

## ORDINANCE 2024 – 05

### AN ORDINANCE AMENDING CHAPTER 18 ARTICLE XII REGISTRATION AND REGULATION OF VACANT BUILDINGS

**WHEREAS** the City Council finds that vacant property registration allows the city to hold owners of property responsible for maintaining certain minimum standards of property care and condition, and

**WHEREAS** such registration will protect the health and well-being of the citizens of the community.

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and City Council this 9<sup>th</sup> day of July, 2024, that Chapter 18 Article XII of the City of Darlington Code of Ordinances is, hereby, repealed in its entirety and amended to read as follows:

#### ARTICLE XII. REGISTRATION AND REGULATION OF VACANT BUILDINGS

##### **Sec. 18-273. Policy.**

The purpose of Sections 18-273 through 18-283 is to protect the public health, safety, and welfare by establishing a program for the identification and regulation of vacant buildings within the city. Sections 18-273 through 18-283 also determine the responsibilities of owners of vacant buildings and provide for administration, enforcement, and penalties associated with the same.

##### **Sec. 18-274. Findings.**

Vacant buildings are a major cause and source of blight in residential and nonresidential neighborhoods, especially when the owner or responsible party of the building fails to actively maintain and manage the building to ensure it does not become a liability to the neighborhood. Vacant buildings often attract transients, homeless people, trespassers, and criminals, including drug abusers. Neglect of vacant buildings, as well as use of vacant buildings by transients and criminals, creates a risk of fire, explosion, or flooding for the vacant building and adjacent properties. Vacant properties are often used as dumping grounds for junk and debris and are often overgrown with weeds and grass. Vacant buildings that are boarded up to prevent entry by transients and other long-term vacancies discourage economic development and retard appreciation of property values. There is a substantial cost to the city for monitoring vacant buildings whether or not those buildings are boarded up. This cost should not be borne by the general taxpayers of the community but rather these costs should be borne by those who choose to leave their buildings vacant.

##### **Sec. 18-275. Definitions.**

The following definitions shall apply in the interpretation and enforcement of Sections 18-273 through 18-283.

**Building** means a building or structure designed for business use or human use or occupancy.

**Compliance official** means the city manager and the city manager's designated agents who are authorized to administer and enforce Sections 18-273 through 18-283 of this Code.

**Owner.** Those shown to be the owner or owners on the records of the Darlington County Assessor's Office; those identified as the owner or owners on a vacant building registration form, a holder of an unrecorded contract for deed, a mortgagee or vendee in possession, a mortgagor or vendor in possession, an assignee of rents, a receiver, an executor, a trustee, a lessee, other person, firm or corporation in control of the freehold of the premises or lesser estate therein. An owner also means any person, partnership, association, corporation, or fiduciary having a legal or equitable title or any interest in the property or building. This includes any partner, officer, or director of any partnership, corporation, association or other legally constituted business entity. All owners shall have joint and several obligations for compliance with the provisions of sections 18-273 through 18-283 of this Code.

**Responsible party** means an owner, occupant, entity or person acting as an agent for the owner who has direct or indirect control or authority over the building or real property upon which the building is located. Any party having a legal or equitable interest in the property. A responsible party may include, but is not limited to, a realtor, service provider, mortgagor, leasing agent, management company, or similar person or entity.

**Vacant building** means any structure built for occupancy of residential, commercial, or industrial uses that is unoccupied.

**Vacant building; Categorical Classification Standards:** A building or portion of a building which is:

- (1) **Category I:** No current code violations on the structure or the premise.
  - a. The building is secure, not boarded.
  - b. The building is structurally sound with no code violations.
  - c. The property is maintained to minimal code by owner or responsible party.
- (2) **Category II:** Minimal code violations.
  - a. The building is boarded and secure.
  - b. The building is structurally sound with minor code violations.
  - c. The property is not regularly maintained.
- (3) **Category III:** Severe code violations.
  - a. The building is boarded or needs to be boarded.
  - b. Structural deficiencies are evident.
  - c. History of criminal activity at the address.
  - d. Structure is unfit for occupancy.
  - e. The property is not maintained.

