

ORDINANCE 2022-30

An ordinance of the City of Irondale to modify Chapter 4, Buildings and Building Regulations by adding Article VIII entitled “Registration of Vacant Properties” and to repeal all ordinances and parts of the ordinances of the City of Irondale in conflict therewith.

WHEREAS, the City Council of the City of Irondale finds, determines, and declares that unoccupied and vacant buildings become an attractive nuisance to children; a harborage for rodents, vermin, and other pests; and create a fire and safety hazard for citizens who reside in proximity to these locations; and

WHEREAS, the unkempt grounds surrounding said property invite the dumping of garbage and rubbish; and

WHEREAS, it is the responsibility of the Council to promote the health, safety and welfare of the citizens.

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF IRONDALE, ALABAMA in regular meeting duly assembled, a quorum being present, as follows:

Section 1. MODIFICATION OF CHAPTER 4, Buildings and Building Regulations. Chapter 4, Buildings and Buildings Regulations, of the Municipal Code of the City of Irondale, Alabama is hereby amended to add the following as Article VIII to this Chapter:

ARTICLE VIII. – REGISTRATION OF VACANT PROPERTIES

Sec. 4-300. – Definitions.

As used in this article, the following words shall have the meaning ascribed below.

- (1) *Agent* means an individual with a place of business in this state in which he or she is authorized to accept inquiries, notices, and service of process on behalf of a vacant or foreclosed real property owner.
- (2) *Commercial or industrial building* means a building, structure, facility, or complex, or part thereof, located within the corporate limits of the City of Irondale that is used, or designed to be used, for any private manufacturing, industrial, or commercial business purposes whether or not legally zoned for such use. A multi-family residential property with more than four (4) dwelling units shall be a commercial or industrial building.
- (3) *Creditor* means a federal or state-chartered bank, savings bank, savings and loan association, credit union, mortgagee, and any entity acting on behalf of the creditor named in the debt obligation including, but not limited to, servicers.

- (4) *Owner* means any person, heirs at law, executors, administrators, co-partnership, association, corporations, fiduciary, or other legal entity having a legal or equitable title or any interest in any real property.
- (5) *Residential property* means real property located within the corporate limits of the City of Irondale with one (1) to four (4) dwelling units.
- (6) *Vacant* means a commercial or industrial building or residential property with no legal resident or tenant. Evidence of vacancy includes 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 or dead vegetation, accumulation of flyers, mail, or trash, disconnected utilities, the absence of window coverings or furniture, and statements by neighbors, delivery persons, or governmental employees.

Sec. 4-301. – Registration.

- (1) Upon knowledge of a commercial or industrial building or residential property being vacant, the owner and/or creditor shall within fifteen (15) days register the property as a vacant property with the building inspections division of the City of Irondale.
- (2) Upon initiating the legal process to foreclose real property, but no later than upon filing a complaint of foreclosure, or upon executing a deed in lieu of foreclosure on a commercial or industrial building or residential property, and a registration as prescribed in subsection (1), above, has not yet been completed, the creditor shall within seven (7) days register the property as a property in foreclosure with the building inspections division of the City of Irondale.
- (3) Registration shall include the address of the property, the name and contact information of the agent for the creditor, if applicable, the name and contact information for a property preservation company or property manager, if applicable, along with any additional information deemed necessary by the fire marshal or his/her designee, in his capacity as director of the building inspections division.
- (4) A creditor is required to update the registration form with all pertinent information when (a) a commercial or industrial building or residential property becomes vacant at any time after submission of the registration required by subsection (2) above, (b) a creditor files a complaint of foreclosure or executes a deed in lieu of foreclosure at any time after submission of the registration required by subsection (2), above, (c) a creditor acquires titles to the property at a sheriff/foreclosure sale, or (d) any previously provided

information (i.e. name or contact information of agent or property preservation vendor) changes.

- (5) The City may utilize a third-party to administer the program and cause or direct all relevant information to be submitted to the third-party administrator.

Sec. 4-302. – Maintenance.

- (1) The owner or creditor of a vacant commercial or industrial building or residential property is required to conduct regular inspections, at the minimum once a month, to ensure property is compliant with all City building, housing, and property maintenance codes.
- (2) For all properties registered pursuant to section 4-301, if the City determines the property is in violation of any ordinance regulating a nuisance, the City may notify the owner or creditor of the violation by providing notice of the violation by electronic mail, and/or certified mail, return receipt requested to the person(s) identified on the submitted registration form.
- (3) The City may require the owner to correct the violation and may require the creditor to correct the violation to the extent consistent with the terms of the mortgage or other rights and interest in the property.
- (4) A notice of violation shall include a description of the conditions that give rise to the violation and shall provide a period of not less than seven (7) days to remedy the violation from the owner's or creditor's receipt of the notice. The building inspections division may require expedited maintenance actions in certain emergency situations, such as vandalism, unsecured entranceways, and criminal activity, etc.

Sec. 4-303. – Enforcement.

- (1) The owner's or creditor's failure to remedy the violation within the period required by the notice of violation shall be an offense against the City of Irondale and shall be punishable by a fine not to exceed five hundred dollars (\$500.00) per offense.
- (2) Any owner or creditor that fails to register a commercial or industrial building or residential property shall be subject to a civil fine of one hundred dollars (\$100.00) payable to the City for each day of delinquency.

Sec. 4-304. – Administrative Fees.

- (1) Any owner or creditor of a commercial or industrial building required to be registered by this article shall pay to the City a registration fee in the amount of four hundred dollars (\$400.00) per year.

