

**CITY OF XENIA, OHIO
ORDINANCE 2022 – 01**

**REPEALING CHAPTER 1492, TITLED REGISTRATION OF VACANT COMMERCIAL
AND INDUSTRIAL BUILDINGS, OF THE XENIA CITY CODE**

WHEREAS, this Council, by Ordinance 14-11, adopted on February 13, 2014, enacted Chapter 1492 of the City’s Housing and Building Code, establishing the Vacant Commercial and Industrial Building Registration Program;

WHEREAS, following seven (7) years of enforcement experience, this Council finds Chapter 1492 to no longer be an effective tool in efforts to promote property revitalization and reinvestment in the City; and

WHEREAS, the Council finds it to be in the best interests of the effectiveness and efficiency of the City to repeal Chapter 1492 in its entirety.

NOW, THEREFORE, THE CITY OF XENIA HEREBY ORDAINS, at least four (4) members of the City Council concurring, that:

Section 1. Existing Chapter 1492 titled “Registration of Vacant Commercial and Industrial Buildings” is hereby repealed in its entirety, as shown in the attached Exhibit A.


Section 2. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this legislation were adopted in an open meeting of this Council and that all deliberations of this Council that resulted in this formal action were in meetings open to the public in compliance with all legal requirements, including ORC 121.22.

Section 3. This Ordinance shall be effective as of March 12, 2022.

Introduced: January 27, 2022
Adopted: February 10, 2022

Attest:


Michelle D. Johnson
City Clerk


Wesley E. Smith
President, Xenia City Council

~~CHAPTER 1492: REGISTRATION OF VACANT COMMERCIAL AND INDUSTRIAL BUILDINGS.~~

~~1492.01 DEFINITIONS.~~

~~The following words and/or phrases used in this section are defined in Chapter 1488, § 1488.01.~~

~~AUTHORIZED AGENT~~

~~BUILDING CODE~~

~~COMMERCIAL OR INDUSTRIAL BUILDING~~

~~EVIDENCE OF VACANCY~~

~~FIRE CODE~~

~~KEY BOX~~

~~PERSON~~

~~PERSON IN CONTROL~~

~~PROPERTY~~

~~VACANT COMMERCIAL OR INDUSTRIAL BUILDING~~

~~1492.02 PURPOSE.~~

~~This chapter is adopted to establish a program for identifying and registering vacant commercial and industrial buildings within the city that may present a fire hazard, become an attractive nuisance, may detract from private and/or public efforts to rehabilitate or maintain surrounding buildings, and present a hazard to the health, safety and welfare of the public. Through a registration, inspection, and monitoring process, vacant commercial and industrial buildings 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.~~

~~1492.03 OBLIGATIONS OF OWNERS AND PERSONS IN CONTROL.~~

~~(a) No owner or person in control of a vacant commercial or industrial building shall fail to do any of the following:~~

- ~~(1) Register the vacant commercial or industrial building with the Planning and Zoning Department in accordance with the requirements of this chapter.~~
- ~~(2) Designate an authorized agent if the owner or person in control of the vacant commercial or industrial building does not reside with Greene County, Ohio or a contiguous county.~~
- ~~(3) Submit a Vacant Building Plan which shall be approved by the Code Enforcement Officer in accordance with § 1492.06 of this chapter.~~
- ~~(4) Maintain the property at all times in accordance with the Vacant Building Maintenance Standards set forth in § 1492.08 of this chapter.~~
- ~~(5) Acquire or otherwise maintain general liability insurance covering the vacant commercial or industrial building 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 Code Enforcement Officer within 30 days of any lapse, cancellation, or change in coverage.~~

~~1492.04 REGISTRATION.~~

~~(a) Registration and Renewal Deadlines. All buildings located within the city that are vacant commercial or industrial buildings shall be registered by the owner or person in control thereof with the Planning and Zoning Department within 60 days after the effective date of this chapter and renewed not~~

~~later than January 15 of every year thereafter. Every commercial or industrial building that subsequently becomes vacant shall be registered by the owner or person in control thereof with the Planning and Zoning Department within 30 days from the date of the last occupancy, or within 30 days of being notified by the Planning and Zoning Department of the requirement to register based on evidence of vacancy.~~

~~(b) Forms. Registration shall be made on forms provided by the Code Enforcement Officer and verified by the owner or person in control of the vacant commercial or industrial building 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 commercial or industrial building and property;~~
- ~~(4) If the vacant commercial or industrial building 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 commercial or industrial building and the permanent parcel tax identification number of the land on which the vacant commercial or industrial building 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 § 1492.03(a)(5);~~
- ~~(9) A Vacant Building Plan in accordance with § 1492.06.~~

~~(c) False Information. No person shall furnish false information to the Planning and Zoning Department in the Registration Form.~~

~~(d) Period of Validity. Registration and renewal shall be valid until December 31 of each year, unless a transfer of title to the vacant commercial or industrial building has been completed.~~

~~(e) Transfer of Property. 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 commercial or industrial building 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 or renewal fee, if due, 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 Code Enforcement Officer upon the transfer of title. The annual registration fee shall not be prorated. In the event that the transfer of title is completed within 90 days from the end of the calendar year, the annual registration fee shall be applied to the following calendar year.~~

