

**CITY OF NEW BUFFALO  
BERRIEN COUNTY, MICHIGAN**

**ORDINANCE NO. 262**

**AN ORDINANCE TO ADD A NEW ARTICLE VI, "VACANT BUILDINGS," TO CHAPTER 12, "NOISE, NUISANCE, PROHIBITED ACTS AND OTHER MISCELLANEOUS PROVISIONS," OF THE CODE OF ORDINANCES OF THE CITY OF NEW BUFFALO TO REGULATE VACANT BUILDINGS.**

THE CITY OF NEW BUFFALO ORDAINS:

**Section 1. Addition of Article VI to Chapter 12 of the Code of Ordinances.** Article VI, "Vacant Buildings," Chapter 12, "Noise, Nuisance, Prohibited Acts and Other Miscellaneous Provisions," of the Code of Ordinances of the City of New Buffalo is added to read as follows:

**Article VI  
Vacant Buildings**

**Section 12-71 - Purpose; Findings.**

The purpose of this chapter is to help protect the health, safety, and welfare of the citizens of the City of New Buffalo by preventing blight, protecting property values and neighborhood integrity, avoiding the creation and maintenance of nuisances and ensuring the safe and sanitary maintenance of dwellings, commercial and industrial buildings. It is recognized that blight lowers property values, leads to deteriorating conditions, undermines the quality of life, affects the public health, safety and general welfare and also results in human injury and criminal activities. It is also determined that vacant and unoccupied structures demand an inordinate amount of city administrative and ordinance enforcement resources.

**Section 12-72 - Definitions.**

The following words, terms and phrases, when used in this article, shall have the meaning ascribed to them in this article, except when the context clearly indicates a different meaning:

*Dangerous building* means any building or structure which has any of the defects or conditions set forth in Section 12-51 of this code.

*Occupant* means any person living or sleeping in a building or structure; having possession of a space within a building or structure.

*Occupied* means a building or structure or portion thereof that has an occupant.

*Regularly occupied* means a building or structure or portion thereof that is lawfully utilized or lawfully occupied for the purpose for which it is lawfully intended and designed and which if its intended purpose is residential, normally has at least one person lawfully living or sleeping in it daily and which if its intended purpose is not residential, normally has persons lawfully in it and utilizing it on a basis consistent with

its lawful nonresidential purpose. Persons solely in the building or structure for the purpose of maintenance, repair, or cleaning of the building or structure do not make the building or structure “regularly occupied”.

*Vacant* means a building or structure in which no person or persons actually lawfully resides or lives in any part of the building as the legal or equitable owner or tenant-occupant, on a permanent, non-transient basis, or currently conducts a lawfully licensed business, or lawfully uses the structure 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 the city ordinances, building and fire codes pertaining to the storage use. A building is a vacant building if it is not regularly occupied for a period greater than ninety (90) days.

**Section 12-73 - Evidence of Vacant Properties.**

Evidence of vacancy shall include any condition that on its own, or combined with other conditions present, 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; accumulation of newspapers, circulars, flyers and/or mail; past due utility notices and/or disconnected utilities; accumulation of trash, junk and/or debris; boarded up windows; abandoned vehicles, auto parts or materials; continually drawn window coverings such as curtains, blinds and/or shutters; the absence of furnishings and/or personal items consistent with habitation or occupancy; statements by neighbors, passersby, delivery agents, utility agents, city employees, or other similarly situated persons that the property is vacant property.

**Section 12-74 - Registration of Vacant Buildings.**

- (a) All persons owning a vacant building, or agents acting on behalf of such owners, shall register with the building department of the city using a prescribed form and all vacant buildings owned within the city within thirty (30) days. Properties that are vacant at the time of the adoption of this article must register within thirty (30) days of the date this article takes effect.
- (b) Each registration shall be required to contain, at least, the following information:
  - 1. Name and street address or mailing address where mail may be sent that will be acknowledge as received by the owner(s).
  - 2. Agent name and address, if applicable.
  - 3. Telephone number of owner and agent.
  - 4. Address of each vacant property within the city owned by that owner, including:
    - i. The number of units at each address;
    - ii. The use for each property; and
    - iii. When each property was last occupied.
- (c) Any changes in the information required by this section must be provided to the same office within fourteen (14) days of such change occurring.
- (d) Registration of an abandoned structure or dangerous building does not preclude the city from taking appropriate actions to secure the property or to issue orders to repair or abate dangerous, hazardous, or unlawful conditions or from acting to eliminate an imminent hazard to public health and safety.

