

# ORDINANCE NO. \_\_\_\_\_ OF 2023

## AN ORDINANCE REGULATING NON-RESIDENTIAL VACANT STRUCTURES IN THE CITY OF OPELOUSAS

This Ordinance was introduced at a public meeting on Tuesday, January 10, 2023, by council member \_\_\_\_\_. Notice of a public hearing was properly advertised, and a public hearing was held on Tuesday, February 14, 2023. Thereafter, on motion of councilmember \_\_\_\_\_ and second by councilmember \_\_\_\_\_, this Ordinance was offered for final adoption, and following vote was recorded:

Yay:

Nay:

Absent:

Now therefore, BE IT ORDAINED by the City Council of the City of Opelousas, that the following chapter regulating vacant structures in the City of Opelousas is hereby adopted.

### CHAPTER 5 BUILDINGS AND BUILDING REGULATIONS

#### ARTICLE VIII. VACANT STRUCTURES

##### **Sec. 5-162. Purpose and Intent.**

The purpose of this Article is to implement components of the Opelousas Downtown Development District Master Plan, adopted by the City in 2021 by promoting the revitalization of downtown Opelousas; encouraging the reuse of downtown’s building stock; improving the conditions of vacant buildings in downtown to promote public health, safety, and welfare; and supporting economic development in downtown by returning vacant buildings into commerce to create a more vibrant and active downtown.

##### **Sec. 5-163. Definitions.**

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

- (1) “Department” means the Code Enforcement Department of the City of Opelousas, Louisiana.
- (2) “Director” refers to the Director of the Code Enforcement Department of the City of Opelousas, Louisiana.
- (3) The “District” means the Opelousas Downtown Development District as defined in RS 33:2740.39(A).

- (4) “Lawful activity” means any legal or legally non-conforming use as defined in City of Opelousas Zoning Ordinance.
- (5) “Owner” or “property owner” means any person, agent, firm, partnership, limited liability company, corporation, or other entity having a legal interest in the property.
- (6) “Secured”, “secure”, and “securing” shall have the same meanings and be subject to the same standards as set out in [Sec. 5-167. Standard of care for vacant properties.], unless expressly provided otherwise in this Article.
- (7) “Structure” means a combination of materials forming an edifice or building of any kind, or any piece of work artificially built up or comprised of parts joined together in some definite manner, but excluding the following: retaining walls; fences not over six feet high; platforms or decks not more than thirty inches above grade and not over any basement or story below; utility mains, lines, and underground facilities; and yard and play equipment. Structure does not include vehicles, recreational vehicles or campers.
- (8) “Vacant structure” means that all active lawful commercial or residential activity has ceased, or reasonably appears to have ceased for a continuous period of [one hundred and eighty (180) days]. Storage or "warehousing" is not considered an active lawful commercial activity.
- (9) “Violator(s)” means person(s), natural or juridical, who have been found liable for a Violation and/or ordered to correct a Violation in a written decision by the Planning and Zoning Commission as directed by this Article VIII.

#### **Sec. 5-164. Applicability and administration.**

- (a) Applicability.
  - (i) Unless otherwise provided, this Article shall apply to all vacant structures, as defined herein, which exist as of the effective date of this Article or which may hereafter be constructed or converted from other uses, and which are located within the boundaries of the District, as shown in Exhibit A.
  - (ii) This Article does not apply to single family or other residential Structures.
  - (iii) This Article does not apply to the State of Louisiana or any political subdivision of the State of Louisiana.
- (b) Authority of the Director. The Director is authorized to administer and enforce the provisions of this Article.
  - (i) The Director shall have the authority to render interpretations of this Article and to adopt policies and procedures in order to clarify the application of its provisions and ensure the efficiency and effectiveness of its implementation.
  - (ii) The Director may also enter into an agreement with a registered property owner to obtain compliance with this Article by a date certain in lieu of the deadlines otherwise provided by this Article.

#### **Sec. 5-165. Registration process and requirements.**

- (a) Notification to property owners. The Director, or designee, shall provide written notice to the property owner of a vacant structure by means of personal service, or by certified mail to their last known address according to the records of the St. Landry Parish Assessor's Office, and by posting on the property.
- (b) Registration by property owner required.

