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11/3/2011	0	CITY COUNCIL	Introduced and Referred	Pass	

Amending Section PM 306 of the Philadelphia Maintenance Code, entitled "Vacant Property," by requiring owners of long term vacant properties to secure their properties against blight, all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

PM-306.7 Vacant buildings-Owner required to act-Enforcement authority.

(a) (1) The owner of any building that has become vacant shall within 30 days after the building becomes vacant or within 30 days after assuming ownership of the building, whichever is later, file a registration statement for each such building with the department of Licenses and Inspections ("L&I") on a form provided by that department for such purposes. The registration shall remain valid for six months from the date of registration. The owner is hereby required to renew the registration for successive six-month periods as long as the building remains vacant and shall pay a registration or renewal fee in the amount prescribed in paragraph (3) of this subsection (a) for each registered building; provided, however, that all eleemosynary, religious, educational, benevolent or charitable associations organized on a not-for-profit basis and all governmental agencies shall be exempt from the payment of the registration fee. The owner shall notify the department of L&I, within 20 days, of any change in the registration information by filing an amended registration statement on a form provided by the department of L&I for such purposes. The registration statement shall be deemed prima facie proof of the statements therein contained in any administrative enforcement proceeding or court proceeding instituted by the city against the owner or owners of the building. After filing a registration statement, the building owner shall provide access to the city to conduct an exterior and interior inspection of the building to determine compliance with the municipal code, following reasonable notice, during the period covered by the initial registration or any subsequent renewal.

(2) In addition to other information required by the commissioner of L&I, the registration statement shall include the name, street address and telephone number of a natural person 21 years of age or older, designated by the owner or owners as the authorized agent for receiving notices of code violations and for

receiving process, in any court proceeding or administrative enforcement proceeding, on behalf of such owner or owners in connection with the enforcement of this Code. This person must maintain an office in Philadelphia, or much actually reside in Philadelphia. An owner who is a natural person and who meets the requirements of this subsection as to location of residence or office may designate himself as agent. By designating an authorized agent under the provisions of this subsection the owner is consenting to receive any and all notices of code violations concerning the registered building and all process in any court proceeding or administrative enforcement proceeding brought to enforce code provisions concerning the registered building by service of the notice or process on the authorized agent. Any owner who has designated an authorized agent under the provisions of this subsection shall be deemed to consent to the continuation of the agent's designation for the purposes of this subsection until the owner notifies the department of L&I of a change of authorized agent or until the owner files a new annual registration statement. Any owner who fails to register a vacant building under the provisions of this subsection shall further be deemed to consent to receive, by posting at the building, any and all notices of code violations and all process in an administrative proceeding brought to enforce code provisions concerning the building.

(3) The registration and renewal fee for each registered building shall be \$250 (the "base registration fee"). Provided, however, that any vacant building subject to the base registration fee that is in violation of any provision of the building code or fire code at the time renewal is required shall be assessed a renewal fee of \$500 for such renewal period (the "doubled period"). If a vacant building in the doubled period is in violation of any provision of the building code or fire code at the time renewal is required, the fee shall be \$750 for such renewal (the "tripling period"). If a vacant building in the tripled period is in violation of any provision of the building code or fire code at the time renewal is required, the fee shall be \$1,000 for such renewal, and shall remain at \$1,000 for each subsequent renewal, if, at the time such renewal is required, the building is in violation (the "quadrupled period"). If the owner of a building that is in the doubled, tripled or quadrupled period can show to the satisfaction of the L&I commissioner and the fire commissioner, at the time renewal is required, that the building is in full compliance with the building code and fire code, then such renewal shall revert to the base registration fee. For purposes of this subparagraph (3), "in violation" shall mean that a citation has been issued, and the conditions forming the basis for the citation have not been fully remedied. In the event of a final determination that issuance of the citation was not factually supported, the increased fee for the six-month period(s) at issue shall be refunded to the owner.

