

CHAPTER 1353
Foreclosed Properties and Buildings

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CROSS REFERENCES

Demolition of buildings - see BLDG. Ch. 1319

1353.01 FINDINGS AND PURPOSE.

The City of Canton finds, determines and declares that:

- (a) Foreclosed properties and buildings, and properties in the foreclosure process, that remain vacant and unoccupied for any appreciable period of time become an attractive nuisance to children, a harborage for rodents, an increased fire hazard, and an invitation to derelicts, vagrants and criminals as a temporary residence and as a place to engage in illegal conduct, frequently including illegal drug-related activity; that unkempt and unsecured grounds surrounding such buildings invite the dumping of garbage and trash thereon and the congregation of unauthorized persons who use the property for illegal activity; that such buildings contribute to the growth of blight within the City, necessitate additional governmental services and costs, significantly interfere with the use and enjoyment of neighboring properties, and depress market values of surrounding properties, thereby reducing tax revenues; and that such buildings accordingly create an unhealthy and unsafe condition affecting the public and constitute an unreasonable use of property and a public nuisance.
- (b) Protection of the public health, safety and welfare requires the establishment and enforcement of the means by which such nuisance conditions may be prevented and abated.
- (c) Vacant properties that are going through or have been through the foreclosure process are frequently the responsibility of banks, lenders, and/or servicers.
- (d) Properties in default and Real-Estate Owned ("REO") properties are at a greater risk of becoming unmaintained vacant properties than other properties.
- (e) Even one vacant property that is not actively and well maintained, monitored and managed can cause blight and crime.
- (f) It is in the interest of the welfare of neighborhoods in the city that banks, lenders, and/or servicers which fail to maintain vacant properties that they own or have an interest in be subject to the imposition of fines.

(Ord. 128-2012. Passed 8-27-12.)

1353.02 DEFINITIONS.

For the purposes of this chapter:

- (a) "Beneficiary" means the current beneficiary (either the original beneficiary or the assignee(s)), including, but not limited to, a lender, under a note secured by a deed of trust.
- (b) "Beneficiary's designated agent" means an entity, including, but not limited to, a servicing company that has contracted with the Beneficiary to perform duties related to the note secured by a deed of trust; including, but not limited to, the collection of installment payments on the note and administration of any default and foreclosure process.
- (c) "Days" means calendar days.
- (d) "Evidence of vacancy" means any condition visible from the exterior of the property that

alone or in combination with other existing conditions would lead a reasonable person to believe that the property is vacant. Such conditions include, but are not limited to, overgrown and/or dead vegetation; unmaintained pools or spas; an accumulation of newspapers, circulars, flyers and/or mail; past due utility notices and/or disconnected utilities; an accumulation of trash, junk and/or debris; the absence of window coverings such as curtains, blinds and/or shutters; the absence of furnishings and/or personal items consistent with residential habitation; statements by neighbors, passersby, delivery agents, and/or government employees that the property is vacant.

(e) "Legal owner" means the person or entity having record title to the property as shown in the county recorder's office.

(f) "Legal owner's designated agent" means an entity, including, but not limited to, a servicing company, that has contracted with the legal owner to perform duties related to the property.

(g) "Neighborhood standard" means those conditions that are present on a simple majority of properties within a 300 foot radius of the relevant property. A property in default or a REO property that is vacant or shows evidence of vacancy within a 300 foot radius of the relevant property shall not be counted toward the simple majority.

(h) "Property in default" means a residential property within the city that is subject to a current Notice of Default and/or Notice of Trustee's Sale.

(i) "REO property" ("Real-Estate Owned" property) means a residential property within the city for which title has transferred to the mortgagee, including, but not limited to, a lender or servicing company, as the result of a foreclosure sale or deed in lieu of foreclosure.

(j) "Responsible party" means, for a property in default, the beneficiary and/or the beneficiary's designated agent; and for a REO property, the legal owner and/or the legal owner's designated agent. In the event that there is more than one responsible party for a single property, each responsible party shall be jointly and severally liable for compliance with the provisions of this ordinance.

(k) "Vacant" means property that is unoccupied by the legal owner or by persons with the consent of the legal owner for a period of more than 30 days; or which presents evidence of vacancy for a period of more than 30 days and which is not occupied by the legal owner or an individual with the consent of legal owner for the purposes of occupation.

