

**City of Muskegon  
Muskegon County, Michigan  
Ordinance Amendment No. 2345**

THE CITY OF MUSKEGON HEREBY ORDAINS:

Chapter 10 “Buildings and Building Regulations,” Section 107 “Annual registration of vacant buildings and registration fees” of the Code of Ordinances of the City of Muskegon is amended as follows:

**Sec. 10-107. Annual registration of vacant building and registration fees.**

(a) *Purpose.* The purpose of this section requiring the registration of all vacant buildings, including dwellings that are subject to this chapter as referenced below, and the payment of registration fees is to assist the city government, particularly the department of public safety (DPS) and planning departments in protecting the public health, safety and welfare, to monitor the number of vacant buildings in the city, to assess the effects of the condition of those buildings on nearby businesses and the neighborhoods in which they are located, particularly in light of fire safety hazards and unlawful, temporary occupancy by transients, including illicit drug users and traffickers, and to require of the owners of such vacant buildings their registration and the payment of related fees, and to promote substantial efforts to rehabilitate such vacant buildings. The provisions of this section are applicable to the owners of such vacant buildings as set forth herein and are in addition to and not in lieu of any and all other applicable provisions of this chapter, the health and sanitation code, and any other applicable provisions of this Code.

(b) *Definitions and applicability; registration statement and fees.*

(1) *Definitions.* For purposes of this section, the following words and phrases shall have the meanings respectively ascribed to them as follows:

*Boarded.* A building or structure subject to the provisions of this section shall be deemed to be "boarded" if in place of one or more exterior doors, other than a storm door, or of one or more windows, there is a sheet or sheets of plywood or similar material covering the space for such door or window.

*Exterior maintenance and major systems.* The phrase "exterior maintenance and major systems" shall mean the safe and lawful maintenance of the facade, windows, doors, roof, and other parts of the exterior of the building and the maintenance of its major systems consisting of the roof, the electrical and plumbing systems, the water supply system, the sewer system, and the sidewalk, driveway, if any, area of the lot, as applicable and as enforced by the DPS, particularly in connection with sections 10-82 (inspection of unoccupied building; initiation of processing) and 10-101 (abatement of dangerous buildings).

*Occupied.* Any building or structure shall be deemed to be occupied if one or more persons actually conducts a lawful business or resides in all or any part of the building as the licensed business- occupant, or as the legal or equitable owner/occupant or tenant on a permanent, non-transient basis, or any combination of

the same. For purposes of this section, evidence offered to prove that a building is so occupied may include, but shall not be limited to, the regular receipt of delivery of regular mail through the U.S. Postal Service; proof of continual telephone, electric, gas, heating, water and sewer services; a valid city business license, or the most recent federal, state, or city income tax statements indicating that the subject property is the official business or residence address of the person or business claiming occupancy; or proof of pre-rental inspection.

*Open.* A building or structure subject to the provisions of this section shall be deemed to be "open" if any one or more exterior doors other than a storm door is broken, open and, or closed but, without a properly functioning lock to secure it, or if one or more windows is broken or not capable of being locked and secured from intrusion, or any combination of the same.

*Owner.* An owner of the freehold of the premises or any lesser estate therein, a mortgagee, a vendee-in-possession, assignee of rents, receiver, executor, trustee, lessee, agent or any other person that is directly or indirectly in control of a building subject to the provisions of this section, and as set forth below.

*Seasonal residence.* A legal residential structure that has been used as a residence by the owner for a period of at least three consecutive months within the previous nine months and the same owner intends to resume residing at the property. A non-owner-occupied home does not qualify as a seasonal residence.

*Vacation home.* A secondary legal residential dwelling used by the owner or one or more immediate member of the owner's family, such as a son or daughter, for a period less than three consecutive months out of the previous nine months but still has verifiable occupancy periods spread throughout the year. If the home is rented or leased it does not qualify as a vacation home.

*Vacant.* A building or structure shall be deemed to be vacant if no person actually, currently conducts a lawfully licensed business, or lawfully resides or lives in any part of the building as the legal or equitable owner or tenant-occupant, or owner-occupants, or tenant on a permanent, non-transient basis, unless the structure is legally being used for storage purposes. Such storage use must be a legally allowed principal use of the zoning district where the structure is located and the use must be in compliance with all appropriate provisions of city ordinances, building and fire codes pertaining to the storage use.

