

EXHIBIT "A"

**CHAPTER 1458: REGISTRATION OF VACANT PROPERTY
WITHIN URBAN CORE CENTRAL (UC-C) ZONING DISTRICTS**

§ 1458.01 PURPOSE.

This Chapter is adopted to establish a program for identifying and registering vacant property within the City's Urban Core Central (UC-C) Zoning Districts 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, Vacant Property 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.

§ 1458.02 DEFINITIONS.

For the purposes of this chapter, the follow definitions apply unless otherwise expressly stated, the following terms shall for the purpose of this chapter, have the following meanings:

AUTHORIZED AGENT. A person that resides within Butler or Warren County, Ohio who shall be authorized in writing by the Owner or person in control of a Vacant Property 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.

CHIEF BUILDING OFFICIAL. The Chief Building Official for the City of Middletown or his or her designee.

COMMERCIAL BUILDING. The land and improvements to land which are owned or occupied for general commercial and income producing purposes and where production of income is a factor to be considered in arriving at true value, including, but not limited to, apartment houses, hotels, motels, theaters, office buildings, warehouses, retail and wholesale stores, bank buildings, commercial garages, commercial parking lots, and shopping centers. Commercial building also includes any buildings that contain both a commercial building and residential building use within the same facility, also known as mixed-use building.

EVIDENCE OF VACANCY. 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 include, but are not limited to, no or 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, automobile 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 neighboring property owners, delivery persons, U.S. Postal service employees, and/or governmental employee(s) that the building is vacant.

FIRE CHIEF. The Fire Chief of the City of Middletown or his or her designee.

FIRE CODE. Part 16 of the City of Middletown's Codified Ordinances.

FIRE DEPARTMENT. The City of Middletown Division of Fire.

FIRE MARSHALL. The individual designated by the City of Middletown Division of Fire as the Fire Marshall or his or her designee.

KEY BOX. 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.

OWNER. 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 Butler 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 operational 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.

PERSON. An individual, partnership, association, syndicate, company, firm, trust, corporation, Government Corporation, department, bureau, agency, or any entity recognized by law.

PERSON IN CONTROL. 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.

PROPERTY. Any structure, or part thereof, that is used, or designed to be used for any private or public residential, commercial, manufacturing, or industrial business purposes whether or not legally zoned for such use. "Property" means not only the vacant residential, commercial, manufacturing 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 Property, including, but not limited to, fences, walkways, walls, and appurtenances.

RESIDENTIAL BUILDING. The land and improvements to the land used and occupied by one, two, or three families.

UNOCCUPIED. Any of the following: (1) a property that is not being used for the occupancy authorized by the Owner; (2) multi-unit structures in which 50% or more of the units or 50% of the square footage (or both) is not lawfully occupied by a tenant or tenants or in that is lacking in commercial activity.

VACANT PROPERTY. A structure or part thereof that is unoccupied by its Owner, lessee or other person in lawful possession, or at which lawful manufacturing, industrial or commercial business operations and/or occupancy has ceased, or which is devoid of content. A structure is deemed a Vacant Property if it is:

1. Unoccupied and unsecured; or
2. Unoccupied and secured by other than normal means as determined by the Chief Building Official or their designee; or
3. Unoccupied and determined to be unsafe as determined by the Chief Building Official and Fire Marshal; or
4. Unoccupied and having utilities disconnected; or
5. Unoccupied and has property maintenance violations; or
6. Illegally occupied, including loitering and vagrancy; or
7. Unoccupied for a period of time more than 90 days and having an existing code violation issued by the Development Code Administrator; or
8. Unoccupied with a mortgage status of abandonment (i.e., deceased or foreclosed); or
9. Unoccupied and abandoned by the Owner; or
10. Not used for its intended purpose for more than 180 days.

§ 1458.03 OBLIGATIONS OF OWNERS AND PERSONS IN CONTROL.

An Owner or person in control of a Vacant Property shall perform all of the following:

1. Register the Vacant Property with the Administrative Services Department in accordance with the requirements of this Chapter.
2. Designate an authorized agent if the Owner or person in control of the Vacant Property does not reside within Butler or Warren County, Ohio or a contiguous county.
3. Submit a Vacant Property Plan which shall be approved by the Chief Building Official and Fire Marshall in accordance with section 1458.07 of this Chapter.
4. At all times maintain the property in accordance with the vacant Building Maintenance standards set forth in section 1458.08 of this Chapter.
5. Acquire or otherwise maintain general liability insurance covering the Vacant Property and property in an amount of not less than one million dollars (\$1,000,000).