(Ord. 128-2012. Passed 8-27-12.)

1353.03 REGISTRY.

The City of Canton shall maintain a registry of the properties described in Section 1353.01(a) in order to permit the City to determine which properties are at risk of becoming subject to and/or in violation of Section 1353.05, and to inspect such properties for compliance with Section 1353.05 and any other applicable requirements. The City shall regularly inspect registered properties at times and in a manner to be determined by the Chief Building Official (or designee). The Chief Building Official (or designee) may have all registered properties inspected, or a sample of such properties selected randomly or by criteria determined by the Chief Building Official (or designee).

(Ord. 128-2012. Passed 8-27-12.)

1353.04 REGISTRATION OF PROPERTIES IN DEFAULT AND REO PROPERTIES.

(a) Application. The registration requirements contained in this section shall apply to:

- (1) All properties in default.
- (2) All REO properties.

(b) Registration. The responsible party for a property in default, including, but not limited to, a lender or servicing company, shall register the property with the Building Department within 30 days of the recording of the notice of default or, if the notice of default was issued prior to the effective

date of this chapter, within 60 days of the effective date of this chapter.

The responsible party for a REO property, including, but not limited to, a lender or servicing company, shall register the property with the Code Enforcement Department within 30 days of the transfer of title or, if the title was transferred prior to the effective date of this chapter, within 60 days of the effective date of this chapter.

The registration shall be filed on city-approved forms which shall require the following information, as well as any additional information deemed necessary by the Chief Building Official (or designee):

- (1) The name and mailing address of the responsible party, and whether the party is the beneficiary, beneficiary's designated agent, legal owner, or legal owner's designated agent.
- (2) A direct contact name and phone number for the responsible party.
- (3) Whether the property is vacant or shows evidence of vacancy.
- (4) If the property is vacant or shows evidence of vacancy, a statement describing the expected period of vacancy, a detailed plan for the regular maintenance of the property during the period of vacancy, and a timeline for the lawful re-occupancy of the property or for the rehabilitation or demolition of the property is required.
- (5) If the property is vacant or shows evidence of vacancy and the responsible party is located more than 30 miles outside of the city limits, the name, street address, telephone and facsimile number of a local property management or property preservation company responsible for the maintenance and security of the property is required.

(c) Maintenance Bond. Any owner of a vacant and/or foreclosing property shall provide a cash bond acceptable to the Chief Building Official (or designee), in the sum of not less than ten thousand dollars (\$10,000.00), to secure the continued maintenance of the property throughout its vacancy and remunerate the city for any expenses incurred in inspecting, securing, marking or making such building safe. A portion of said bond shall be retained by the city as an administrative fee to fund an account for expenses incurred in inspecting, securing, and marking said building and other such buildings that are not in compliance with this section. Any owner of a vacant or foreclosing property providing a bond pursuant to this section must also provide bonds for all other vacant or foreclosing properties owned in the city.

(d) Updating the Registry. Any change in the information provided to the registry including, but not limited to, a change in the identity of the responsible party, a change in the vacancy status of the property, and any change in contact information, shall be provided to the registry within ten (10) days of the date of the change.

(e) Annual Renewal. The initial registration shall be effective for the duration of the calendar year in which it is made. For any registered property that is still subject to the registration requirements of this section on January 1 of each year, the responsible party must submit a renewed registration by no later than January 31 of that year.

(f) Fees. The responsible party shall pay a non-refundable fee of one hundred twenty-five dollars (\$125.00) for each registered property to cover the costs of the registry including, but not limited to, initial creation of the registry; ongoing maintenance of the registry; inspection and investigation of registered properties to ensure that the information recorded in the registry is current and accurate; inspection and investigation of registered properties conducted by Code Enforcement Department to ensure that they have not fallen into disrepair or are otherwise not in compliance with the requirements of Section 1353.05 and/or any other applicable requirements; and the administrative costs incurred in determining the appropriate fee. These costs shall be determined annually by the City.

This fee shall be paid with the initial registration and with each annual renewal.

(g) Penalties. Any responsible party that fails to comply with the registration requirements of this section shall become personally responsible for a penalty of three hundred dollars (\$300.00) per day for each day of non-compliance; except that commencing ten (10) calendar days after the date of the Chief Building Official's (or designee's) notification of failure to comply, the penalty shall be five hundred dollars (\$500.00) per day for each day for non-compliance, with a maximum total penalty of one hundred thousand dollars (\$100,000.00).