(b) The owner of any building that has become vacant, and any person maintaining, operating or collecting rent for any building that has become vacant shall, within 30 days:

(1) enclose and secure the building as provided in Section ____ of this Code;

(2) post a sign affixed to the building indicating 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 holding title or authorized agent, shall be indicated on the sign as well. The sign shall be of a size and placed in such a location so as to be legible from the nearest public street or sidewalk, whichever is nearer; and

(3) maintain the building in a secure and closed condition and maintain the sign until the building is again occupied or demolished or until repair or completion of the building has been undertaken.

(c) The owner of any building that has become vacant shall, within 30 days, acquire or otherwise maintain liability insurance, in an amount of not less than \$300,000.00 for buildings designed primarily for use as residential units and not less than \$1,000,000.00 for any other building, including, but not limited to,

buildings designed for manufacturing, industrial, storage or commercial uses, covering any damage to any person or any property caused by any physical condition of or in the building. Any insurance policy acquired after the building has become vacant shall provide for written notice to the commissioner of L&I within 30 days of any lapse, cancellation or change in coverage. The owner and the owner's authorized agent for service of process shall provide evidence of the insurance, upon request, to the commissioner of L&I or his or her designee.

(d) The L&I commissioner may issue rules and regulations for the administration of this section. Any person who violates any provision of this section or of the rules and regulations issued hereunder shall be fined not less than \$500.00 and not more than \$1,000.00 for each offense. Every day that a violation continues shall constitute a separate and distinct offense. Fines assessed under this chapter shall be recoverable from the owner and shall be a lien on the property.

(e) For purposes of this section, "vacant" means a building which is lacking habitual presence of human beings who have a legal right to be on the premises, or at which substantially all lawful business or construction operations or residential occupancy has ceased, or which is substantially devoid of content. In determining whether a building is vacant, it is relevant to consider, among other factors, the percentage of the overall square footage of the building or floor to the occupied space, the condition and value of any items in the building and the presence of rental or for sale signs on the property; provided that a residential property shall not be deemed vacant if it has been used as a residence by a person entitled to possession for a period of at least three months within the previous nine months and a person entitled to possession intends to resume residing at the property; and further provided that multi-family residential property containing ten or more dwelling units shall be considered vacant when ninety percent or more of the dwelling units are unoccupied.

(f) For purposes of this section, notwithstanding any other provision of this chapter to the contrary "owner" means any person who alone or in concert with others:

- (1) has legal title to the property, with or without accompanying actual possession thereof; or
- (2) has charge, care or control of the property as agent of the title holder or as executor, administrator, trustee, or guardian of the estate of the title holder; or
- (3) manages or controls the property or is any person collecting rents or who is entitled to control the management or disposition of the property; or
- (4) is a mortgagee who holds a mortgage on the property or is an assignee or agent of the mortgagee.

SECTION 2.

Minimum requirements for vacant buildings

For purposes of this section, the term "vacant" shall be defined as provided in section _____. In addition to any other applicable code requirements, each vacant building must be kept in compliance with the following requirements for as long as the building remains vacant:

(a) Lot Maintenance Standards - the lot the building stands on, and the surrounding public way, shall be maintained as follows:

(1) all grass and weeds on the premises, including abutting sidewalks, gutters and alleys, shall be kept below ten (10) inches in height, and all dead or broken trees, tree limbs or shrubbery shall be cut and removed from the premises;

(2) the interior walkway leading to the main entry door, and any public sidewalk adjoining the lot, shall be shoveled clear of snow;

(3) *junk, rubbish, waste, and any material that creates a health, safety or fire hazard, including but not limited to any mail or flyers that have been delivered to the building, shall not be permitted to accumulate on any portion of the exterior lot of the building;*

(4) *no portion of the lot, nor any structure, vehicle, receptacle, or object thereon, shall be maintained or operated in any manner that causes or produces any health or safety hazard or permits the premises to become a rodent harborage or is conducive to rodent harborage;*

(5) *the lot shall be maintained so that water does not accumulate or stand on the ground;*

(6) *all fences and gates shall be maintained in sound condition and in good repair.*

(b) *Exterior Maintenance Standards - The exterior of the building shall be enclosed, secured and maintained as follows:*

(1) *foundations, basements, cellars, and crawlspaces shall be maintained in sound and watertight condition, adequate to support the building, and protected against the entry of rodents or other animals;*