## **Sec. 18-276. Vacant building registration.**

- (a) **Application.** The owner or responsible party must register a vacant building with the city no later than forty-five (45) days after the building becomes vacant. The registration must be submitted on a form provided by the city and shall include the following information supplied by the owner:
  - (1) The name, address, telephone number, and email address, if applicable, of each owner or the owner's representative.
  - (2) The names, addresses, telephone numbers, and email addresses, if applicable, of all known lien holders and all other parties with any legal interest in the building.
  - (3) The name, address, telephone number, and email address, if applicable, of a local agent or person responsible for managing or maintaining the property.

- (4) The legal description, tax parcel identification number, and street address of the premises on which the building is situated.
  - (5) A description of the premises, including the common address of the property.
  - (6) The date the building became vacant, the period of time the building is expected to remain vacant, and a property plan and timetable for returning the building to appropriate occupancy or use and for correcting Code violations and nuisances, or for demolition of the building.
  - (7) The status of water, sewer, natural gas and electric utilities.
  - (8) The owner must notify the compliance official of any changes in information supplied as part of the vacant building registration within 30 days of the change.
- (b) **Property plan.** The property plan identified in Section 18-276(a)(6) must meet the following requirements:
- (1) **General provisions.** The plan must comply with all applicable regulations and meet the approval of the compliance official. It must contain a timetable regarding use or demolition of the property. The plan must be completed within 30 days after the building is registered.
  - (2) **Maintenance of building.** The plan must identify the means and timetable for addressing all maintenance and nuisance-related items identified in the application. Any repairs, improvements or alterations to the property must comply with the applicable building codes and city regulations.
  - (3) **Plan changes.** If the property plan or timetable for the vacant building is revised in any way, the revisions must meet the approval of the compliance official.
  - (4) **Demolition required.** If a building has remained vacant for a period of 365 consecutive days, and the compliance official has not approved an alternative schedule in the property plan, the owner must demolish the building and restore the grounds. If the owner does not demolish the building, the city may commence abatement and cost recovery proceedings for the abatement of the violation in accordance with City Code Section 19-105.
- (c) **Non-compliance and notification.** If the owner does not comply with the property plan or maintain or correct nuisance items, the city may commence abatement and recover its costs for correction of those items. In the case of an absent owner and ongoing nuisance items, the city need not provide notice of each abatement act to the owner. A single notice by the city to the owner that it intends to provide ongoing abatement until the owner corrects the items will be sufficient notice.
- (d) **Fees.** The owner must pay an annual registration fee. The annual registration fee will be based on the use and the number of years that the building has been vacant (after the effective date of the ordinance from which this article derives). All fees are due at the time of registration or renewal.

(1) Fees for non-residential structures are as follows:

YEAR	CATEGORY I	CATEGORY II	CATEGORY III
Initial Registration	\$0	\$0	\$0
1 <sup>st</sup> Annual Year	\$100	\$150	\$200
2 <sup>nd</sup> Annual Year	\$500	\$750	\$1,000
3 <sup>rd</sup> Annual Year	\$1,000	\$1,500	\$2,000
Each Year Thereafter	\$1,500	\$2,250	\$3,000

(2) Fees for Residential structures are as follows:

YEAR	CATEGORY I	CATEGORY II	CATEGORY III
Initial Registration	\$0	\$0	\$0
1 <sup>st</sup> Annual Year	\$0	\$50	\$100
2 <sup>nd</sup> Annual Year	\$0	\$250	\$500
3 <sup>rd</sup> Annual Year	\$0	\$500	\$1,000
Each Year Thereafter	\$0	\$500	\$1,000

(e) An annual compliance inspection fee of \$50.00 is required on all non-exempt vacant buildings. The fee shall be paid at the time of registration.

(f) **Exemptions** from annual registration fees shall be granted for the following situations upon notification in writing to the code enforcement division. Registration is still required.

(1) Residential and commercial buildings that are actively being marketed for sale or rent (up to one year, longer by appeal). Must be maintained to minimum code for the duration on the market.

(2) Buildings that are actively being renovated. Repairs and progression must be noticeable by the inspector (up to one year, longer by appeal).

(3) Properties that are in probate and actively being transferred.

(4) Structures damaged by a fire or weather event may be exempt for up to one year.

(5) Financial hardship.

(6) Category I structures that have not had citations within the last twelve (12) months.

(7) Buildings owned by the government or a successor-in-interest to the government, provided the vacancy began during the government ownership; and/or

(8) Buildings that are structurally deficient that have been ordered by the city to be demolished and removed, in which the owner has provided consent to the city to demolish, and the city has accepted the consent. Liens are to be placed against the property to cover the cost of demolition.

