



Protecting Our
Irreplaceable Legacies.

Vacant Property Ordinance to Prevent and Mitigate Blight

Structures which are left vacant* for extended periods of time have been shown to breed crime, pose public safety and health risks, and reduce property values and the economic viability of the community in which they are found. Therefore, Preservation Dayton, Inc. requests that the City of Dayton establish enabling ordinances and necessary programs to:

- I. Identify and register vacant buildings to determine the responsibilities of owners
- II. Shift the burden of costs of vacant, blighted structures from the City and its residents to the owners of the structures (e.g., boarding, mowing, legal costs, police and fire calls, etc.)
- III. Utilize fees and require reuse plans to incentivize owners to return properties to occupancy and productive use
- IV. Prevent additional properties from incurring code violations and becoming vacant

*vacant defined per the following criteria

Definitions of Vacant Properties Used in Other Ohio Municipal Ordinances

Unless otherwise expressly stated, the following terms shall, for the purpose of this chapter, have the meanings indicated in this section.

- (a) "Owner." Any person, in whose name the property is titled, and any person, agent, servicing company, firm, third party, financial institution or bank that has an interest in the property as a result of an assignment, sale, mortgage, transfer of a mortgage, or similar instrument or having an agreement with anyone of the above for the purpose of securing and/or managing the property.
- (b) "Secured by other than normal means" . A building secured by means other than those used in the design of the building.
- (c) "Unoccupied." A building which is not being used for the occupancy authorized by the owner.
- (d) "Unsecured." A building or portion of a building which is open to entry by unauthorized persons without the use of tools or ladders.
- (e) "Vacant building." A building (excluding government-owned buildings) which is:
 - (1) Unoccupied and unsecured; or
 - (2) Unoccupied and secured by other than normal means; or
 - (3) Unoccupied and an unsafe building as determined by the Code Enforcement Officer; or
 - (4) Unoccupied and having utilities disconnected; or
 - (5) Unoccupied and has housing or building code violations; or
 - (6) Illegally occupied, which shall include loitering and vagrancy; or
 - (7) Unoccupied for a period of time over 90 days and having an existing code violation issued by a Code Enforcement Officer; or
 - (8) Unoccupied with a mortgage status of abandonment (i.e. deceased or foreclosed); or
 - (9) Unoccupied and abandoned by the property owner.
- (f) "Evidence of vacancy." Any condition that on its own or combined with other conditions present would lead a reasonable person to believe the property is vacant. Such conditions include, but are not limited to: significantly below standard utility usage, overgrown and/or dead vegetation, accumulation of newspapers, circulars, flyers and/or mail, accumulation of trash, junk, and/or debris, broken or boarded up windows, abandoned vehicles, auto parts or materials, the absence of window coverings, such as curtains, blinds, and/or shutters, the absence of furnishings and/or personal items consistent with habitation or occupation, statement(s) by governmental employee(s) that the property is vacant.

Phase 1: Develop a vacant blighted property registration ordinance which requires:

- 24/7 phone contact and local address for the owner and/or manager who is responsible for remedying building code violations and other public safety and non-compliance violations
- Interior and exterior inspections
- Significant fees and/or bonds to offset costs to the community for allowing vacant properties to go underutilized and deteriorate
- Liens placed on properties for the costs incurred by the City for remedying code violations, failure to meet registration requirements, non-payment of registration fees and fines, legal costs; Liens forgiven for new buyers who remedy code violations within a specific deadline set by the City.
- Fees and/or bonds increase over time to encourage rehabilitation and discourage abandonment
- Require owners to submit plans to the City and make demonstrable progress to rectify code violations and make the property productive and occupied
- Civil remedies, as well as criminal, for more power and flexibility to enforce building codes
- Civil remedies to address “spot blight” by utilizing eminent domain acquisition and/or receivership action