*Vacancy date.* The date when the building or structure became vacant. This is not the same as the date the property was purchased/sold.

- (2) *Applicability.* The requirements of this section shall be applicable to each owner of any building that is not a dwelling that shall have been vacant for more than 90 consecutive days and to each owner of residential property consisting of one or more vacant dwellings that shall have been vacant for more than 90 consecutive days. Each such owner shall cause to be filed a registration statement, which shall include the street address and parcel number of each such vacant building, the names and addresses of all owners, as hereinafter described, and any other information

deemed necessary by the city. The registration fees as required by sub-section (b)(3) of this section shall be billed annually by the city and shall be paid within 30 days of the invoice date. For purposes of this section, the following shall also be applicable:

- a. If the owner is a corporation or a limited liability corporation, the registration statement shall provide the names and residence addresses of all officers, directors and/or members and shall be accompanied by a copy of the most recent annual tax report filed with the state;
  - b. If an estate, the name and business address of the executor of the estate;
  - c. If a trust, the name and address of all trustees, grantors, and beneficiaries;
  - d. If a partnership, the names and residence addresses of all partners with an interest of ten percent or greater;
  - e. If any other form of unincorporated association, the names and residence addresses of all principals with an interest of ten percent or greater;
  - f. If an individual person, the name and residence address of that individual person.
- (3) *Registration statement and fees; local agent.* If none of the persons listed, as above, are shown at an address within the state or the home is a qualified vacation home or seasonal residence, the registration statement also shall provide the name and address of a person who resides within the state and who is authorized to accept service of process on behalf of the owners and who shall be designated as a responsible, local party or agent, both for purposes of notification in the event of an emergency affecting the public health, safety or welfare and for purposes of service of any and all notices or registration statements as herein authorized and in connection herewith. Registration shall be required for all vacant buildings, whether vacant and secure, vacant and open or vacant and boarded, and shall be required whenever any building has remained vacant for 90 consecutive days or more. In no instance shall the registration of a vacant building and the payment of registration fees be construed to exonerate the owner, agent or responsible party from responsibility for compliance with any other state construction code requirement. The owner of the vacant property, at the time of billing, shall be responsible for the payment of the nonrefundable registration fee. Said fee shall be billed annually by the city and based on the duration of the vacancy as determined by the master fee resolution.
- (4) *Appeal rights.* The owner shall have the right to appeal the imposition of the registration fees to a committee appointed by the city manager, upon filing an application in writing with the applicable \$50.00 nonrefundable filing fee to the city manager's office no later than 30 calendar days after the date of the billing statement. On appeal, the owner shall bear the burden of providing satisfactory objective proof of occupancy.
- (5) *One-time waiver of registration fee.* A one-time waiver of the registration fee may be granted by the committee appointed by the city manager upon application of the owner, if all taxes and fees, such as, but not limited to, property taxes, mowing charges, past vacant building registration fees, landlord registrations, business registrations, utilities and any other applicable charges, have been paid prior to

application for the waiver. If the owner:

- a. Demonstrates with satisfactory proof that he is in the process of demolition, rehabilitation, or other substantial repair of the vacant building; and
- b. Objectively demonstrates the anticipated length of time for the demolition, rehabilitation, or other substantial repair of the vacant building; or
- c. Provides satisfactory proof that he was actively attempting to sell or lease the property during the vacancy period.

(6) *Two-year waiver.*

- a. Upon application by the owner and satisfaction of subsection (b)(5) of this section, the committee appointed by the city manager may grant a two-year waiver of the registration fee if the owner meets the criteria for nonprofit organizations as defined by Section 501(c)(3) of the Internal Revenue Code.
- b. Upon application by the homeowner who is temporarily residing in a medical care facility, or a legal representative of the homeowner, the committee may grant a renewable two-year waiver of the registration fee. To be eligible for a two-year waiver of fee, satisfactory proof that the structure will only be temporarily vacant and the property and structures must remain in good repair and free of any enforcement actions by city departments. Should the structure or property not be properly maintained, or be in violation of city Code, the waiver may be revoked by the appeal committee.
- c. Upon application by the homeowner or a legal representative, the committee may grant a two-year waiver of the registration fee. To be eligible for a two-year waiver of fee, satisfactory proof that the structure will only be temporarily vacant due to property being in probate court, being actively rehabbed to city code so it may become occupied or the structure is in good repair and has the presence that the structure is not vacant (per zoning code for allowable uses), and free of any enforcement actions by city departments. Should the structure or property not be properly maintained or in violation of city code, the waiver may be revoked by the appeal committee.