If the Chief Building Official (or designee) determines that a responsible party has failed to comply with the registration requirements of this section, the Chief Building Officials (or designee) shall notify such party within ten (10) days of this determination at the last known address as provided in Section 1301.12 of the failure to comply with this section, the penalties currently due, and the daily accrual of penalties.

A responsible party shall be liable for interest on any unpaid penalties accrued at the same annual rate as civil judgments.

(h) Terminating Registration. If a registered property becomes no longer subject to the registration requirements of this section, the responsible party shall report this information to the registry within ten (10) days.

(Ord. 128-2012. Passed 8-27-12.)

1353.05 INSPECTION, MAINTENANCE, SECURITY, AND POSTING REQUIREMENTS.

(a) Application. This section shall apply to all properties that are both:

- (1) A property in default or a REO property; and
- (2) Vacant or showing evidence of vacancy

A responsible party that presents the Chief Building Official (or designee) with documentary evidence that it does not have the legal right to inspect, maintain, secure, and/or post on the property, where such evidence is accepted as adequate by the Chief Building Official (or designee), shall be exempt from the requirements of this section.

(b) Inspections. The responsible party for a property subject to this section shall perform an inspection of the property no less than once every seven (7) days to ensure the property is in compliance with this section.

(c) Maintenance. Properties subject to this section shall be, in comparison to the neighborhood standard, kept free of weeds, dry brush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspapers, circulars, flyers, notices (except those required by federal, state, or local law), discarded personal items including but not limited to furniture, clothing, large and small appliances, printed material or any other items that give the appearance that the property is vacant.

(1) The property shall be maintained free of graffiti, tagging or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior of the structure.

(2) Visible front and side yards shall be landscaped and maintained to the neighborhood standard. Landscape includes, but is not limited to, grass, ground covers, bushes, shrubs, hedges or similar plantings; and decorative rock, bark or artificial turf/sod designed specifically for residential installation. Landscape does not include weeds, gravel, broken concrete, asphalt, decomposed granite, plastic sheeting, indoor-outdoor carpet or any similar material. Maintenance of yards includes, but is not limited to, regular watering, irrigation, cutting, pruning, mowing and removal of all trimmings.

(3) Pools and spas shall be kept in working order so the water remains clear or free of pollutants and debris or drained and kept dry. In either case, properties with pools and/or spas must comply

with the minimum security fencing requirements of the State of the Ohio.

(d) Security. Properties subject to this section shall be maintained in a secure manner so as to not be accessible to unauthorized persons.

Secure manner includes, but is not limited to, the closure and locking of windows, doors (walk-through, sliding, and garage), gates and any other opening of such size that it may allow a child to access the interior of the property and or structures(s). In the case of broken windows, securing means the re-glazing or boarding of the window.

(e) Posting. Properties subject to this section shall be posted with a contact number individuals can call to report blighted properties to the Building Department. The posting shall be no less than 18" X 24", shall be of a font that is legible from a distance of 45 feet, and shall contain, along with the contact number of the Building Department, the words "TO REPORT PROBLEMS OR CONCERNS CALL". The posting shall also contain the name and contact information of the responsible party, along with the words "IS RESPONSIBLE FOR THE MAINTENANCE OF THIS PROPERTY." The posting shall be placed on the interior of a window facing the street to the front of the property so it is visible from the street, or secured to the exterior of the building/structure facing the street to the front of the property so it is visible from the street or if no such area exists, on a stake of sufficient size to support the posting in a location that is visual from the street to the front of the property but not readily accessible to vandals. Exterior posting must be constructed of and printed with weather resistant materials.

(f) Additional Authority. In addition to the requirements of this section, the Chief Building Official (or designee) shall have the authority to require the responsible party for any property subject to the requirements of this section to implement additional maintenance and/or security measures including, but not limited to, securing any door, window or other openings; installing additional security lighting; increasing on site inspection frequency; employment of an on-site security guard; or other measures as may be reasonably required to arrest the decline of the property. (Ord. 128-2012. Passed 8-27-12.)