~~(f) Change in Registration Information. No owner or person in control of a vacant commercial or industrial building shall fail to notify the Planning and Zoning Department and file an amended registration form within seven days of any change in the registration information required by this section.~~

~~(g) Exemptions.~~

- ~~(1) 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 or person in control submits a request for exemption in writing to the Planning and Zoning Department.~~

- ~~(2) If a vacant building is under active construction/renovation and has a valid building permit(s) at the time of initial registration, the building shall be exempt from registration until the expiration of the longest running, currently active building permit.~~
- ~~(3) Government agencies shall be exempt from the requirements of this chapter.~~

~~1492.05 REGISTRATION FEES.~~

~~(a) Fee Required with Registration. The owner or person in control of a vacant commercial or industrial building shall pay an initial registration fee and annual renewal fees for consecutive, subsequent years of vacancy as specified in Part Two Title Fourteen, Chapter 298 of these Codified Ordinances. Fees shall be due at the time of registration and renewal as specified in §1492.04(a). The first renewal fee shall be waived if the initial registration due date occurs after June 30. The fee shall be based on the level of maintenance and duration of time the building has been vacant regardless of a change in ownership.~~

~~(b) Prerequisite for Building Permits. The registration shall be paid in full prior to the issuance of any building permits.~~

~~(c) Fee Rationale. Registration fees shall be reasonably related to the administrative costs of the vacant commercial and industrial building registration process and for the costs incurred by the city in monitoring vacant commercial or industrial properties. Increases in annual registration fee amounts shall be reasonably related to the city's continued administrative costs as well as enforcement and abatement costs associated with vacant buildings that have Property Maintenance, Building or Fire Code violations.~~

~~(d) Fee Reductions and Waivers. The Code Enforcement Officer may reduce or waive registration or renewal fees as follows:~~

- ~~(1) The renewal fee may be reduced by 50% if, at the time of renewal, the building has no outstanding notices or orders regarding violation of Property Maintenance, Building or Fire Codes; and has been placarded as having normal structural conditions per § 1492.08(c)(1).~~
- ~~(2) The Code Enforcement Officer shall refund the registration or renewal fee paid if the subject building is brought into compliance with standards of the Building Code and reoccupied within one year of payment of the registration or renewal fee. The refund shall be for the amount of the registration or renewal fee paid during the year in which the building was approved for re-occupancy. Registration or renewal fees paid in previous years shall not be refunded.~~
- ~~(3) The initial registration fee may be waived for up to twelve months from the time a building is required to be registered if a building is being actively marketed for sale or lease, based upon proof submitted by the owner or person in control. Actively marketing shall be defined as placement of a "for sale" or "for lease" sign on the property with accurate contact information, which is also provided to the Planning and Zoning Department, as well as at least one of the following activities:~~
- ~~A. Listing of the building with a licensed State of Ohio Realtor in the Multiple Listing Service (MLS) with the name, address, and telephone number of the realtor provided to the Planning and Zoning Department.~~
- ~~B. Placement of weekly advertisements in a newspaper or online listing.~~

~~(e) Delinquent Fees. If a registration or renewal fee is not paid by the due date specified in §1492.04(a), the fee shall be increased by 50% or \$1,000, whichever is less. The Code Enforcement Officer shall pursue collection of delinquent fees pursuant to §1492.09(b). All delinquent registration or renewal fees shall be paid by the owner prior to any transfer of an ownership interest in the vacant commercial or industrial building.~~

~~1492.06 VACANT BUILDING PLAN.~~

~~(a) The owner or person in control of the vacant commercial or industrial building shall submit a Vacant Building Plan that shall be reviewed for acceptance by the Code Enforcement Officer. The Vacant Building Plan shall be selected from and include the minimum requirements from one of the following three categories:~~

- ~~(1) *Demolition:* If the vacant commercial or industrial building is to be demolished, the Vacant Building Plan shall include a proposed time frame for demolition which shall include a commencement date within 30 days of approval of the proposed demolition time frame and shall not exceed one year in duration.~~
- ~~(2) *Secured structure:* If the vacant commercial or industrial building is to remain vacant, the Vacant Building Plan shall contain all of the following:
 - ~~A. A plan for fire alarm and fire protection as required by the Fire Chief.~~
 - ~~B. A plan of action to remedy any public nuisance existing in the building or on the property.~~
 - ~~C. A lighting plan for the exterior of the building and property, walkways adjacent thereto, parking or loading areas and nighttime illumination of areas and walkways of the building and property which may be vulnerable to vandalism and vagrancy as determined by the Police Chief.~~
 - ~~D. A regular maintenance plan for all exterior lighting and illumination fixtures.~~
 - ~~E. 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 Code Enforcement Officer.~~
 - ~~F. A plan of action to maintain the vacant commercial or industrial building and property in compliance with the Vacant Building Maintenance Standards set forth in § 1492.08 of this chapter.~~~~
- ~~(3) *Rehabilitation:* If the vacant commercial or industrial building is to be returned to lawful occupancy or use, the Vacant Building Plan shall include a rehabilitation time frame for the building and property. The rehabilitation time frame shall not exceed 12 months. The Code Enforcement Officer 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 Building Maintenance Standards as provided in § 1492.08 of this chapter at all times during rehabilitation.~~

