AN ORDINANCE ENACTING CHAPTER 15.28 OF THE LOGAN MUNICIPAL CODE REQUIRING THE REGISTRATION, INSPECTION AND REGULATION OF VACANT BUILDINGS

NOW BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF LOGAN that all vacant buildings within the corporate boundaries of the City of Logan be registered, inspected and regulated as set forth in Title 15 Chapter 28 of the Logan Municipal Code hereby adopted as follows:

SECTION 1.

15.28.010 PURPOSE:

A. The City has determined that a vacant building may present a fire hazard, may provide temporary occupancy by transients (including drug users and traffickers), may detract from private and/or public efforts to rehabilitate or maintain surrounding buildings, and that the health, safety and welfare of the public is served by the regulation of such vacant buildings.

B. Owners of vacant buildings shall register such vacant buildings with the City, make payment of a fee for the registration thereof, and otherwise conform to these vacant building regulations.

C. This Chapter ensures that, through a registration, inspection and monitoring process, vacant buildings will be kept weather tight and secure from trespassers, will provide safe entry to police officers and firefighters in times of emergency, will not impede private and/or public efforts to rehabilitate or maintain surrounding buildings, and will not present otherwise a public hazard.

D. The City, by and through its departments shall inspect and monitor vacant buildings, shall assess the effects of the condition of those buildings on nearby structures, and shall promote substantial efforts to rehabilitate and develop such buildings when appropriate.

These provisions will place the responsibility to register and maintain vacant structures on the building owner before a building’s condition falls into disrepair or otherwise merits a complaint.

15.28.020 DEFINITIONS:

Definitions. For purposes of this section, the following words and phrases shall have the meanings respectively ascribed to them as follows:

A. Boarded: A building or structure subject to the provision of this section shall be deemed to be “boarded” if in place of one or more exterior doors, other than a storm door,
or of one or more windows, there is a sheet or sheets of plywood or similar material covering the space for such door or window.

B. Exterior Maintenance and Major Systems: The phrase “exterior maintenance and major systems” shall mean the safe and lawful maintenance of the façade, windows, doors, roof and other parts of the exterior of the building and the maintenance of its major systems consisting of the roof, the electrical and plumbing systems, the water supply system, the sewer system, and the sidewalk, driveway, if any, area of the lot, as applicable and as enforced by the City, particularly in connection with codes adopted by the City as well as all applicable local, state and federal laws.

C. Occupied: Any building or structure shall be deemed to be occupied if one or more persons actually conduct a lawful business or resides in all or any part of the building as the licensed business occupant, or as the legal or equitable owner/occupant(s) or tenant(s) on a permanent, non-transient basis, or any combination of the same. For purposes of this section, evidence offered to prove that a building is so occupied may include, but shall not be limited to, the regular receipt of delivery of regular mail through the U.S. Postal Service; proof of continual telephone, electric, gas, heating, water and sewer services; a valid City business license or the most recent, federal or state income tax statements indicating that the subject property is the official business or residence address of the person or business claiming occupancy; or proof of bonafide pre-rental inspection.

D. Open: A building or structure subject to the provisions of this section shall be deemed to be “open” if any one or more exterior doors other than a storm door is broken, open and/or closed but, without a properly functioning lock to secure it, or if one or more windows is broken or not capable of being locked and secured from intrusion, or any combination of the same.

E. Owner: An owner of the freehold of the premises or any lesser estate therein, a mortgagee, a vendee-in-possession, assignee of rents, receiver, executor, trustee, lessee, agent or any other person, firm or corporation that is directly or indirectly in control of a building subject to the provisions of this section and as set forth below.

F. Vacant: A building or structure shall be deemed to be vacant if no person or persons currently conduct a lawfully licensed business, or lawfully resides, dwells, or lives in any part of the building as the legal or equitable owner(s) or tenant-occupant(s), or owner-occupant(s), or tenant(s) on a permanent, non-transient basis. A building or structure shall be deemed vacant and subject to the registration and possible penalty provisions provided herein if the exterior maintenance and major systems of the building and the surrounding real property thereof, as defined in this section, are in violation of the building codes or health and sanitation codes and if there is not proof of continual utility service evidencing actual use of electric, gas (i.e., applicable heating sources), water service, etc. Continued is meant to be without more than one (1) thirty (30) day interruption in any given three-hundred sixty (360) day period. In order for such continual utility service to be considered as being actually in use as described in this section, it must be more than merely registered to the owner for purposes of billing and must be utilized, at a minimum, in order to keep
the property and the major systems of the building in compliance with building and safety
codes. The person or entity asserting that there has been continued utility service has the
burden of proof to produce actual bills evidencing utility service for the relevant period.
Any building under active construction with a valid building permit shall not be deemed
vacant.