1353.06 PUBLIC NUISANCE.

(a) Public Nuisance. It shall be a public nuisance for any property subject to the requirements of Section 1353.05 to fail to comply with any of those requirements.

(b) Notice of Violation/Demand to Abate. Whenever the Chief Building Official (or designee) determines that a property is a public nuisance pursuant to paragraph (a), the Chief Building Official shall issue a notice of violation and demand to abate directed to the responsible party and to the legal owner, if the legal owner is different than the responsible party.

The notice shall contain:

- (1) The street address and such other description as is required to identify the property.
- (2) A statement that specifies the conditions that constitute the violation.
- (3) A description of the measures necessary to correct the violation.
- (4) An order that the responsible party take the necessary measures to correct the violation and abate the nuisance within ten (10) days from the date of the notice; unless the violation constitutes a violation of any provision of the Ohio Building Standards Code, in which case the notice shall order the responsible party to take the necessary measures to correct the violation and abate the nuisance within thirty (30) days from the date of the notice.
- (5) A statement that if the responsible party fails to take the necessary measures to abate the nuisance within the specified time period, the responsible party will be subject to penalties pursuant to paragraph (d), and the City may take all necessary legal or administrative action, including performing the necessary measures, with the cost of such performance to be assessed against the

responsible party.

(6) A statement that the responsible party may, during the specified time period in which it is ordered to correct and abate, request in writing a hearing before the Chief Building Official (or designee) regarding the conditions that constitute the violation and the measures necessary to correct the violation.

(7) A notice of the fee due, as provided in paragraph (c).

(8) The written notice shall be served on the responsible party and legal owner either by personal delivery or by first class mail.

(c) Fees. A responsible party to whom the Chief Building Official (or designee) has sent a notice of violation and demand to abate pursuant to paragraph (b) shall pay a fee of one hundred fifty dollars (\$150.00) to cover the costs of the notice of violation and demand to abate including, but not limited to, administrative costs related to the notice; inspection and investigation of properties to determine whether they are public nuisances (other than inspections or investigations conducted pursuant to Section 1353.05); inspection and investigation of properties subject to a notice of violation and demand to abate to determine whether they have complied with such demand; increased inspection and investigation of properties formerly subject to a notice of violation and demand to abate to ensure that such properties remain in compliance; and the administrative costs incurred in determining the appropriate fee. These costs shall be determined annually by the city.

(d) Penalty for Failure to Abate. Any responsible party served with a notice of violation that fails to take the necessary measures set forth in the notice shall become personally responsible for an administrative penalty in an amount up to one thousand dollars (\$1,000.00) per day for each day of non-compliance after the specified time period set forth in the notice has passed, with a maximum total penalty of five hundred thousand dollars (\$500,000.00), unless the responsible party provides documentary evidence to the Chief Building Official (or designee) that the structure is the subject of an active building permit for repair, rehabilitation or demolition and the responsible party is proceeding diligently in good faith to complete the repair, rehabilitation or demolition, where such evidence is accepted as adequate by the Chief Building Official (or designee).

A responsible party shall be liable for interest on any unpaid penalties accrued at the same annual rate as civil judgments.

(e) Abatement by City. In the event the violation is not abated within the time specified in the notice, the city may take all necessary actions to abate such violation, and the responsible party shall become personally indebted to the city for the actual and reasonable costs of abatement as adopted by the city at a public hearing.

After the city has taken abatement actions, the Chief Building Official (or designee) shall send a notice to the responsible party by first class mail advising the responsible party of the abatement action by the city. The notice shall also inform the responsible party that he/she is responsible for the actual and reasonable costs of abatement and notify the responsible party of the date and location of the public hearing at which the costs will be determined.

(f) Summary Abatement. If, in the opinion of the Chief Building Official (or designee), there exists a specific condition on any property subject to the requirements of this section which is of such a nature as to be an imminent threat to the public health, safety or welfare, the same may be abated by the city forthwith without compliance with the provisions of paragraph (b). The actual and reasonable costs of any abatement measures taken by the City pursuant to this paragraph shall be the responsibility of the responsible party as provided in paragraph (e).

(g) Appeals. Any person aggrieved by any of the requirements of this section may appeal as provided under Chapter 1305, Board of Building Appeals.

(Ord. 128-2012. Passed 8-27-12.)

