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ORDINANCE:

AN ORDINANCE AMENDING CHAPTER 4 OF THE REVISED ORDINANCES OF THE CITY OF BROCKTON

RECEIVED
JUN 21 10 59 AM '11

Be ordained by the City Council of the City of Brockton as follows:
Chapter 4, Buildings, is hereby amended by adding the following section

ARTICLE IV. REGULATION OF VACANT AND ABANDONED PROPERTIES

Sec. 4-41. Purpose

The City of Brockton has found that vacant and abandoned properties are a public health and safety risk, as well as the potential to become public nuisances and decrease the value of surrounding properties, provide a location for criminal activity, and create significant costs to the city by virtue of the need for constant monitoring and occasional cleanup. Accordingly, the purpose of this article requiring the registration of all vacant or abandoned buildings, both residential and commercial, is to assist the city government in protecting the public health, safety and welfare of its residents by encouraging the prompt repair, rehabilitation, and subsequent occupancy of vacant or abandoned properties.

Sec. 4-42. Definitions

(a) *Abandoned Building*: A vacant building, the ownership responsibilities of which have been surrendered or relinquished whether intentionally or by failure to occupy and maintain such property. Buildings, structures and premises for which the owner cannot be identified or located by delivery of certified mail at the last known or registered address, which persistently or repeatedly becomes unprotected or unsecured or which is or has been occupied by unauthorized persons.

(b) *Building*: As defined in Appendix C, Article XIII, Section 27-61.

(c) *Dangerous Building*: Any unoccupied building that has been neglected and deteriorated, or abandoned, vacated, unused or open to weather to such an extent that it is a danger or potential danger to life or property.

(d) *Dilapidated*: A condition of decay or partial ruin by reason of neglect, misuse, or deterioration. The Term includes, but is not limited to:

- (1) Buildings having deteriorated or ineffective waterproofing of exterior walls, roofs, foundations or floors, including broken or inadequately secured windows or doors;
- (2) Buildings having defective weather protection (such as paint, stain, siding or tarpaulin) for exterior wall covering; deleterious weathering due to lack of such weather protection or other protective covering.
- (e) *Hazard*: A condition liable to expose persons to injury, or property to damage, loss or destruction

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(f) *Legal Occupancy:* Human habitation that is legal by virtue of compliance with State Building, State Fire Safety, local zoning, Article II of the State Sanitary Code, Minimum Standard of Fitness for Human Habitation and all other pertinent codes and which is further demonstrated by proof of occupancy evidenced through a bona fide lease agreement, rent receipt or utility statement.

(g) *Owner:* Every person who alone or jointly or severally with others (a) has legal title to any building, structure or property pursuant to this article; or (b) has care, charge, or control of any such building structure or property in any capacity including but not limited to agent, executor, executrix, administrator, administratrix, trustee or guardian of the estate of the holder of legal title; or the estate of the holder of legal title; or (c) lessee under a written lease agreement; or (d) mortgagee in possession; or (e) agent, trustee or other person appointed by the courts.

(h) *Responsible Party:* The owner of property that is the subject of proceedings under this article. The singular use of the term includes the plural when the context so indicates.

(i) *Unsecured Building:* Any vacant or abandoned building not continuously secured, maintained, locked or boarded to prevent unauthorized entry or which fails to provide protection from weather damage.

(j) *Vacant Building:* Any commercial building in which no person or entity actually conducts a lawful business in such building; or any residential building in which no person lawfully resides in any part of the building; or a mixed-use building in which neither a business nor a lawful residence exists. Further, any building in which more than one-half of the total exterior windows and doors are broken, boarded or open without a functioning lock may be deemed "vacant" regardless of occupancy.

Sec. 4-43. Vacant or Abandoned Buildings Determination

The Inspector of Buildings or a local inspector shall evaluate all buildings in the city that are believed to be vacant or abandoned and make a determination for each as to whether the building is a "vacant building" or "abandoned building" within the meaning of section 4-42 of this article. The determination shall be in writing. For buildings that are determined to be "vacant buildings" or "abandoned buildings", the Inspector of Buildings or a local inspector shall send notice of the written determination to the owner of record. Said notice of determination shall be sent both by certified and first-class United States mail, with proper postage prepaid, or otherwise in the manner as is in the manner of service of all other ordinances of the City of Brockton. Failure of delivery shall not excuse a person from complying with this article. The Inspector of Buildings may personally serve or cause personal service of the notice of determination. Any person making such service shall execute an affidavit attesting to the facts of service. The Inspector of Buildings or a local inspector shall maintain an affidavit of such mailing for each notice of determination sent. The Inspector of Buildings or a local inspector may post the notice on the vacant or abandoned building.

The notice shall contain a statement of the obligations of the owner of a building determined to be a vacant or abandoned building, a copy of the registration form the owner is required to file pursuant to section 4-44 of this article and a notice of the owner's right to appeal the Inspector of Buildings determination. The notice shall specify a date and time on which the owner shall allow for a code compliance inspection of the interior of the vacant or abandoned building to determine the extent of compliance with city property, building code, health, fire, water and sewer codes.