The insurance policy shall provide for written notice to the City of Middletown within thirty (30) days of any lapse, cancellation, or change in coverage.

§ 1458.04 REGISTRATION.

Vacant Property within the City's UC-C Zoning District shall be registered by the Owner or person in control thereof with the Administrative Services Department within sixty (60) days after the effective date of this Chapter and no later than December 31st of every year thereafter. Every property that subsequently becomes vacant shall be registered by the Owner or person in control thereof with the Administrative Services Department within thirty (30) days from the date of the last occupancy, or within thirty (30) days of being notified by the Administrative Services Department of the requirement to register based on evidence of vacancy.

Registration shall be made on forms provided by the Administrative Services Department and verified by the Owner or person in control of the Vacant Property 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 Property and property;
4. If the Vacant Property 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 Property and the permanent parcel tax identification number of the land on which the Vacant Property is located;
6. The date on which the building became vacant or will become vacant;
7. The reason for the vacancy and the estimated length of time the building is expected to remain vacant;
8. A certificate of general liability insurance in the amount required by section 1458.03; and
9. A vacant Property Plan in accordance with section 1458.07.

No person shall furnish false information to the Administrative Services Department in the Registration Form.

Registration shall be valid until December 31st of each year, unless a transfer of title to the Vacant Property has been completed.

No person, including but not limited to, an Owner, person in control, purchaser, escrow agent, real estate agent, or realtor, shall participate in a transfer of title to, or disburse proceeds from a transfer of title to, a Vacant Property without having in escrow with the escrow agent handling the transfer of title to the property, a copy of a registration form completed by the purchaser of the property and the annual registration fee in an amount based on the duration of time the building has been vacant.

The escrowed documents and the annual registration fee shall be forwarded to the Administrative Services Department upon the transfer of title. The annual registration fee shall not be prorated. In the event that the transfer of title is completed within ninety (90) days from the end of the calendar year, the annual registration fee shall be applied to the following calendar year.

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

§ 1458.05 REGISTRATION FEES.

The fees imposed by this Chapter shall be reasonably related to the administrative costs for registering and processing the vacant building owner registration form, for the costs incurred by the City in monitoring the vacant building site and to sufficiently discourage the accumulation of blight and disrepair in the UC-C Zoning District. 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 two hundred dollars (\$200.00) 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 three thousand two hundred dollars (\$3,200) 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 four hundred dollars (\$400.00) for the first year the building remain 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 six thousand four hundred dollars (\$6,400) 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 all applicable penalties as outlined in Section 1458.99 of this Chapter.

- (d) The fee shall be paid in full prior to the issuance of any building permits unless the property is granted an exemption. The fee shall be prorated by day and a refund may be issued if the building is no longer deemed vacant under the provisions of this chapter within 180 days of its registry.
- (e) All delinquent fees shall be paid by the owner prior to any transfer of an ownership interest in the vacant building.
- (f) Late fees shall be paid in addition to the annual registration fee and will be equal to one-fourth of the annual fee. Fees incurred prior to the modification above will be assessed under the ordinance at the time they were reviewed.

If an Owner or person in control of a Vacant Property or a purchaser fails, neglects or refuses to pay a registration fee within the time ordered pursuant to this section then the designated administrator of the registry shall so notify the Finance Director. The Finance Director 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 Finance Director 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.

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.
- (b) 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 fire or extreme weather event if the property owner submits a request for exemption in writing to the Administrative Services Department. 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 12 months from the start of vacancy, provided that the owner or owner's representative submits proof to the Administrative Services Department of such listing and for sale status.
- (d) A building that has been granted an exemption pursuant to the following. Any owner of a vacant building may request an exemption from the provisions of this chapter by filing a written application with Administrative Services Director who shall timely consider same. In determining whether a request for exemption should be granted, the Director shall consider the following: the applicant's prior record as it pertains

to City Housing Code, Building Code or Property Maintenance Code violations; the amount of vacant property the applicant currently has within the City; and the length of time that the building for which the exception is sought has been vacant.

The City shall refund the vacant property registration fee paid if the subject building is brought into compliance with standards of the Ohio Building Code and reoccupied within one year of payment of the annual registration fee. The refund shall be for the amount of the registration fee paid during the calendar year in which the building was approved for re-occupancy. Registration fees paid in previous years shall not be refunded.

§ 1458.06 INSPECTION.