(g) **Assessment.** If the registration fee or any portion is not paid within sixty (60) days after billing, or within sixty (60) days after any appeal becomes final, the city shall proceed to collect the unpaid cost against the property in a manner as a service fee assessed to be collected with the annual property tax.

(h) **Issuance of permit.** Upon completion of the registration process and payment of the fee, the city will issue a vacant building permit to the owner. The owner must securely post the permit on the vacant building, if possible, on a side entrance door that is not generally visible from the public street. If no side entrance door is available, the permit must be securely posted on another available entrance door.

If the property is abandoned or the owner or responsible party fails to complete the registration process, the property will be administratively registered as a vacant property.

### **Sec. 18-277. Change of ownership.**

A new owner(s) must register or re-register a vacant building under Section 18-276 within forty-five (45) days of any transfer of an ownership interest in a vacant building. The new owner(s) must comply with the approved property plan and timetable submitted by the previous owner. Any proposed changes in the property plan must be submitted and approved by the compliance official.

### **Sec. 18-278. Inspections.**

The compliance official may inspect any vacant building in the city for the purpose of enforcing and assuring compliance with Sections 18-273 through 18-283 and other applicable regulations. Upon the request of the compliance official, the owner or responsible party must provide access to all interior portions of the building and the exterior of the property in order to complete an inspection. If the owner or responsible party is not available to provide access to the interior of the building, the city may use any legal means to gain entrance to the building for inspection purposes. Prior to any re-occupancy, a vacant building must be inspected by the city and found to be in compliance with Chapter 18 of the city Code and all other applicable regulations. All application and reinspection fees must also be paid prior to any re-occupancy of the building. All such fees are set by resolution of the city council.

### **Sec. 18-279. Maintenance of vacant buildings.**

The owner must comply with and address the following items in the property plan, as described in Section 18-276 (2):

(1) **Appearance.** All vacant buildings must be so maintained and kept that they appear to be occupied.

(2) **Securing.** All vacant buildings must be secured from outside entry by unauthorized persons or pests. Security must be by the normal building amenities such as windows and doors having adequate strength to resist intrusion. All doors and windows must remain locked. There shall be at least one operable door into every building and into each housing unit. Exterior walls and roofs must remain intact without holes.

a. **Architectural (cosmetic) structural panels.** Architectural structural panels may be used to secure windows, doors and other openings provided they are cut to fit the opening and match the characteristics of the building. Architectural panels may be of exterior grade-finished plywood or medium density overlaid plywood (MDO) that is painted to match the building exterior or covered with a reflective material such as Plexi-glass to simulate windows.

b. **Temporary securing.** Untreated plywood or similar structural panels or temporary construction fencing may be used to secure windows, doors, and other openings for a maximum period of fourteen (14) days.

c. **"Artistic" board-up.** With prior approval of the compliance official, artistic options may be utilized to secure a vacant building.

d. **Emergency securing.** The compliance official may take steps to immediately secure a vacant building at his or her discretion in emergency circumstances.

(3) **Fire safety.**

a. **Fire protection systems.** Owners of nonresidential vacant buildings must maintain all fire protection systems, appliances and assemblies in operating condition and maintain underwriter laboratories (UL) monitoring of all systems.

b. **Removal of hazardous and combustible materials.** The owner of any vacant building, or vacant portion thereof, must remove all hazardous material and hazardous refuse that could constitute a fire hazard or contribute to the spread of fire.

(4) **Plumbing fixtures.** Plumbing fixtures connected to an approved water system, an approved sewage system, or an approved natural gas utility system must be installed in accordance with applicable codes and be maintained in sound condition and good repair or removed and the service terminated in the manner prescribed by applicable codes. The building's water systems must be protected from freezing.

(5) **Electrical.** Electrical service lines, wiring, outlets or fixtures not installed or maintained in accordance with applicable Codes must be repaired, removed or the electrical services terminated to the building in accordance with applicable codes.

(6) **Lighting.** All exterior lighting fixtures must be maintained in good repair, and illumination must be provided to the building and all walkways in the same manner as provided at the time the building was last occupied or as otherwise provided in the approved vacant building plan.