Sec. 4-44. Registration

Within ninety (90) days of a building becoming vacant or abandoned, each owner of such vacant or abandoned building shall register said building with the Building Department by completing and submitting a registration form to such department, on a form to be created by such department, as well as paying the registration fee set forth in

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section 4-45 below. The failure timely to register a vacant or abandoned building shall be a violation of this article.

Sec. 4-45. Annual Registration Fees

On or before April 1 of each calendar year, the owners of any vacant or abandoned building shall pay to the City of Brockton Building Department a registration fee to cover the administrative cost of monitoring and ensuring the proper maintenance of such vacant or abandoned buildings, said fees may also be utilized to fund proper maintenance of such buildings by the City of Brockton, which costs will become a lien on the property as provided in section 4-50 herein. The annual registration fee shall be based on the duration of the vacancy as of April 1 of such year according to the following schedule:

\$150	For properties that have become vacant or abandoned within the past ninety (90) days.
\$300.00	For the properties that have been abandoned or vacant for less than one year
\$500.00	For properties that have been abandoned or vacant for one year or more but less than two years
\$1,000.00	For properties that have been abandoned or vacant for two years or more but less than three years
\$1,500.00	For properties that have been abandoned or vacant for three years or more

A failure to pay the registration fee, in a timely manner, shall be a violation of this article, and the full fee shall be deemed an assessment resulting from a violation of this article and is subject to becoming a lien on the property.

Sec. 4-46. Change of Status

Within seven (7) days of a change of the status of a vacant or abandoned building, due to the sale of the building, new occupancy or other circumstance, the owner shall notify the Building Department of such change of status.

Sec. 4-47. Billing Statement.

On or before March 1 of each calendar year, the Building Department shall send a billing statement, setting forth the required registration fee, to each owner of a vacant or abandoned building. The registration fee set forth in this article shall be due and payable within thirty (30) days of the date of notice regardless of the delivery of receipt of such billing statement.

Sec. 4-48. Appeal

Any owner assessed a registration fee under this article shall have the right to appeal the imposition of such fee to the City of Brockton's Building Department upon the filing of an application in writing, with a fifty (\$50) dollar filing fee, no later than fifteen calendar days after mailing of the billing statement. The appeal shall be limited solely to the issues of whether the building is vacant or abandoned and how long the building has been vacant or abandoned. The owner shall have the burden of proof on appeal. Upon the proper filing of an appeal, payment of the registration fee shall be stayed pending the outcome of the appeal. A hearing shall be held within thirty (30) days of the request for the same. A Municipal Hearing Officer shall preside over the hearing. The applicant shall have the right to present any and all evidence in support of the appeal. The Building Department shall have the right to present any and all evidence against the appeal. The hearing officer shall issue a written decision within thirty (30) days of the hearing. The hearing officer's decision shall be final. Payment of the fee shall be due within ten (10) days of the hearing officer's decision which is adverse to the owner.

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Sec. 4-49. Posting.

Within fifteen (15) days of the time a building is required to be registered as specified herein, the owner shall post upon their building which is vacant, abandoned or boarded, a sticker provided by the City of Brockton indicating that said building is registered and other such information as required by the Building Department. Stickers may be obtained from the Building Department.

Sec. 4-50. Maintenance Requirements.

Properties subject to this section must be maintained in accordance with all applicable Sanitary Codes, Building Codes, City Ordinances and Fire Codes. The local owner or local property management company must inspect and maintain the property for the duration of the abandonment.

Failure to maintain the property may result in the City of Brockton correcting the deficiencies of the property with the cost, fees and associated fines placed as a lien upon the property.

Sec. 4-51. Other Violations

The provisions of this article are in addition to, and not in lieu of any and all other applicable provisions of the revised Ordinances of the City of Brockton or any provisions of the regulations and laws of the Commonwealth of Massachusetts.

Sec. 4-52. Failure to register; enforcement.

Any person or entity violating this article, by failing to register a vacant or abandoned building, failing to pay the registration fee or otherwise, shall be subject to a fine of three hundred (\$300) dollars per offense, not to exceed nine thousand (\$9,000.00) dollars. Each day that the owner is in violation shall constitute a separate offense. The Building Department shall have the right to enforce this article pursuant to the noncriminal disposition procedures set forth in Chapter 5.5.

Sec. 4-53. Secure Database

A secure online database shall be created by the Information Technology Department that will be available 24 hours a day, 7 days a week, to the Fire and Police departments. The information in this database shall include, at minimum the following information: the property address and the contact information for responsible parties. The Inspector of Buildings or a local inspector shall be responsible for maintaining accurate and current information in this database.

Sec. 4-54. Referen

Chapter references herein are to the Revised Ordinances of the City of Brockton unless stated otherwise.

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Paul F. Lenko
IN CITY COUNCIL

June 27, 2011

READ AND REFERRED TO STANDING
COMMITTEE ON Ordinance

Anthony D. Galdi

CLERK

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In City Council sept. 26, 2011

Passed to a third reading by a hand vote.

Spokane, Idaho
City Clerk

In City Council, October 11, 2011

Ordained by a roll call vote taken by "Yeas" and "nays"; eightmembers present and all voting in the affirmative. Councilors DeNapoli, Monahan and Sullivan absent.

Spokane, Idaho
City Clerk

SENT TO MAYOR FOR APPROVAL

Oct. 14 2011

APPROVED

James M. Sullivan
MAYOR

10/17/11