At the time of registration the Owner or person in control may arrange for an inspection of the property by the Chief Building Official and Fire Marshall 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.

If the Owner or person in control fails or refuses to consent to and arrange for an inspection, the Chief Building Official or Fire Marshall may obtain a search warrant from a court of competent jurisdiction to authorize inspection of the property.

§ 1458.07 VACANT PROPERTY PLAN.

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

1. Demolition. If the Vacant Property is to be demolished, the Vacant Property 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 Property is to remain unoccupied, the Vacant Property Plan shall contain all of the following:

A plan for fire alarm and fire protection as required by all applicable State and City regulations and as approved by the Fire Marshall.

A plan of action to remedy any declared public nuisance or code violation existing in the building or on the property.

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 Building Official.

A regular maintenance plan for all exterior lighting and illumination fixtures.

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 Chief Building Official.

A plan of action to maintain the vacant property and property in compliance with the vacant Property Maintenance Standards set forth in section 1458.08 of this Chapter.

3. Rehabilitation. If the Vacant Property is to be returned to lawful occupancy or use, the vacant Property Plan shall include a rehabilitation time frame for the building and property. The rehabilitation time frame shall not exceed twelve (12) months. The City Manager or their designee 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 Property Maintenance Standards as provided in section 1458.08 of this Chapter at all times during rehabilitation.

§ 1458.08 VACANT PROPERTY MAINTENANCE STANDARDS.

All vacant commercial and industrial property within a UC-C Zoning District shall be maintained in accordance with the following Vacant Property Maintenance Standards:

1. Exterior openings, except those prohibited by section 1458.07, 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 Administration's National Arson Prevention Initiative Board up Procedures shall be kept on file with the Fire Department and Administrative Services Department.
2. A Vacant Property shall be protected from deterioration and maintained in accordance with the Property Maintenance Code set forth in Chapter 1436 of the Codified Ordinances of the City of Middletown.
3. A Vacant Property and the property on which it is located shall be kept clean, safe, sanitary and free from public nuisance in accordance with Chapter 1458 and Chapter 1436 of the Codified Ordinances of the City of Middletown.

4. A Vacant Property shall display a hazardous identification placard that is readily visible from normal access points of the building pursuant to the Middletown Fire Department and in accordance with the International Association of Arson Investigators UAAI Vacant/Abandoned Building Marking system.
5. A key box shall be installed on each Vacant Property in the City in case immediate access to the interior of the building by Division of Fire personnel is necessary for life-saving or firefighting purposes. Each key box shall be of a type that is approved by the Fire Marshall. The key box shall be installed in accordance with manufacturer's recommendations and shall be installed in a location approved by the Fire Marshall. 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 Division of Fire and provide the new key when a lock is changed or rekeyed. The key to such lock shall be secured in the key box.

§ 1458.09 NOTICE OF VIOLATION.

Whenever the Chief Building Official 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 with the Building and Housing Board of Appeals in the manner and within the time limitations provided for in Chapter 1460 of the Middletown Codified Ordinances; 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.

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 Owner or occupant of the property or by leaving the notice at the property with a person of suitable age and discretion; or

2. By certified mail, return receipt requested, to the person or persons responsible at their last known address and/or address on record in the County Auditor's records. 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.

§ 1458.10 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 Chief Building Official shall give notice to the Administrative Services Director, or their designee, that the building or structure is open and unsecure. The Administrative Services Director, or their designee, may proceed with any requirements of section 1458.08 to secure the property. In the event a City employee may be utilized to complete any abatement work, Upon the completion of such labor, the department performing the work 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 Administrative Services Department to the Finance Director of the City who shall make a return in writing to the 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.

§ 1458.11 APPEALS.

Any person aggrieved by an order of the Chief Building Official, or whenever the Chief Building Official fails to approve a Vacant Property Plan as required in section 1458.07 of this Chapter, the person may file an appeal with the Building and Housing Board of Appeals in the manner and within the time limitations provided for in Chapter 1460 of the Codified Ordinances.

§ 1458.12 INTERPRETATION OF CHAPTER.

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

§ 1458.99 PENALTY; EQUITABLE REMEDY.

- (a) Whoever violates or fails to comply with any of the provisions of this chapter is guilty of a minor misdemeanor and shall be fined not more than one hundred dollars (\$100.00). A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

(b) The application of the penalty provided in division (a) hereof shall not be deemed to preclude the enforced removal of prohibited conditions or the application of any other equitable remedy.