Additional Features and Benefits of the Ordinance

- Compatible with the Ohio Revised Code; already Implemented in numerous municipalities
- Self-funded: initial and annual escalating registration fees for every year of vacancy, performance bonds, or escrow payments can fully or partially fund administration of the ordinance
 - According to the Greater Ohio Policy Center, vacant property ordinances are typically self-funding
See Youngstown’s data <https://www.greaterohio.org/blog/2021/11/30/from-the-archives-misconceptions-about-vacant-property-registries?format=amp>
 - Potential re-prioritization of City resources devoted to community engagement, code enforcement, nuisance abatement and supervisory roles
 - Potential to decrease costs for boarding, mowing, demolition, arson, crime: first responder calls
See University of Pennsylvania Urban Health Lab data
<https://www.nytimes.com/2021/10/08/opinion/gun-violence-biden-philadelphia.html>
- Potential to address income tax shortfall: Improve neighborhoods to attract more “work at home” residents to the City
- Potential to increase property values of responsible homeowners who have seen a decline in their home equity
- Increased potential for attracting more investment (e.g., nearby home owners who have more faith in the future of their neighborhood and home values; private sector developers who are investing in Dayton’s downtown core; Non-profit and government partners Aloft Program, Northwest Learn to Earn - Blue Meridian Group, CDBG funding)

Phase 2: Develop and support additional solutions to proactively prevent blight

- Prohibit evasion by flipping by requiring the new owner to register the property with the City and County; Explore prohibiting the transfer of title until City's liens are paid by new owner.
- Expansion of Land bank services to the entire City of Dayton, including HD1 and HD2 districts, to clear titles, encourage acquisitions and rehabilitation, and home ownership by capable, local homeowners and developers
- Increased capacity and utilization of Receiverships under O.R.C. 3767.41
- Revolving funds for acquisition, repair and resale
- Assistance to elderly and low-income homeowners for maintenance and taxes
- Assistance to first-time homebuyers and qualified City and Dayton Public School employees g. Rent-to-own programs
- Affordable or zero interest mortgage and home improvement loans. Particularly small amounts
- Utilize community engagement processes to make locally appropriate decision
- Explore innovative solutions that give non-profits (e.g., neighborhood associations, CDCs) and residents a means to file liens against blighted, public nuisance properties and property owners in addition to depositor's foreclosures, receiverships and *in rem* action.

Other: Support Ohio Senate Bill 334 Grant Certain Bidders Rights on Foreclosed Residential Properties <https://ohiosenate.gov/legislation/GA134-SB-334>; And Senate Bill 354 Change Eligibility to Bid on Foreclosed Properties <https://ohiosenate.gov/legislation/GA134-SB-354>



Request to Develop Vacant Property Ordinance to Prevent and Mitigate Blight

Thank you for your consideration and all you are already doing to address code enforcement violations and vacant properties in our city.

In addition to the research in Appendix A, additional information for Gallipolis, Columbus, and Youngstown is available on request.

Appendix A

Ohio Vacant Property Ordinances, Policies, and Studies

Researched and Evaluated by PDI volunteers with legal and urban planning experience

Dayton's current ordinance <https://www.daytonohio.gov/219/Register-a-Vacant-Property> limited to bank-owned properties

Gallipolis <http://www.cityofgallipolis.com/VACANT%20BUILDING%20ORDINANCE.pdf>. Requires internal and external inspections. Must have a specific demo or reuse plan. Substantial escrow/performance bond fees; significant increases in annual registration and inspection fees.

Columbus, One of the best and most comprehensive programs for a Phase 2 Dayton program. Includes a partnership with the Land Bank. Offers a gap financing program in the form of grants up to \$60K for rehabilitating vacant properties; Annual inventory of vacancies published on website; Use of Receivership actions; Strong support from Environmental Court and the City Law Department Department <https://www.columbus.gov/development/land-redevelopment/Vacant-and-Abandoned-Properties/>

Youngstown https://youngstownohio.gov/property_registration Both vacant and rental registration. Cash bond of \$10,000 plus inspection fees. Fines for non-compliance; Multi-prong solutions: Partnership with the Land Bank, Americorps building trades team to renovate properties, grant funding, staff capacity; Compliance estimated to generate \$739,920 in annual revenue – enough to support hiring several employees to manage the program.

https://codelibrary.amlegal.com/codes/youngstown/latest/youngstown_oh/0-0-0-38235

https://codelibrary.amlegal.com/codes/youngstown/latest/youngstown_oh/0-0-0-38394

<https://www.yndc.org/strategic-plan>

<https://www.yndc.org/about/funders>

<https://shelterforce.org/2018/11/13/how-to-fight-vacancy-do-it-all/>

Appendix A—Continued

Urbana <https://www.urbanaohio.com/vacant-building-registration-program.html>
https://codelibrary.amlegal.com/codes/urbana/latest/urbana_oh/0-0-0-22371#JD_1341

Significant annual increasing fees. Substantial enough to motivate property owners to put their properties back into reuse or sell their properties. Both interior and exterior inspections. Registration form requires a list of all known lien holders.