(7) *Delinquent registration fees as a lien.* After the owner is given notice of the amount of the registration fee due, except for those owners that have properly perfected an appeal pursuant to subsection (b)(4) of this section, and the owner fails to pay the amount due, said amount shall constitute a debt due and owing to the city, and the city may commence a civil action to collect such the unpaid debt. **The City shall have a lien upon the premises for said unpaid debt, which lien shall have priority over all other liens or encumbrances except taxes, assessments or mortgages recorded previous to the existence of such lien. Such lien may be enforced by levy as in the case of real property taxes, by personal action or judicial foreclosure. The lien shall be effective on the date billed by the city.**

(c) *Duty to amend registration statement.* If the status of the registration information changes during the course of any calendar year, it is the responsibility of the owner, responsible party or agent for the same to contact the planning department within 30 days of the occurrence of such change and advise the department in writing of those changes. Except that valid

seasonal residence or vacation home, as defined by this section, are not required to notify the city of changes in occupancy status.

(d) *Exceptions.* The fees imposed by this section shall not apply to any legitimate vacation or seasonal residence, as defined by this section, or any building owned by the United States, the State of Michigan or a governmental entity. Any fees billed prior to their ownership are a lien against the property, unless extinguished by operation of law. Notwithstanding a waiver of the fee, registration of all structures outlined in this section is still required.

(e) *Violations; penalties.* The failure or refusal for any reason of any owner, or agent of an owner acting on behalf of the owner, to register a vacant building or to pay any fees required to be paid pursuant to the provisions of this section, within 30 days after they become due, shall constitute a violation punishable upon conviction thereof by a fine in the amount of not less than \$100.00 nor more than \$500.00 for each failure or refusal to register, or for each failure or refusal to pay a required vacant building fee, as applicable. In such cases, whenever the minimum fine of \$100.00 is imposed, it shall not be subject to suspension or reduction for any reason.

(Ord. No. 2240, § 10.107, 1-8-2008; Ord. No. 2256, § 10.107, 12-9-2008; Ord. No. 2260, § 10.107, 12-9-2009; Ord. No. 2276, § 10.107, 4-27-2010; Ord. No. 2300, § 10.107, 11-7-2011)

CITY OF MUSKEGON

By \_\_\_\_\_

Ann Meisch, MMC  
City Clerk

CERTIFICATE

The undersigned, being the duly qualified clerk of the City of Muskegon, Muskegon County, Michigan, does hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the City Commission of the City of Muskegon, at a regular meeting of the City Commission on the 22nd day of September, 2015, at which meeting a quorum was present and remained throughout, and that the original of said ordinance is on file in the records of the City of Muskegon. I further certify that the meeting was conducted, and public notice was given, pursuant to and in full compliance with Act No. 267, Public Acts of Michigan of 1976, as amended, and that minutes were kept and will be or have been made available as required thereby.

DATED: September 22, 2015

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Ann Meisch, MMC  
Clerk, City of Muskegon

Publish: October 1, 2015

Notice of Adoption to be published once within ten (10) days of final adoption.

**CITY OF MUSKEGON  
NOTICE OF ADOPTION**

TO: ALL PERSONS INTERESTED

Please take notice that on September 22, 2015, the City Commission of the City of Muskegon adopted an amendment to Chapter 10 “Buildings and Building Regulations,” Section 107 “Annual registration of vacant buildings and registration fees” of the Code of Ordinances of the City of Muskegon, whereby the following changes were made:

**Section 107(7)** was amended to indicate that the city shall have a lien upon the premises for any debt to the city incurred under Section 107, which lien may be enforced by levy as in the case of real property taxes, by personal action or judicial foreclosure and shall be effective on the date billed by the city.

Copies of the ordinance may be viewed and purchased at reasonable cost at the Office of the City Clerk in the City Hall, 933 Terrace Street, Muskegon, Michigan, during regular business hours.

This ordinance amendment is effective ten (10) days from the date of this publication.

CITY OF MUSKEGON

Published: October 1, 2015

By: \_\_\_\_\_  
Ann Meisch, MMC, Its Clerk

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PUBLISH ONCE WITHIN TEN (10) DAYS OF FINAL PASSAGE