~~1492.07 INSPECTION.~~

~~(a) At the time of registration and renewal the owner or person in control may arrange for an inspection of the property by the Code Enforcement Officer and Fire Chief 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 structural integrity of the building, that it will be safe for entry by firefighters and police officers in times of emergency, and that it complies with the requirements of this chapter.~~

~~(b) If the owner or person in control fails or refuses to consent to and arrange for an inspection, the Code Enforcement Officer or Fire Chief shall obtain a search warrant from a court of competent jurisdiction to authorize inspection of the property.~~

~~1492.08 VACANT BUILDING MAINTENANCE STANDARDS.~~

~~All vacant commercial and industrial buildings and property within the City shall be maintained in accordance with the following Vacant Building Maintenance standards:~~

~~(a) Exterior openings, except those prohibited by §1492.06(a)(2)E which cannot be secured by locking an existing door or window shall be boarded, secured, and protected from intrusion by birds, vermin and trespassers.~~

~~(b) A vacant commercial or industrial building shall be maintained, protected from deterioration and kept clean, safe, sanitary and free from public nuisance in accordance with the Property Maintenance Code, Building Code and Fire Code.~~

~~(c) A vacant commercial or industrial building shall display the following signs in a manner which is readily visible and legible from normal access points of the building:~~

~~(1) A vacant building placard consistent with Fire Code requirements for identifying unsafe vacant buildings (OAC 1301:7-7-03(K)(5)(311.5)).~~

~~(2) A sign which indicates the name, address and telephone number of the owner and the owner's authorized agent for the purpose of service of process. The name, address and telephone number of a person responsible for day to day supervision and management of the building, if such person is different from the owner or authorized agent, shall be indicated on the sign as well.~~

~~(d) A key box shall be installed on each vacant commercial or industrial building in the city in case immediate access to the interior of the building by Fire Division personnel is necessary for life saving or firefighting purposes. Each key box shall be of a type that is approved by the Fire Chief or designee. The key box shall be installed in a location approved by the Fire Chief or designee. 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 Fire Chief or designee and provide the new key when a lock is changed or rekeyed. The key to such lock shall be secured in the key box.~~

~~1492.09 VIOLATIONS.~~

~~(a) Failure to Maintain. Upon failure of the owner or person in control of a vacant commercial or industrial property to secure and maintain the property consistent with §1492.08, the Code Enforcement Officer shall serve a Notice of Violation consistent with §1492.10. Upon failure of the owner or person in control to comply with the Notice of Violation, the Code Enforcement Officer shall be authorized to enter upon the property and cause compliance with §1492.08 through any public agency or by contract.~~

~~(b) Assessment. The Code Enforcement Officer shall send a statement of fees or costs incurred pursuant to §1492.05(e) or 1492.09(a) to the owner or person in control of the property utilizing a method of service consistent with §1492.10(b). If payment of such statement is not made within 30 days of the date of the statement, the Director of Finance shall prepare a written return with a statement of the fees and/or maintenance costs and a proper description of the premises. Such written return shall be certified by the Director to the County Auditor for collection the same as other taxes and assessments are collected.~~

~~(c) Violation Penalties. Whoever violates any of the provision of this chapter shall be guilty of a misdemeanor of the first degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.~~

~~1492.10 NOTICE OF VIOLATION.~~

~~(a) Content. Whenever the Code Enforcement Officer determines that there is a violation of the provisions of this chapter, he or she shall give notice of such violation to the person or persons responsible therefor 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 and why the notice is being issued;~~
- ~~(4) Include a correction order allowing a reasonable time to bring the property into compliance with the provisions of this chapter;~~
- ~~(5) Inform the property owner of the right to appeal; 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.~~

~~(b) Service. A notice of violation shall be deemed to be properly served if one 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 or first class mail to the last known address; or~~
- ~~(3) If the notice is returned showing that the notice was not delivered, a copy thereof shall be posted in a conspicuous place in or on the property found in violation.~~

~~1492.11 APPEALS.~~

~~Any person aggrieved by an order of the Code Enforcement Officer, or whenever the Code Enforcement Officer fails to approve a Vacant Building Plan as required in §1492.06 of this chapter, the person may file an Administrative Appeal with the Board of Zoning Appeals pursuant to the procedures described in Chapter 1244 of the Xenia Codified Ordinances.~~

~~1492 INTERPRETATION OF CHAPTER.~~

~~This chapter shall not, in any manner, abrogate any of the other provisions of the Xenia Codified Ordinances pertaining to the abatement of public nuisances or unsafe buildings.~~

~~1492.13 SEPARABILITY.~~

~~If any of the provisions of this chapter, or any portion thereof, or the application of such provisions or portions to any person or circumstance, shall be held invalid, the remainder of this chapter and its application to persons or circumstances other than those to which it is held invalid shall not be affected thereby.~~