers: Chimneys, cooling towers, smokestacks, and similar appurtenances are structurally safe. Exposed metal and wood surfaces are protected from the elements and against decay or rust by periodic application of weather coating materials, such as paint or similar surface treatment.

(11) Sidewalk Openings: Yardwalks, steps, and openings in sidewalks are safe for pedestrian travel.

(12) Accessory and Appurtenant Structures: Accessory and appurtenant structures such as garages, sheds, and fences are free from safety, health, and fire hazards.

(13) Premises: The premises on which a structure is located are clean, safe and sanitary, maintained free of weeds, junk cars, and litter, and do not pose a threat to the public health or safety.

(14) Signs: All signs and sign structures shall be removed pursuant to Section 1145.15 of

the Codified Ordinances of the City of Deer Park .

1302.10 PROCEDURE FOR RENEWAL.

(A) At the time of application for a renewal of a Vacant Building Maintenance License the owner shall arrange with the Building Official for the inspection of the building, its premises and interior. If the owner fails or refuses to consent to and arrange for an inspection, the Building Official shall not renew the Vacant Building Maintenance License.

(B) The Building Official shall renew a Vacant Building Maintenance License if, after following an inspection, he or she is satisfied that:

(1) The building is in compliance with the vacated building maintenance standards set forth in Section [1302.09](#).

(2) The building is adequately protected from intrusion by trespassers and from deterioration by the weather.

(3) The presence of the building will not be detrimental to the public health, safety and welfare.

(4) The presence of the building will not unreasonably interfere with the reasonable and lawful use and enjoyment of other premises within the neighborhood.

(5) The building will not pose any extraordinary hazard to police officers or fire fighters entering the premises in times of emergency.

Otherwise the Building Official shall deny renewal.

(C) The license renewal shall be for one year, which renewal shall run from the anniversary of the date that the building or portion thereof was initially vacated by the Building Official.

1302.11 FEES.

(A) The fee for application for a Vacant Building Maintenance License is based on the duration of time the building has been ordered vacated or kept vacated as determined by the following scale:

(1) \$900.00 for properties that have been ordered vacated or kept vacant for less than one year;

(2) \$1,800.00 for properties that have been ordered vacated or kept vacant for at least one year but less than two years;

(3) \$2,700.00 annually for properties that have been ordered vacated or kept vacant for at least two years but less than five years;

(4) \$3,500.00 annually for properties that have been ordered vacated or kept vacant for at least five years.

(B) The fee shall be paid at the time of application and deposited in the general fund. Upon any initial application for a license, or upon the first renewal of a license following the implementation of the above listed fee structure, all persons shall be required to pay the \$900.00 fee, and will thereafter pay the designated annual fee based on the graduated fees, listed herein.

(C) The fee for renewal of a Vacant Building Maintenance License to be determined by the scale in Section [1302.11\(a\)](#), shall be paid at the time of application for renewal and deposited in the building hazard abatement fund. A renewal license shall expire on the annual renewal date. The annual renewal date shall be the anniversary of the date that the building or portion thereof was initially vacated or kept vacant by the Building Official.

(D) If the owner fails to obtain a Vacant Building Maintenance License within the time provided by Section [1302.07](#) or if the owner fails to apply for renewal of a Vacant Building Maintenance License before the annual renewal date, the Building Official shall charge a late

fee equal to the license or renewal fee or \$1,000.00, whichever is less. If the owner fails to pay the amount due for the license, for renewal of the license, or as a fine for being out of compliance with the vacant building requirements, said amount shall constitute a debt due and owing to the city.

(E) The Building Official shall refund fifty percent (50%) of the annual fee for a Vacant Building Maintenance License paid if the subject building is brought into compliance with standards of the Deer Park Building Code and Deer Park Maintenance Code and reoccupied within one year of payment of the application fee.

1302.12 APPEALS.

(A) Any person directly affected by any notice issued in connection with this Chapter may request and shall be granted a hearing before the Board of Zoning Appeals .

(B) An appeal to the Board of Zoning Appeals may be taken by any owner or individual affected by any decision by the Building Official or by the enforcement of any provision of this chapter. Such an appeal shall be in the form of a written petition, filed in the office of the Board of Zoning Appeals within thirty days from the date the notice was received or before the expiration of time for compliance stated in the notice, whichever is first.

(C) The Board of Zoning Appeals shall meet within thirty days after the filing of any appeal and also periodically if the volume of its work warrants.

(D) In exercising its powers, the Board of Zoning Appeals may reverse, affirm, or modify the order.

(E) If the Board of Zoning Appeals affirms the order of the Building Official, the owner shall have seven calendar days to comply with the order.

(F) Any person aggrieved by the decision of the Board of Zoning Appeals may appeal the decision to a court of competent jurisdiction within thirty days of the decision by the Board. Such appeal shall stay the order.

1302.13 VALIDITY.

(A) If any section, subsection, paragraph, sentence, clause or phrase of this Chapter shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this Chapter which shall continue in full force and effect, and the provisions of this Chapter are hereby declared to be severable.

(B) This Chapter shall not affect violations of any other ordinance, code, or regulation existing prior to the effective date hereof, and any such violation shall be governed and shall continue to be punishable to the full extent of the law under the provisions of the ordinances, codes, or regulations in effect at the time the violation was committed.

1302.99 PENALTY.

Any person being the owner, agent, or having control of any building or premises, who fails to obtain a Vacant Building Maintenance License pursuant to Section [1302.08](#) or violates any provisions of this Chapter shall be guilty of a misdemeanor of the first degree. Each day such violation continues after receipt of a violation notice shall be considered a separate offense.