- (i) The property owner of any vacant structure shall register each vacant structure with the Department within [ninety (90) days] from the date that written notice is issued to the property owner.
- (ii) Registration shall include the following information:
  - (1) All required registration and inspection fees, unless otherwise waived in accordance with Sec. 5-170. Fee Waivers.
  - (2) The address and legal description of the property;
  - (3) The current name, physical address, mailing address, telephone number, and email information for every owner with an ownership interest in the property. Entities shall submit the same information pertaining to their registered agent, or other legal representations.
  - (4) The contact information for a local manager of the property.
  - (5) Proof of public liability insurance, in an amount no less than one million dollars (\$1,000,000.00) and covering the property.
  - (6) Complete the comprehensive plan of action form provided by the Department, detailing a timeline for correcting violations, rehabilitation, maintenance while vacant, and future use of the structure. The plan of action must be updated every six (6) months.
  - (7) A complete floor plan of the property for use by first responders in the event of a fire or other catastrophic event, except state or local fire employees authorized to act for their office may waive any or all of this requirement based on their existing information and needs.
- (iii) Vacant structure property owners shall provide written notice to the Director, including providing a copy of any new deed, of any change in:
  - (1) Ownership of the property;
  - (2) Contact information for either the owner or the designated manager identified in paragraph 3 above.
  - (3) Written notice must be provided to the Department no later than thirty (30) days after such changes have occurred.
- (c) The Director may consider evidence provided to him/her that the property is listed and marketed for sale or lease for purposes of extending the length of time before the property must be registered.
  - (i) The property owner must provide comparable rental rates and days on market for comparable local properties as proof that the vacant property is being offered at a fair market value and has been on the market for a reasonable length.
  - (ii) The property owner must also provide proof that the vacant property is being actively marketed.
- (d) Proper registration shall be valid for a period of six (6) months. The property owner must register the property every six (6) months until the Director determines that the structure is occupied and in compliance with this Article.

**Sec. 5-166. Property manager or agent.**

- (a) Vacant structure property owners must designate a local property manager for each property and include the relevant contact information for the designated manager upon registering the property

with the Department. Property managers shall act as agents for the property owner for purposes of accepting legal service, however the designation of a property manager does not limit the responsibilities of the property owner under the provisions of this Article.

- (b) The property manager or agent must be available at the number listed at all times in the event of an emergency or catastrophe.
- (c) The name and telephone number of the property manager or agent must be posted at the front of the vacant structure, in large, legible print as directed by the Director.
- (d) The name and telephone number of the property manager or agent must be provided to the Director, and to the [Opelousas Fire Department and Opelousas Police Department],
- (e) Property manager contact information required in this section must be kept current as outlined in Sec. 5-165(b)(iii).

**Sec. 5-167. Standard of care for vacant property.**

- (a) The standard of care for vacant properties shall be subject to approval by the Director, and shall include, but is not limited to:
  - (i) Applicable historic district regulations. Historic properties and properties within designated historic districts are additionally subject to all applicable rules and regulations provided in Chapter 5 Article V Historic Buildings. Where there is a conflict with this Article and Article V, Article V shall control.
  - (ii) Protective treatment: All exterior surfaces, including, but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences, shall be maintained in good condition, weather tight and in such condition so as to prevent the entry of rodents and other pests. All exposed wood or metal surfaces subject to rust or corrosion, other than decay resistant woods or surfaces designed for stabilization by oxidation shall be protected from the elements and against decay or rust by periodic application of weather coating materials such as paint, sealant or similar surface treatment. All surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. All siding, cladding and masonry joints, as well as those between the building envelope and the perimeter of windows, doors and skylights, shall be maintained weather-resistant and water-tight.
  - (iii) Premises identification: The property shall have address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Numbers shall be a minimum of four (4) inches/one hundred two (102) mm high.
  - (iv) Structure: All structural members and foundation shall be maintained free from deterioration and shall be capable of safely supporting the imposed loads.
  - (v) Exterior walls: All exterior walls shall be kept in good condition and shall be free from holes, breaks, and loose or rotting materials. Exterior walls shall be maintained weatherproof and properly surface coated where necessary to prevent deterioration.
  - (vi) Roof and drainage: The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent accumulation, dampness or deterioration. Roof drains, gutters and downspouts shall be maintained in good repair, free from obstructions and operational, and shall properly direct rainwater towards storm drains, and prevent ponding of water next to foundation for an extended period of time.