(7) **Heating.** Heating facilities or heating equipment in vacant buildings must be removed, rendered inoperable, or maintained in accordance with applicable codes.<sup>1</sup>

(8) **Termination of utilities.** The compliance official may require that water, sewer, electricity, or gas service to the vacant building be terminated or disconnected. Prior to the termination of any utility service, written notice must be given to the owner. No utility may be restored until consent is given by the compliance official. Utilities may be discontinued at the request of the owner or responsible party as part of the approved vacant building property plan. The compliance official may authorize immediate termination of utilities at his or her discretion in emergency circumstances.

(9) **Signage.** Obsolete or unused exterior signs and installation hardware must be removed. Holes and penetrations must be properly patched and painted to match the building. Surfaces beneath the signs that do not match the building must be repaired, resurfaced, painted or otherwise altered to be compatible with the building surfaces.

All signs must be maintained in good condition and in compliance with article V of the City of Darlington Zoning Ordinance. Auction signs or attention-getting devices may be placed on a property for no more than fourteen (14) consecutive days prior to the auction date and must be removed within three days following the auction.

(10) **Exterior maintenance.** The owner must comply with all applicable property maintenance regulations and city Codes including, but not limited to, the following:

a. **Public nuisances.** The owner must eliminate any activity on the property that constitutes a public nuisance as defined by Section 58-23 of the City Code.

b. **Grass and weeds.** Grass, weeds and all components of the exterior lot surrounding the structure must be maintained in a manner not to violate Section 70-9 – Overgrown or Unkempt Lots of the City Code.

c. **Exterior structure maintenance.** The owner must maintain the vacant building in compliance with Sections 18-273 through 18-283 as determined to be necessary by the Code official.

d. **Storage and disposal of refuse.** The storage and disposal of refuse must comply with the requirements of Chapter 70 of the City Code.

e. **Animals.** The owner must ensure that all animals are removed from the property and handled in a humane manner.

f. **Diseased, dead or hazardous trees.** The owner must remove diseased, dead or hazardous trees or branches from the property in accordance with Chapter 20 of the City code.

g. **Graffiti.** The owner must remove all graffiti from the property in accordance with city ordinance.

h. **Abandoned pools.** Swimming pools must be maintained in good operating condition; treated to prevent pest harborage; or properly drained and emptied. Swimming pools must be secured in accordance with Article VIII of Chapter 18 of the City Code.

(11) **Police protections systems.** The owner must properly maintain all alarm systems in any vacant building or portion thereof in operating condition.

(12) **Loitering, criminal activities.** Loitering or engaging in criminal activities is not allowed in the vacant building or on the real property upon which the vacant building is located. The owner or responsible party must not allow these activities and take immediate actions to eliminate these conditions once notified by the city.

(13) **Emergency abatement.** The compliance official may authorize immediate abatement of any public nuisance or maintenance item if, in the discretion of the compliance official, emergency circumstances exist that present an imminent threat to the public health and safety.

(14) **Other codes.** All other city codes and applicable regulations must be complied with.

### **Sec. 18-280. No occupancy or trespass.**

No person may trespass, occupy or reside in, on a temporary or permanent basis, any vacant building without the owner's consent.

### **Sec. 18-281. Vandalism or removal of items prohibited.**

No person may vandalize or remove items from a vacant building or the property upon which it is located, including, but not limited to, appliances, fixtures, electrical wiring, copper, or other similar items without the owner's consent.

### **Sec. 18-282. Appeal.**

Any person or responsible party aggrieved by a decision under Sections 18-273 through 18-283 may appeal to the city council. The appeal must be in writing, must specify the grounds for the appeal, and must be submitted to the city manager within ten (10) business days of the decision that is the basis of the appeal.

**Sec. 18-283. Penalties.**

Any person or responsible party who violates Sections 18-273 through 18-283 is subject to the penalty as provided under Section 18-253 of this Code. Nothing in Sections 18-273 through 18-283, however, is deemed to impair other remedies or civil penalties available to the city under this Code or state law.

This ordinance shall become effective and enforceable immediately upon its adoption.

**DONE AND RATIFIED** in City Council this 9<sup>th</sup> day of July, 2024

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**Curtis Boyd, Mayor**

**Approved as to Form:**

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**Kevin Etheridge, City Attorney**

**Attest:**

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**Gloria Pridgen, City Clerk/Treasurer**

First Reading: June 25, 2024

Public Hearing: July 09, 2024

Second Reading: July 09, 2024