15.28.030 REGISTRATION GENERALLY:

A. All owners of realty within the City of Logan that contain a vacant structure as
defined above, shall register the same with the Department of Community Development of
the City. For those structures that qualify as a vacant structure, the owner thereof shall be
required to register the structure with the Department of Community Development within
thirty (30) days after the structure is found to meet the definition of a vacant structure. The
registration form shall require information from the registrant deemed necessary by the
Chief Building Official, Fire Chief, City Engineer, and Police Chief of the City, to ensure
that the purpose of this Chapter is met. Specifically, the above-named City officials shall
have the authority to require that the property owner provide a professional opinion
(architect, engineer, etc.) to determine the structural integrity of the building, the repairs
necessary to ensure its structural integrity and that it will be safe for entry by firefighters
and police officers in time of emergency, and that the building and its contents do not
present a hazard to the public during the time the building remains vacant. The above­
named officials shall have the authority to issue orders to the owner for corrective action
deemed necessary. The officials shall rely upon all applicable codes and regulations, for
guidance during any such structural review. As part of the registration the owner shall
submit a timeline and plan for when the vacant structure will be demolished or repaired
and occupied.

B. Registration statement; local agent. The requirements of this section shall be
applicable to each owner of any building that is found to be vacant pursuant to the
definitions contained herein. Each such owner shall cause to be filed a notarized
registration statement, which shall include the street address and parcel number of each
such vacant building, the names and addresses of all owners, as hereinafter described, and
any other information deemed necessary by the City. The registration fee(s) as required
by this section shall be billed by the City and shall be paid by the last day of the month
when the property has been registered. For purposes of this section, the following shall be
applicable:

(1) If the owner is a corporation, the registration statement shall provide the names and
residence addresses of all officers and directors of the corporation and shall be
accompanied by a copy of the most recent annual report/renewal filed with the Utah
Department of Commerce;

(2) If an estate, the name and business address of the executor of the estate;

(3) If a trust, the name and address of all trustees, grantors, and beneficiaries;
(4) If a partnership, the names and residence addresses of all partners with an interest of ten percent or greater;

(5) If any other form of unincorporated association, the names and residence addresses of all principals with an interest of ten percent or greater;

(6) If an individual person, the name and residence address of that individual person.

(7) If the owner does not have an address within the state, the registration statement also shall provide the name and address of a person who resides within the state and who is authorized to accept service of process on behalf of the owner and who shall be designated as a responsible, local party or agent, both for purposes of notification in the event of an emergency affecting the public health, safety or welfare and for purposes of service of any and all notices or registration statements as herein authorized and in connection therewith.

C. Fees. Registration shall be required for all vacant buildings, whether vacant and secure, vacant and open, or vacant and boarded, and shall be required whenever any building has remained vacant for forty-five (45) consecutive days or more. In no instance shall the registration of a vacant building and the payment of registration fees be construed to exonerate the owner, agent or responsible party for compliance with any other building code or housing code requirement. One registration statement may be filed to include all vacant buildings of the owner so registering, but each structure constitutes a separate fee. The owner of the vacant property as of the last day of the month when the property has been registered of each calendar year shall be responsible for the payment of the non-refundable registration fee. Said fee shall be billed by the City; and based on the duration of the vacancy as determined by the following fee schedule:

(1) No fee for properties that are vacant for less than six (6) months and then fifty dollars ($50.00) per month thereafter through the first year;

(2) One hundred dollars ($100.00) per month for properties that are vacant for one (1) year or more;

(3) Two hundred dollars ($200.00) per month for properties that are vacant for two (2) years or more.

15.28.040 REQUIREMENTS

A. All vacant structures shall also comply with the following criteria:

(1) Exterior property areas are to be mowed regularly and non-cultivated gardens maintained at no more than six (6) inches of growth. All noxious weeds are prohibited.

(2) Structure is to be broom swept and clear of all contents, not including building materials or components to be used in the future renovation at that structure.
(3) Electrical service is to be provided to the building via temporary pole service on the exterior of the structure or create a permanent service for the structure and install two (2) GFCI protected receptacles.

(4) NEC and OSHA compliant string lighting is to be provided to the entire structure so that it may be illuminated as needed to view the structure.

(5) Unstable interior and exterior surfaces and components are to be removed. Unstable or unsound accessory buildings are to be razed or renovated.

(6) Using wood sheet goods; all loose, deteriorated and broken windows and doors are to be covered to eliminate the danger of their falling and to prevent the unwanted entry of trespassers. Such wood sheet goods are to be cut and neatly fit, not just nailed over the opening.

(7) All loose or deteriorating trim, gutter or overhang extensions (masonry or frame) are to be removed or reattached to prevent falling.

(8) Regular monitoring of the structure is to occur by the owner to ensure that the building is being kept in compliance with the above items.

(9) Utilities need to be connected to the structure.

15.28.050 INSPECTION:

At the time of registration, the Chief Building Official, Fire Chief, City Engineer, and Police Chief shall determine whether it is necessary for any or all of them to inspect the structure so as to identify any public safety issues needing addressed. Inspections shall also be available to verify the status of any property concerning occupancy, vacancy, etc. If an internal inspection is deemed necessary, the owner will be notified of the same and arrangements made for the same. If the owner fails or refuses to consent to and arrange for an inspection the City will seek an administrative search warrant from a court of competent jurisdiction, which shall include the Logan Municipal Justice Court, to authorize inspection of the premises for the purpose of determining the structural integrity of the building, the repairs necessary to insure its structural integrity and that it will be safe for entry by firefighters and police officers in time of emergency, and that the building and its vacant contents do not present a hazard to the public during the time that the building remains vacant.