- (vii) Decorative features: All cornices, belt courses, corbels, applications, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.
  - (viii) Overhang extensions and awnings: All overhang extensions including, but not limited to, canopies, marquees, signs, awnings, and fire escapes shall be maintained in good repair and be properly anchored and supported as to be kept in a sound and safe condition.
  - (ix) Stairways, decks, porches and balconies: Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads
  - (x) Chimneys and towers: All chimneys, cooling towers, smoke stacks and similar appurtenances shall be maintained structurally safe and sound, and in good repair.
  - (xi) Handrails and guards: Every exterior handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.
  - (xii) Window, skylight and door: Every window, storefront, skylight transom, and exterior door part, including, but not limited to, the frame, the trim, window screens and hardware shall be kept in sound condition and good repair. All broken or missing windows shall be replaced with glass and secured in a manner so as to prevent unauthorized entry. All broken or missing doors shall be replaced with new doors which shall be secured to prevent unauthorized entry. All glass shall be maintained in sound condition and good repair. All exterior doors, door assemblies and hardware shall be maintained in good condition and secured. Locks at all exterior doors, exterior attic access, windows, or exterior hatchways shall tightly secure the opening. Windows and doors shall not be secured by plywood or other similar means mounted on the exterior except as a temporary securing measure, not to exceed a period of three (3) months, or period of time designated by the Director and compliant with standards established by the Director.
  - (xiii) Basement hatchways and windows: Every basement hatchway shall be maintained to prevent the entrance of rodents, birds, rain and surface drainage water. Every basement window that is openable shall be supplied with rodent shields, storm windows or other approved protection against entry of rodents.
- (b) All repairs shall be subject to approval by [the Director, or designee, and Fire Marshall if applicable]. All required permits and final inspections prior to and/or following repairs shall be in accordance with applicable laws and ordinances.
  - (c) Failure to maintain the vacant structure to the standards of care required by this Article shall be a violation and subject to the provisions of [Sec. 5-171. Jurisdiction, Enforcement and Penalties].

### **Sec. 5-168 Inspections.**

The Department shall inspect any premises in the District for the purpose of enforcing or assuring compliance with the provisions of this Article, within 30 days registration. Upon request by the Director, or their designee, a property owner must provide access to all interior and exterior portions of the vacant structure in order to permit a complete inspection. The Director may designate third party inspectors to conduct inspections.

**Sec. 5-169. Registration and inspection fees.**

- (a) Vacant structure property owners shall tender a registration fee at each six (6) months registration.
- (b) The registration fee at the time of the first registration shall be seven-hundred and fifty dollars (\$750.00) plus an inspection fee of \$0.01 per square foot of floor area. Floor area is defined by the City of Opelousas Zoning Ordinance.
- (c) If re-inspection is required to determine that a violation has been remedied, the City may charge an additional inspection fee.
- (d) The registration fee for each subsequent registration shall increase by fifty percent (50%) of the registration fee paid during the previous period, with a maximum registration fee of five-thousand sixty-two dollars and fifty cents (\$5,065.50). The inspection fee shall remain unchanged.
- (e) All registration fees shall be used solely to offset the costs of this program, or to improve or promote the areas affected by these provisions in ways designed to improve the ability of property owners to sell, lease or develop the properties which are subject to this program.

**Sec. 5-170. Fee waivers.**

Property owners may seek a waiver to the fees outlined in Sec. 5-169. All fee waivers must be applied for, using the forms provided by the Department. Fee waivers may be issued as outlined below:

- (1) Property which has been devastated by a catastrophe such as fire, flood, or force majeure significantly damaging in excess of fifty percent (50%) of the structure:
  - (a) The owner has thirty (30) days to register from the date of the disaster but shall be exempt from the fees.
  - (b) This fee waiver is effective for later of the following dates:
    - (i) One year from the date of the catastrophe;
    - (ii) One year from the date that a state of emergency is lifted from the property; or
    - (iii) The earliest date that the property can reasonably be accessed by following a disaster that prevents access.
    - (iv) Thereafter all applicable fees are due.
- (2) A property owner who is indigent must register and is otherwise subject to this Article but shall be exempt from the fees. In order to establish the property owner is indigent, a property owner must provide all financial information requested by the Director, including income tax returns and a list of all properties owned. The fee waiver must be applied for on an annual basis.
- (3) Representatives of a property owner who is deceased or is no longer legally competent must register the property and are otherwise subject to this Article but shall be exempt from the registration fees for a period of six (6) months.
- (4) Where the owner of the property has obtained a building permit and is progressing in an expedient manner to prepare the premises for occupancy, the owner must register the property and is otherwise subject to this Article but shall be exempt from the registration fees. For a period of 6 months. This fee waiver may be renewed in 6 month increments up to the anticipated period of construction approved by the Director.