- (2) Any owner or creditor of a residential property required to be registered by this article shall pay to the City a registration fee in the amount of two hundred dollars (\$200.00) per year.
- (3) The registration of a commercial or industrial building or residential property shall be valid for one (1) year from the date of registration. The owner or creditor shall renew the registration annually so long as the property meets the criteria requiring registration as established by this article. The owner or creditor shall pay a renewal registration fee in the same amount as the initial registration fee.
- (4) The City may contract with a third-party administrator to assess, charge, and collect all registration and renewal fees due and payable pursuant to this article. In such event, the owner or creditor shall pay the registration and renewal fees directly to the contracted third-party administrator.
- (5) For properties registered under section 4-301(1), the owner or creditor is not required to renew the registration when, before the expiration of one (1) year from the date of registration or renewal, the property is legally reoccupied, or the property is transferred to an unaffiliated third-party.
- (6) For properties registered under section 4-301(2), the creditor is not required to renew the registration when, before the expiration of one (1) year from the date of registration or renewal, the foreclosure action is dismissed, or the property is transferred to an unaffiliated third party. If the foreclosure action is dismissed but the property remains vacant, the annual renewal is still required.
- (7) The creditor is not required to renew the registration when, before the expiration of one (1) year from the date of registration or renewal, the creditor releases the lien and removes the creditor's interest in the property.

Sec. 4-305. – De-registration.

When any registered property that transfers to an unaffiliated third party, or the foreclosure action is dismissed, and the property is occupied, or is legally reoccupied and not subject to a foreclosure action, or the registering creditor releases the lien, the owner or creditor shall de-register the property.

Sec. 4-306. – Exemptions.

- (1) The fire marshal or his/her designee may exempt a property from the registration and fee requirements of this article in the following instances:

- (a) The property is habitable wherein all building systems are in sound working order which is evidenced by the issuance of a certificate of occupancy, and the building and grounds are maintained in good order, and the building is being actively marketed for sale or rental and actively maintained. Evidence of a property being marketed for sale or rent could include, but is not limited to, retaining a licensed real estate agent or broker to list the property for sale or rent, taking out advertisements in various media forms, such as newspapers and online services, and need to be provided to the designated municipal official. The building inspections division may request additional information, for example any available photos, price and agent information.
 - (b) An owner submits plans to the building inspector division demonstrating that the property will be rehabilitated and restored to productive use and occupancy within twelve (12) months following the initial property registration along with a certified letter from a licensed contractor or architect stating that the property is capable of being rehabilitated and restored to productive use and occupancy within the twelve (12) months following the initial property registration, provided, the property is actively maintained in the interim. The building inspections division may request additional information, for example any available photos, plot plans, and layout plans.
 - (c) The owner certifies to the building inspections division that the vacancy is a result of damage from a natural disaster in the past six (6) months and the owner is actively seeking insurance proceeds or federal/state assistance to rehabilitate the property. The owner is required to update the building inspection division monthly until the property is rehabilitated.
 - (d) The owner certifies the vacancy is a result of a fire in the past thirty (30) days and the owner is actively seeking insurance proceeds to rehabilitate the property. The owner is required to update the building inspections division monthly until the property is rehabilitated.
 - (e) The owner certifies to the designated municipal official that the vacancy is not an abandonment and is utilized as a vacation home, or conversely the property is vacant while the owner resides as a vacation home and the subject property is actively maintained.
 - (f) The owner is on active duty with any branch of the U.S. Armed Services.
- (2) In determining whether to grant a request for exemption, the fire marshal or his/her designee shall consider the following:
- (a) The applicant's prior record as it pertains to the city's house, building, fire, and property maintenance code violations.

- (b) The amount of vacant property that the applicant currently has within the City and the length of time that the property for which the exemption is sought has been vacant.
- (c) The proximity of the vacant property to a school or other properties that require additional safety considerations.

Section 2. **REPEAL.** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 3. **SEVERABILITY.** That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City of Irondale hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 4. **LEGAL RIGHTS NOT IMPAIRED.** That nothing in this ordinance or in the Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in Section 2 of this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

Section 5. **ORDINANCE CUMULATIVE; COMPATIBILITY WITH OTHER REGULATIONS.** This Ordinance shall not be construed to modify or to repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this Ordinance are in addition to and cumulative to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

Section 6. **PUBLICATION OF ORDINANCE.** That the City Clerk of the City of Irondale is hereby ordered and directed to cause this ordinance to be published and that a copy of this Ordinance be entered upon the minutes of the meeting of the City Council.

Section 7. **EFFECTIVE DATE OF ORDINANCE.** That this Ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall be in full force and effect upon adoption and shall continue in full force and effect from month to month and year to year from its effective date until repealed.

THEREFORE, BE IT ORDAINED, that the City Council of the City of Irondale does hereby ordain and enact the foregoing Ordinance for the City of Irondale.

ADOPTED & APPROVED: This 15th day of November, 2022.

David Spivey, City Council President

APPROVED:

James D. Stewart, Jr., Mayor

ATTESTED:

Leigh Ann Allison, City Clerk

CERTIFICATION

I, Leigh Allison, City Clerk of the City of Irondale, Alabama, hereby certify that the above to be a true and correct copy of an ordinance adopted by the City Council of the City of Irondale at its regular meeting held on the 15th day of November, 2022, as the same appears in the minutes of record of said meeting.

Leigh Ann Allison, City Clerk