1353.07 SEVERABILITY.

Should any provision, section, paragraph, sentence or word of this chapter be determined or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this chapter shall remain in full force and effect.

(Ord. 128-2012. Passed 8-27-12.)

1353.03 REGISTRY.

The City of Canton shall maintain a registry of the properties described in Section 1353.01(a) in order to permit the City to determine which properties are at risk of becoming subject to and/or in violation of Section 1353.05, and to inspect such properties for compliance with Section 1353.05 and any other applicable requirements. The City shall regularly inspect registered properties at times and in a manner to be determined by the Chief Building Official (or designee). The Chief Building Official (or designee) may have all registered properties inspected, or a sample of such properties selected randomly or by criteria determined by the Chief Building Official (or designee).
(Ord. 128-2012. Passed 8-27-12.)

1353.04 REGISTRATION OF PROPERTIES IN DEFAULT AND REO PROPERTIES.

(a) Application. The registration requirements contained in this section shall apply to:

- (1) All properties in default.
- (2) All REO properties.

(b) Registration. The responsible party for a property in default, including, but not limited to, a lender or servicing company, shall register the property with the Building Department within 30 days of the recording of the notice of default or, if the notice of default was issued prior to the effective date of this chapter, within 60 days of the effective date of this chapter.

The responsible party for a REO property, including, but not limited to, a lender or servicing company, shall register the property with the Code Enforcement Department within 30 days of the transfer of title or, if the title was transferred prior to the effective date of this chapter, within 60 days of the effective date of this chapter.

The registration shall be filed on city-approved forms which shall require the following information, as well as any additional information deemed necessary by the Chief Building Official (or designee):

- (1) The name and mailing address of the responsible party, and whether the party is the beneficiary, beneficiary's designated agent, legal owner, or legal owner's designated agent.
- (2) A direct contact name and phone number for the responsible party.
- (3) Whether the property is vacant or shows evidence of vacancy.
- (4) If the property is vacant or shows evidence of vacancy, a statement describing the expected period of vacancy, a detailed plan for the regular maintenance of the property during the period of vacancy, and a timeline for the lawful re-occupancy of the property or for the rehabilitation or demolition of the property is required.
- (5) If the property is vacant or shows evidence of vacancy and the responsible party is located more than 30 miles outside of the city limits, the name, street address, telephone and facsimile number of a local property management or property preservation company responsible for the maintenance and security of the property is required.

(c) Maintenance Bond. Any owner of a vacant and/or foreclosing property shall provide a cash bond acceptable to the Chief Building Official (or designee), in the sum of not less than ten thousand dollars (\$10,000.00), to secure the continued maintenance of the property throughout its vacancy and remunerate the city for any expenses incurred in inspecting, securing, marking or making such building safe. A portion of said bond shall be retained by the city as an administrative fee to fund an account for expenses incurred in inspecting, securing, and marking said building and other such buildings that are not in compliance with this section. Any owner of a vacant or foreclosing property providing a bond pursuant to this section must also provide bonds for all other vacant or foreclosing properties owned in the city.

(d) Updating the Registry. Any change in the information provided to the registry including, but not limited to, a change in the identity of the responsible party, a change in the vacancy status of the property, and any change in contact information, shall be provided to the registry within ten (10) days of the date of the change.

(e) Annual Renewal. The initial registration shall be effective for the duration of the calendar year in which it is made. For any registered property that is still subject to the registration requirements of this section on January 1 of each year, the responsible party must submit a renewed registration by no later than January 31 of that year.

(f) Fees. The responsible party shall pay a non-refundable fee of one hundred twenty-five dollars

(\$125.00) for each registered property to cover the costs of the registry including, but not limited to, initial creation of the registry; ongoing maintenance of the registry; inspection and investigation of registered properties to ensure that the information recorded in the registry is current and accurate; inspection and investigation of registered properties conducted by Code Enforcement Department to ensure that they have not fallen into disrepair or are otherwise not in compliance with the requirements of Section 1353.05 and/or any other applicable requirements; and the administrative costs incurred in determining the appropriate fee. These costs shall be determined annually by the City.

This fee shall be paid with the initial registration and with each annual renewal.