- Registration (Years 0-1): \$200**
- 1st Renewal (Years 1-2): \$400**
- 2nd Renewal (Years 2-3): \$800**
- 3rd Renewal (Years 3-4): \$1,600**
- Every Subsequent Renewal: \$3,200**

Painesville <https://www.painesville.com/?SEC=D8B7BA2D-DA45-4AD4-B908-3019E45FA9FC>

The fee to register is \$200 in the first year for residential and \$400 the first year for commercial. ***The fee doubles each year the property remains vacant.*** Please make checks payable to the City of Painesville.

	1st year	2nd year	3rd year	4th year	5th year
Residential Property	\$200	\$400	\$800	\$1,600	\$3,200
Commercial Property	\$400	\$800	\$1,600	\$3,200	\$6,400

Appendix A—Continued

Sandusky Ordinance Number 15-165

https://www.ci.sandusky.oh.us/residents/fire_department/vacant_and_abandoned_building_program.php<https://cms6.revize.com/revize/sanduskyoh/CC%20Agendas/LEGISLATION/16.165.pdf>

Administered by the Fire Department; Focus is on commercial buildings. Annual fee of \$400 which increases each year to a maximum of \$6,400. **Unpaid fees are charged 3% compounded annual interest.**

Requires a building demolition or renovation plan to be submitted and approved by the City

<https://cms6.revize.com/revize/sanduskyoh/SFD/Vacant%20Bldg%20Form.pdf>

Ashtabula Vacant Property Enforcement Program Ch. 1369

https://codelibrary.amlegal.com/codes/ashtabula/latest/ashtabula_oh/0-0-0-25520 Requires both exterior and interior inspections.

Residential fees \$200 first year, double thereafter with a maximum annual fee of \$3,200

Commercial \$400 first year; double thereafter with a maximum annual fee of \$6,400

\$10,000 performance bond for properties designated for demolition.

Akron

https://www.akronohio.gov/cms/resource_library/files/cdffe0d4b748920e/vacant_building_registration_ordinance_207_2018.pdf Modest fees. Reuse plan must be filed with the city. Appeals board.

Appendix A—Continued

- Akron** Includes an appeals board where community members can comment re: the negative impact of the vacant property <https://www.akronohio.gov/cms/vbr/index.html> Legal definition of vacancy is much broader than the definitions we are proposing. Adopted in 2018. Limited to commercial building. Modest annual registration fees. Building plan required. https://www.akronohio.gov/cms/resource_library/files/cdffe0d4b748920e/vacant_building_registration_ordinance_207_2018.pdf Adopted in 2018
- Brooke Park**, <https://www.cleveland.com/community/2021/07/brook-park-requires-rental-property-managersdesignees-to-operate-within-15-miles-of-city.html> Registered agent must live or operate within 15 miles of the city limits.
- Cincinnati** https://library.municode.com/oh/cincinnati/codes/code_of_ordinances?nodeId=TITXICIBUCO_CH1123VAFOREPRRE Looks like this is for bank-owned, vacant properties only. This is not comprehensive enough to address the many vacant properties that Dayton residents and speculators let sit empty in our city.
- Cleveland Heights** <https://www.clevelandheights.gov/198/Vacant-Building-Registration> Modest fees. Probably makes no difference.
- Beavercreek** <http://www.beavercreekohio.gov/590/Abandoned-Foreclosure-Vacant-Property-Re> Modest fees. Probably makes no difference in motivating owners to sell or put the property back into use.
- Alliance** <https://www.cityofalliance.com/DocumentCenter/View/419/Vacant-Property-Registry-Ordinance?bidId=> Modest fees. Probably makes no difference.
- Hamilton** <https://www.hamilton-oh.gov/vacant-property-registration> Commercial and industrial properties only.
- Middletown** https://codelibrary.amlegal.com/codes/middletownoh/latest/middletown_oh/0-0-0-50093 Modest fees. Minimal plan required to keep properties secure.
- Reynoldsburg** <http://www.ci.reynoldsburg.oh.us/Uploads/Documents/government/council/Legislation/2020/39-2020%20Vacant%20Property%20Registration.pdf> Modest fees. Probably makes no difference.