**Sec. 5-171. Jurisdiction, enforcement and penalties.**

- (a) Whenever the Director determines that a Violation exists, a notice of violation(s) shall be provided to the alleged Violator(s). A notice of violation shall:
- (i) Be in writing;
  - (ii) Be mailed via certified mail to the address on file with the St. Landry Parish Assessor's office;
  - (iii) Be posted at the subject property;
  - (iv) Provide the municipal address of the cited property;
  - (v) Provide the date of the inspection, if any;
  - (vi) Provide a description of the alleged Violation;
  - (vii) Provide the mailing address and telephone number of the Department;
  - (viii) Provide the time, date, and location of the administrative hearing whereby the alleged Violation(s) shall be adjudicated;
  - (ix) Provide notice that the failure to appear at the hearing shall be considered an admission of liability for the alleged Violation(s);
  - (x) Provide the risk of fees, penalties, costs, and liens that may be imposed for continued Violation; and
  - (xi) Provide the remedial measures that may be ordered to correct or abate the Violation(s).
- (b) Administrative Hearing and Appeal.

(1) When the Director determines that any property is in violation of this Article VIII, the Director shall accord the registered property owner an opportunity to be heard at an Administrative Hearing conducted by the Planning and Zoning Commission. The Planning and Zoning Commission shall have jurisdiction to adjudicate any Violation(s) alleged by the Director. All decisions of the Planning and Zoning Commission shall be reduced to writing and mailed to the property owner via certified mail.

(2) Prior to holding an administrative hearing pursuant to this Section, the alleged violator(s) shall be notified at least 15 days (inclusive of legal holidays) in advance of the date that such a hearing is scheduled. The date of the postmark shall be deemed to be the date of delivery. Any notification so sent and returned by U.S. Post Office shall be considered as having fulfilled the notification requirement. Any person charged with Violation(s) may present any relevant evidence and testimony at such hearing and may be represented.

(3) Any person aggrieved by a decision of the Planning and Zoning Commission shall have a right to appeal such decision to the district court within thirty (30) calendar days of the date the Planning and Zoning Commission mailed written notice of the decision.

- (c) Failure to register with the Department after written notice to the vacant structure property owner, as is hereinafter specified, is a violation of this Article.
- (d) Any person found to have violated any provision of this Article shall be subject to a fine of not more than five hundred dollars (\$500.00) for each offense. After due notice of the written decision by the Planning and Zoning Commission, each day that the Violation(s) continue, after the time for compliance, if any, has expired, shall be deemed a separate offense.
- (e) City of Opelousas shall have a lien and privilege against the immovable property in, on, or upon which Violation(s) have occurred. The lien and privilege shall secure all fines, fees, costs, and

penalties that are assessed by the Planning and Zoning Commission after an administrative hearing. The recordation of the lien and privilege or notice of judgment by the Planning and Zoning Commission shall constitute a lien and privilege against the land upon which the Violation(s) exists. Any lien and privilege recorded against an immovable property under this Section shall be included in the next annual ad valorem tax bill.

**Sec. 5-172. Severability.**

If any section, subsection, sentence, clause or phrase of this Article is, for any reason, held unconstitutional or invalid, such decision or holding will not affect the validity of the remaining portions hereof. It being the intent of the City Council to enact each section and portion thereof, individually and each such section will stand alone, if necessary, and be in force not with the validity of any other division, section, subsection, sentence, clause, or phrase of these regulations.

**Sec. 5-173. Effective Date.**

This Article shall be effective beginning September 1, 2023.

This Ordinance was forwarded to the Mayor on \_\_\_\_\_, and signed by the Mayor on \_\_\_\_\_.

Attest:

\_\_\_\_\_  
Leisa Anderson, City Clerk

\_\_\_\_\_  
Hon. Julius Alsandor, Mayor