(g) Penalties. Any responsible party that fails to comply with the registration requirements of this section shall become personally responsible for a penalty of three hundred dollars (\$300.00) per day for each day of non-compliance; except that commencing ten (10) calendar days after the date of the Chief Building Official's (or designee's) notification of failure to comply, the penalty shall be five hundred dollars (\$500.00) per day for each day for non-compliance, with a maximum total penalty of one hundred thousand dollars (\$100,000.00).

If the Chief Building Official (or designee) determines that a responsible party has failed to comply with the registration requirements of this section, the Chief Building Officials (or designee) shall notify such party within ten (10) days of this determination at the last known address as provided in Section 1301.12 of the failure to comply with this section, the penalties currently due, and the daily accrual of penalties.

A responsible party shall be liable for interest on any unpaid penalties accrued at the same annual rate as civil judgments.

(h) Terminating Registration. If a registered property becomes no longer subject to the registration requirements of this section, the responsible party shall report this information to the registry within ten (10) days.

(Ord. 128-2012. Passed 8-27-12.)

1353.05 INSPECTION, MAINTENANCE, SECURITY, AND POSTING REQUIREMENTS.

(a) Application. This section shall apply to all properties that are both:

- (1) A property in default or a REO property; and
- (2) Vacant or showing evidence of vacancy

A responsible party that presents the Chief Building Official (or designee) with documentary evidence that it does not have the legal right to inspect, maintain, secure, and/or post on the property, where such evidence is accepted as adequate by the Chief Building Official (or designee), shall be exempt from the requirements of this section.

(b) Inspections. The responsible party for a property subject to this section shall perform an inspection of the property no less than once every seven (7) days to ensure the property is in compliance with this section.

(c) Maintenance. Properties subject to this section shall be, in comparison to the neighborhood standard, kept free of weeds, dry brush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspapers, circulars, flyers, notices (except those required by federal, state, or local law), discarded personal items including but not limited to furniture, clothing, large and small appliances, printed material or any other items that give the appearance that the property is vacant.

(1) The property shall be maintained free of graffiti, tagging or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior of the structure.

(2) Visible front and side yards shall be landscaped and maintained to the neighborhood standard. Landscape includes, but is not limited to, grass, ground covers, bushes, shrubs, hedges or similar plantings; and decorative rock, bark or artificial turf/sod designed specifically for residential installation. Landscape does not include weeds, gravel, broken concrete, asphalt, decomposed granite, plastic sheeting, indoor-outdoor carpet or any similar material. Maintenance of yards includes, but is not limited to, regular watering, irrigation, cutting, pruning, mowing and removal of all trimmings.

(3) Pools and spas shall be kept in working order so the water remains clear or free of pollutants and debris or drained and kept dry. In either case, properties with pools and/or spas must comply with the minimum security fencing requirements of the State of the Ohio.

(d) Security. Properties subject to this section shall be maintained in a secure manner so as to not be accessible to unauthorized persons.

Secure manner includes, but is not limited to, the closure and locking of windows, doors (walk-through, sliding, and garage), gates and any other opening of such size that it may allow a child to access the interior of the property and or structures(s). In the case of broken windows, securing means the re-glazing or boarding of the window.

(e) Posting. Properties subject to this section shall be posted with a contact number individuals can call to report blighted properties to the Building Department. The posting shall be no less than 18" X 24", shall be of a font that is legible from a distance of 45 feet, and shall contain, along with the contact number of the Building Department, the words "TO REPORT PROBLEMS OR CONCERNS CALL". The posting shall also contain the name and contact information of the responsible party, along with the words "IS RESPONSIBLE FOR THE MAINTENANCE OF THIS PROPERTY." The posting shall be placed on the interior of a window facing the street to the front of the property so it is visible from the street, or secured to the exterior of the building/structure facing the street to the front of the property so it is visible from the street or if no such area exists, on a stake of sufficient size to support the posting in a location that is visual from the street to the front of the property but not readily accessible to vandals. Exterior posting must be constructed of and

printed with weather resistant materials.

(f) Additional Authority. In addition to the requirements of this section, the Chief Building Official (or designee) shall have the authority to require the responsible party for any property subject to the requirements of this section to implement additional maintenance and/or security measures including, but not limited to, securing any door, window or other openings; installing additional security lighting; increasing on site inspection frequency; employment of an on-site security guard; or other measures as may be reasonably required to arrest the decline of the property. (Ord. 128-2012. Passed 8-27-12.)