All vacant structures are subject to re-inspection on an annual basis or as deemed necessary.

15.28.060 CORRECTIVE ACTION:

The property owners shall be notified in writing of any corrective action deemed necessary for life, safety and building code matters by City officials, the applicable code provisions or
regulations, and will be afforded a reasonable time to the corrective action. Corrective action concerning the occupancy of vacant structures is discussed later herein.

15.28.070 RIGHT OF APPEAL:

Appeal Rights. The owner shall have the right to appeal a staff decision made pursuant to this chapter to the Director of Community Development upon filing an application in writing to the Department of Community Development no later than ten (10) calendar days after the owner receives notice of the decision. On appeal, the owner shall bear the burden of proving by a preponderance of the evidence that a staff decision was made in error.

If enforcement action is commenced against an owner for violations of this Chapter, using the Administrative Enforcement Code of the Logan Land Development Code §17.60, the owner shall have the right to request a hearing pursuant to the provisions of that code.

15.28.080 AMENDING REGISTRATION:

A. Duty to Amend Registration Statement. If the status of the registration information changes during any calendar year, it is the responsibility of the owner, responsible party or agent for the same to contact the Department of Community Development within thirty (30) days of the occurrence of such change and advise the division in writing of those changes.

B. Exceptions. This section shall not apply to any building owned by the United States, the State of Utah, Logan City, or any of their respective agencies or political subdivisions.

C. Violations and Penalties for Failure to Register. The failure or refusal for any reason of any owner, or agent of an owner acting on behalf of the owner, to register a vacant building upon adoption of this Chapter, or to pay any fees required to be paid pursuant to the provisions of this Chapter, within thirty (30) days after they become due, shall constitute a violation punishable upon conviction thereof by a fine in the amount of not less than one-hundred dollars ($100.00) nor more than five-hundred dollars ($500.00) for each failure or refusal to pay a required vacant building fee, as applicable. In such cases, whenever the minimum fine of one-hundred dollars ($100.00) is imposed, it shall not be subject to suspension or reduction for any reason.

15.28.090 NON-PAYMENT OF FEES/LIENS:

Delinquent Registration Fees as a Lien. After the owner is given notice of the amount of the registration fee due, except for those owners that have properly perfected an appeal pursuant to subsection 15.28.070 above, and the owner fails to pay the amount due, said amount shall constitute a debt due and owing to the City and the City may commence a civil action to collect such unpaid debt, which may include but not limited to, a judgment lien on the subject property.
SECTION 2: Effective Date. This ordinance shall become effective upon publication.

ADOPTED BY THE LOGAN MUNICIPAL COUNCIL THIS 17 DAY OF April 2018, BY THE FOLLOWING VOTE:
AYES: Bradfield, Anderson, Jensen, Simmonds, Olsen
NAYS: None
ABSENT: None

/s/ Jeannie F. Simmonds, Vice Chair

ATTEST:
/s/ Teresa Harris, City Recorder

MAYOR'S APPROVAL OR DISAPPROVAL

The foregoing ordinance is hereby approved this 17 day of April, 2018.

/s/ Holly H. Daines, Mayor
Civil

PROOF OF PUBLICATION

STATE OF UTAH
COUNTY OF CACHE, ss

On this 23rd day of April, A.D. 2018 personally appeared before me Jennifer Birch who being first being duly sworn, deposes and says that she is the Principal Legal Clerk of the PNG Media LLC, publishers of The Herald Journal, a daily newspaper published in Logan City, Cache County Utah, and that the Legal Notice, a copy of which is hereto attached was published in said newspaper for 1 issue(s) and that said notice also published on utahlegals.com on the same day(s) as publication in said newspaper.

Commencing on the following days:
04/22/2018

Jennifer Birch, Principal Legal Clerk

Subscribed and sworn to before me on this 23rd day of April, A.D. 2018

Laurie Jackson, Notary Public
Commissioned in the State of Utah
My Commission expires 10/18/2019

LEGAL NOTICE
LOGAN MUNICIPAL COUNCIL

SUMMARY OF AN ORDINANCE: The following ordinance was adopted and approved by the Logan Municipal Council, Logan, Utah on April 17, 2018.

ORD. 18-06 An ordinance enacting Chapter 15.28 of the Logan Municipal Code requiring the Registration, Inspection, and Regulation of Vacant Buildings.

This ordinance is effective immediately upon publication. Full text of the ordinance can be reviewed at the office of the Logan City Recorder, City Hall, 290 North 100 West, Logan, Utah during regular business hours.

Teresa Harris, City Recorder
Published April 22, 2018
Ref. No. 1753550