**Section 12-75 - Inspections.**

Vacant buildings, including the surrounding real property, required to be registered in accordance with this article may be subject to an initial exterior inspection by the building department.

Following the initial inspection, in order to ensure that the vacant properties are safe, secured and well maintained, all vacant properties, including the surrounding real property, may be subject to additional exterior inspections on a yearly basis and/or by one or more of the following bases:

- (a) By area, such as an entire block, neighborhood or historic district such that all vacant properties in a predetermined geographical area will be inspected simultaneously or within a short period of time.
- (b) By complaint, such that the complaints of property maintenance violations or violations of the requirements of this article shall be inspected within a reasonable time.
- (c) By recurrent violations, such that any property which is found to have a high incidence of recurrent or uncorrected violations may be inspected more frequently.
- (d) Whenever reasonable cause exists to believe that there is a violation of the property maintenance code or this article on any vacant property or other conditions which makes the structure or premises unsafe, dangerous or hazardous.
- (e) For the purpose of re-inspection to ensure the correction of any violation in existence of a previous inspection.

Any violation of the city code or this article which are detected upon any of the inspections by the building code enforcement department shall be fully repaired and/or remedied within thirty (30) days of notice to the owner or within such additional time as permitted by the building department.

**Section 12-76 - Securing and Maintenance of Vacant Buildings.**

All vacant buildings shall be secured and maintained as set forth in Sec. 12-57 of this chapter.

**Section 12-77 - Fees.**

- (a) The fees for registration, inspection, administration, and all other actions authorized under this article shall be established and may be amended by resolution of the City Council in an amount sufficient to offset the cost of processing the form and administering compliance with this article.
- (b) Each owner or agent of a vacant building registered under this section shall be required to pay a registration fee for each such building or structure.
- (c) Each owner or agent who fails to register a vacant building or structure in a timely manner shall pay a late fee.

- (d) If the owner or agent fails to pay the registration fee, late fee, or other administrative fee as required by this article, the city shall have, as security for collection, a lien upon the premises.

**Section 12-78 - Recovery of Fees.**

If all or part of the fees required by this chapter are not paid or are overdue, the city may recover such sums by:

- (a) Filing suit against the owner for entry of civil money judgment or any other means available by law. The city shall be entitled to all actual attorney fees and costs incurred in obtaining a warrant or to obtain a judgment against an owner for any overdue or unpaid fee associated with this article.
- (b) Any other means available by law, including, but not limited to, such fees being included in any fines and costs assessed by the court for the infraction.

**Section 12-79 - Disclaimer of Liability.**

An enforcement action, inspection, or other activity taken by the city under this article in the execution of its duties is not a warranty or guarantee that there are no defects in the dwelling or structure nor does the city assume any responsibility or liability for the property or its owner or any third party. The enforcement action, inspection, or other activity taken by the city is made for the benefit of the city only, the city shall not be held responsible to any party based upon their reliance on any enforcement action, inspection, or other activity taken by the city.

**Section 12-80 - Violation; Public Nuisance Declared.**

Any person who shall violate a section of this article shall be responsible for a municipal civil infraction as provided in Section 1-6 of this code. Additionally, it is declared a public nuisance for any owner to cause, permit, or maintain any property condition contrary to the provisions of this article.

**Secs. 12-81 through 12-90. [Reserved.]**

**Section 2. Publication and Effective Date.** This Ordinance shall be published in a newspaper of general circulation in the City and shall be effective 20 days after its enactment or upon publication, whichever is later.

YEAS: Flanagan, Price, Robertson, Lijewski, Humphrey

NAYS:

ABSTAIN:

ABSENT:

**ORDINANCE DECLARED ADOPTED.**

**CERTIFICATION**

This is a true and complete copy of an ordinance adopted by the City Council of the City of New Buffalo, Berrien County, Michigan, at a meeting held on November 20, 2023.

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John Humphrey, Mayor

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Ann M. Fidler, Clerk