1353.06 PUBLIC NUISANCE.

(a) Public Nuisance. It shall be a public nuisance for any property subject to the requirements of Section 1353.05 to fail to comply with any of those requirements.

(b) Notice of Violation/Demand to Abate. Whenever the Chief Building Official (or designee) determines that a property is a public nuisance pursuant to paragraph (a), the Chief Building Official shall issue a notice of violation and demand to abate directed to the responsible party and to the legal owner, if the legal owner is different than the responsible party.

The notice shall contain:

- (1) The street address and such other description as is required to identify the property.
- (2) A statement that specifies the conditions that constitute the violation.
- (3) A description of the measures necessary to correct the violation.
- (4) An order that the responsible party take the necessary measures to correct the violation and abate the nuisance within ten (10) days from the date of the notice; unless the violation constitutes a violation of any provision of the Ohio Building Standards Code, in which case the notice shall order the responsible party to take the necessary measures to correct the violation and abate the nuisance within thirty (30) days from the date of the notice.
- (5) A statement that if the responsible party fails to take the necessary measures to abate the nuisance within the specified time period, the responsible party will be subject to penalties pursuant to paragraph (d), and the City may take all necessary legal or administrative action, including performing the necessary measures, with the cost of such performance to be assessed against the responsible party.
- (6) A statement that the responsible party may, during the specified time period in which it is ordered to correct and abate, request in writing a hearing before the Chief Building Official (or designee) regarding the conditions that constitute the violation and the measures necessary to correct the violation.
- (7) A notice of the fee due, as provided in paragraph (c).
- (8) The written notice shall be served on the responsible party and legal owner either by personal delivery or by first class mail.

(c) Fees. A responsible party to whom the Chief Building Official (or designee) has sent a notice of violation and demand to abate pursuant to paragraph (b) shall pay a fee of one hundred fifty dollars (\$150.00) to cover the costs of the notice of violation and demand to abate including, but not limited to, administrative costs related to the notice; inspection and investigation of properties to determine whether they are public nuisances (other than inspections or investigations conducted pursuant to Section 1353.05); inspection and investigation of properties subject to a notice of violation and demand to abate to determine whether they have complied with such demand; increased inspection and investigation of properties formerly subject to a notice of violation and demand to abate to ensure that such properties remain in compliance; and the administrative costs incurred in determining the appropriate fee. These costs shall be determined annually by the city.

(d) Penalty for Failure to Abate. Any responsible party served with a notice of violation that fails to take the necessary measures set forth in the notice shall become personally responsible for an administrative penalty in an amount up to one thousand dollars (\$1,000.00) per day for each day of non-compliance after the specified time period set forth in the notice has passed, with a maximum total penalty of five hundred thousand dollars (\$500,000.00), unless the responsible party provides documentary evidence to the Chief Building Official (or designee) that the structure is the subject of an active building permit for repair, rehabilitation or demolition and the responsible party is proceeding diligently in good faith to complete the repair, rehabilitation or demolition, where such

evidence is accepted as adequate by the Chief Building Official (or designee).

A responsible party shall be liable for interest on any unpaid penalties accrued at the same annual rate as civil judgments.

(e) Abatement by City. In the event the violation is not abated within the time specified in the notice, the city may take all necessary actions to abate such violation, and the responsible party shall become personally indebted to the city for the actual and reasonable costs of abatement as adopted by the city at a public hearing.

After the city has taken abatement actions, the Chief Building Official (or designee) shall send a notice to the responsible party by first class mail advising the responsible party of the abatement action by the city. The notice shall also inform the responsible party that he/she is responsible for the actual and reasonable costs of abatement and notify the responsible party of the date and location of the public hearing at which the costs will be determined.

(f) Summary Abatement. If, in the opinion of the Chief Building Official (or designee), there exists a specific condition on any property subject to the requirements of this section which is of such a nature as to be an imminent threat to the public health, safety or welfare, the same may be abated by the city forthwith without compliance with the provisions of paragraph (b). The actual and reasonable costs of any abatement measures taken by the City pursuant to this paragraph shall be the responsibility of the responsible party as provided in paragraph (e).

(g) Appeals. Any person aggrieved by any of the requirements of this section may appeal as provided under Chapter 1305, Board of Building Appeals.

(Ord. 128-2012. Passed 8-27-12.)