(2) *exterior walls shall be free of holes, breaks, loose or rotting boards or timbers, and any other conditions which might admit rain or dampness to the interior portions of the walls or interior spaces and shall be protected against the entry of rodents or other animals;*

(3) *exterior windows and doors shall be maintained in sound condition and good repair. Windows and doors shall fit tightly within their frames and the frames shall be constructed and maintained in such relation to the adjacent wall construction as to prevent rain from entering the building;*

(A) *exterior windows and doors shall be equipped with hardware for locking, and the locking mechanism shall be maintained in properly functioning condition;*

(B) *all points of possible ingress and egress, including but not limited to exterior windows and doors, shall be secured to prevent unauthorized entry;*

(C) *any window which is broken, cracked or missing glass or glazing shall be replaced and maintained in good repair, or the building opening shall otherwise be adequately secured pursuant to section _____.*

(4) *the roof shall be adequately supported, and shall be maintained in weathertight condition; the gutters, downspouts, scuppers, and appropriate flashing shall be in good repair and adequate to remove the water from the building or structure;*

(5) *chimneys and flues shall be kept in sound, functional, weathertight condition and in good repair;*

(6) *every outside stair or step shall be maintained in sound condition and in good repair; every porch, stoop, deck, veranda, balcony and walk shall be maintained in sound condition for its purpose;*

(c) *Interior Maintenance Standards - The interior of any building shall be maintained as follows:*

(1) *it is prohibited to accumulate or permit the accumulation of junk, trash and debris, boxes, lumber, scrap metal, junk vehicles or any other materials in such a manner that may produce any health, fire, or safety hazard, or provide harborage for rodents or other animals on the premises; materials stored by the owner or permitted to be stored by the owner shall be stacked safely, and away from stairs or hallways, and any other places of ingress and egress;*

(2) *every foundation, roof, floor, wall, stair, ceiling, and any other structural support shall be safe and capable of supporting the loads that normal use may cause to be placed thereon, and shall be kept in sound condition and in good repair; floors and stairs shall be free of holes, grooves, and cracks that could be potentially hazardous;*

(3) *any plumbing fixtures shall be maintained with no leaking pipes; and all pipes for water shall be either completely drained or heated to resist being frozen;*

(4) *every exit door maintained as such in compliance with subsection (d)(3) shall be secured with an internal deadbolt lock, or with a locking mechanism deemed equivalent or better by the department of L&I, and every such exit door shall be capable of being opened from the inside easily and without the use of a key or special knowledge;*

(5) *interior stairs shall have treads and risers that have uniform dimensions, are sound, securely fastened, and have no rotting, loose, or deteriorating supports;*

(6) *every owner shall be responsible for the extermination of insects, rodents and other vermin in or about the premises.*

(d) Building Security Standards - The following standards apply to the securing of vacant buildings:

(1) *all building openings shall be closed and secured, using secure doors, glazed windows, commercial-quality steel security panels, or filled with like-kind material as the surrounding wall, as applicable, to prevent entry by unauthorized persons. Except as specifically authorized in this subsection (d), use of plywood is prohibited;*

(2) *openings less than one (1) square foot in area may be boarded with plywood, provided that the boarding is made weathertight and finished with varnish, or paint of a similar color to the exterior wall, and cut to the inside dimension of the exterior of the opening, and otherwise secured in the manner prescribed by rules and regulations issued by the department of buildings;*

(3) *at least one building entrance shall be accessible from the exterior and secured with a door that is locked to allow access only to authorized persons; a minimum of two exit doors shall be available to exit from the interior of the building, with at least one exit door available per 150 linear feet of horizontal travel at ground-floor level;*

(4) *for the first three (3) months a building is vacant but not thereafter, openings more than one (1) square foot in area may be boarded with plywood, which shall be installed and secured as prescribed by this section and by rules and regulations issued by the department of L&I;*

(5) *if a building has been vacant for six months or longer, or upon any renewal of the*

registration statement required in Section (1), the building owner must implement and provide proof satisfactory to the department of L&I that, in addition to complying with the security standards set forth elsewhere in this subsection (d), said building either: (i) contains all of the security features set forth in subparagraph (A), or (ii) is unviolated, as described in subparagraph (B):

(A) every opening larger than one (1) square foot in area that is located less than eight (8) feet above the ground or that is accessible from ground level or within eight (8) feet in any direction of an exterior stairway, fire escape, or other means of access, shall be closed and secured with a commercial-quality, 14-gauge, rust-proof steel security panel or door;

(i) security panels and doors shall have an exterior finish that allows for easy graffiti removal; and

(ii) security panels and doors shall be secured from the interior of the building to prevent unauthorized removal.