Additional research available upon request for Gallipolis, Columbus, and Youngstown

Appendix B—Additional Relevant Research

Greater Ohio Policy Center

<https://www.greaterohio.org/blog/2018/9/17/the-truths-and-myths-about-vacant-property-registries>

The Center for Community Progress suggests that vacant property registration ordinance should include the following elements:

- A clear definition of which properties and which parties must register;
- The registration requirements and procedures, including the information required of the owner or lienholder;
- The fee structure;
- The obligations of the owner, with respect to maintaining the property; and
- The penalties for failing to register in timely fashion.

Urban Institute Research

A bit dated from 2017 but a great survey of research, policy, and practical programs that justify the investment and payback in housing enforcement, vacant property remediation, and neighborhood revitalization.

https://www.urban.org/sites/default/files/publication/89491/2017.04.03_urban_blight_and_public_health_vprn_report_finalized.pdf *Urban Blight and Public Health: Addressing the Impact of Substandard Housing, Abandoned Buildings, and Vacant Lots*, Urban Institute.. CID: 20.500.12592/47fsk2. Also available at

<https://policycommons.net/artifacts/631619/urban-blight-and-public-health/1612890/> de Leon, E. & Schilling, J., 2017.

Appendix B—Additional Relevant Research

Shelterforce

Features Youngtown, Ohio Beniston, Ian “How to Fight Vacancy? Do It All.” *Shelterforce* November 13, 2018. [How Do You Address Vacant Properties? Do It All — Shelterforce](https://shelterforce.org/2018/11/13/state-policies-play-a-central-role-in-the-fight-against-vacant-property/)

<https://shelterforce.org/2018/11/13/state-policies-play-a-central-role-in-the-fight-against-vacant-property/>
How landbanks and other state legislation are necessary to address blighted properties.

Center for Community Progress. No longer available on their site; Have requested PDF copies of the entire series

<https://www.communityprogress.net/tool-1--vacant-property-registration-ordinances--pages-257.php>

<https://www.communityprogress.net/tool-5--covering-recovering-costs-pages-211.php>

<https://www.communityprogress.net/tool-2--motivating-owners-to-use-properties--pages-258.php>

Urban Wire

<https://www.urban.org/urban-wire/five-elements-cities-need-address-hypervacancy-and-catalyze-neighborhood-recovery>

Appendix B—Additional Relevant Research

Center for Community Progress

Reimagining Delinquent Property Tax Enforcement

Local and state governments in Maryland, New York, Missouri, and West Virginia examples; Sent to the County Treasurer. Most of the five-point recommendations are relevant to government entities that collect delinquent taxes. However, two of recommendations are relevant to actions municipal governments should consider

- **Ending tax lien sales for vacant properties and instead pursuing an in rem foreclosure action to bring the distressed property under local control.**
- **Adding abatement costs to the tax bill ensuring that the costs the government incurred from mowing grass, boarding a property, removing trash, and other services are recorded as a lien against the property and added to the minimum cost private buyers must pay at tax sale.**

Download the full report at:

<https://communityprogress.org/publications/reimagine-delinquent-property-tax-enforcement/>

Civil Rights Protections and Market-Sensitive Vacant Property Strategies

<https://communityprogress.org/publications/just-smart/>

Vacant Properties: The True Cost to Communities

<https://communityprogress.org/publications/vacant-properties/>

Appendix B—Additional Relevant Research

The Ohio Real Estate Law Blog From 2014 by a law firm defending property owners; Helpful criteria for writing an effective ordinance

<http://www.ohiorelaw.com/2014/09/vacant-propert-registration-ordinances.html>

Heritage Ohio This is older but contains a couple of good slides on how the OH receivership statute and other laws can be used to address vacant properties

<https://www.heritageohio.org/wp-content/uploads/2012/11/The-Cost-of-Vacant-Property-and-Solutions-You-Can-Use.pdf> .

HUD Policy and Research Center -- extensive resources and case studies for rehabilitating vacant properties and land; discusses lack of standard definitions for "vacant"

<https://files.hudexchange.info/resources/documents/VacantPropertiesTrueCosttoCommunities.pdf>

<https://www.huduser.gov/portal/periodicals/em/winter14/highlight1.html>

<https://www.huduser.gov/portal/periodicals/cityscpe/vol15num2/ch22.pdf> Includes a contact for the HUD Vacant Property Ordinance National Database