(B) For purposes of this paragraph (5), the term “unviolated” shall refer to a building: (i) that has a permanent door or window, as applicable, in each appropriate building opening, (ii) that has each such door or window secured to prevent unauthorized entry, and (iii) that has all its door and window components, including without limitation frames, jambs, rails, stiles, muntins, mullions, panels, sashes, lights, and panels, intact and unbroken. A building that does not meet the definition of “unviolated” shall be deemed “violated.”

(C) With respect to a vacant building represented by the owner as unviolated, if the commissioner of L&I determines, based on an inspection by the department of L&I or a report prepared by another city agency and provided to the department of L&I, that such building is violated, said commissioner shall send by certified mail a written notice of violation to the person responsible for day-to-day supervision and management of the building or to the authorized agent for service of process as identified on the sign required by section 13-12-125(b)(2), or if there is no such sign, then sent by certified mail to the owner of record. Within 30 days of the mailing of such notice of violation, the owner shall be required to either: (i) comply with subparagraph (5)(A) of this section, or (ii) restore the building to an unviolated state and also install and maintain a working burglar alarm system, as defined in Section ____ and have an active account with a third party burglar alarm company. The burglar alarm system shall connect to all areas of the building subject to unauthorized human entry, including, but not limited to, all exterior doors, windows, or other readily accessible openings. The burglar alarm system shall, upon detecting unauthorized entry, send an automatic signal to a burglar alarm company that has twenty-four (24)-hour live operators who will monitor the system and telephone the building owner or designated agent of the unauthorized entry, and who will also telephone the police department to inform it of the unauthorized entry, if there is no adequate response from the building owner or designated party.

(e) Rules and Regulations - The L&I commissioner may issue rules and regulations for the administration of this section. These rules may specify additional board-up materials which may be used when securing a building, if proof is provided, satisfactory to the L&I commissioner, that such materials will perform in a manner equivalent to, or better than, the materials specified herein.

(f) Fines and penalties - Any person who violates any provision of this section or of the rules and regulations issued hereunder shall be fined not less than \$500.00 and not more than \$1,000.00 for each offense. Every day that a violation continues shall constitute a separate and distinct offense. Fines assessed under this chapter shall be recoverable from the owner and shall be a lien on the property.

SECTION 3. Section ____ of the City Code of Philadelphia is hereby amended as follows:

Improperly maintained buildings and structures subject to nuisance abatement proceedings.

(a) The following buildings and structures are hereby declared to be public nuisances subject to abatement proceedings under this section:

(1) a building or structure found to be vacant and open after the effective date of an order to secure and enclose issued by a court of competent jurisdiction within the previous 12 months;

(2) a building or structure that contains any violation of a health, fire, electrical, plumbing, building or zoning provision of this code which is imminently dangerous and hazardous;

(3) a building or structure for which the costs of the repairs necessary to bring the building or structure into compliance with applicable laws would exceed the market value of the building or structure after the repairs would have been made, or when the owner cannot show that it has readily available and sufficient assets to make such repairs or where such repairs otherwise are economically infeasible; or

(4) a building or structure where an owner has failed to correct the code violation(s) that from the basis of an adverse order or judgment involving that building or structure, issued by a court of competent jurisdiction within 60 days of entry, unless such adverse order or judgment has been stayed by a court of competent jurisdiction.

For purposes of this section “vacant” shall be defined as provided in section ____; and “open” refers to a building that has any door, window or wall missing or unsecured, or has any other opening such as would allow entry by a human being.

Explanation:

Italics indicate new matter added.