ORDINANCE NUMBER:_____ AMENDING CHAPTER 5

ORDINANCE AMENDING CHAPTER 5 OF THE CHARLOTTE CITY CODE ENTITLED "BUILDINGS AND BUILDING REGULATIONS"

WHEREAS, North Carolina General Statute 160A-174 allows a city by ordinance to define, prohibit, regulate, or abate acts, omissions, or conditions detrimental to the health, safety, or welfare of its citizens; and

WHEREAS, the City Council reviewed information provided by the Neighborhood Development Department and information gathered at a public hearing regarding boarded up residences, as well as a review of laws in place in other; and

WHEREAS, there is convincing evidence that boarded up residences within the City limits are a threat to the public health and safety, causing, among other adverse secondary effects, attraction to vagrants, children, vermin and increased crime; and

WHEREAS, the City Council desires to minimize and control the adverse secondary effects caused by boarded up residences and thereby protect the health, safety, and welfare of the citizens.

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Charlotte, North Carolina that:

Chapter 5, "Buildings and Building Regulations" of the Charlotte City Code is amended by creating Article 1, entitled "Regulation of Boarded Up Residential Structures," to read as follows:

"ARTICLE 1. REGULATION OF BOARDED UP RESIDENTIAL STRUCTURES"

Sec. 5-1. Purpose and authority.

(a) It is the purpose of this article to promote the health, safety and welfare of the citizens of the City of Charlotte by establishing reasonable regulations for boarded up residential structures in order to prevent their detrimental effects in the City's neighborhoods.

(b) The Department's Code Enforcement Official shall be responsible for the administration and enforcement of the provisions of this article. The Code Enforcement Official or designee(s)

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shall have the following authority:

(1) to inspect the properties;
(2) to obtain administrative search and inspection warrants, if necessary, as provided in G.S. 15-27.2; and
(3) to issue notices of violation and impose civil penalties.

Sec. 5-2. 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:

(a) *Board Up* means the boarding up of any means of egress and ingress, including, without limitation, windows and doors, to an unoccupied residential structure.
(b) *Code Enforcement Official* means the person who has been designated, in writing, by the city manager to enforce this article.
(c) *Department* means the Neighborhood Development Department, Code Enforcement Division.
(d) *Owner* means the holder of title in fee simple.
(e) *Residential Structure* means any building, structure, manufactured home or mobile home, or part thereof, intended to be used for human habitation and includes any appurtenances therewith.
(f) *Unoccupied* means a residential structure that is not occupied or that is occupied by unauthorized persons. In the case of a multi-unit residential structure, unoccupied means when any one unit is unoccupied or occupied by unauthorized persons.

Sec. 5-3. Requirements; Time Limit.

(a) An owner who registers a boarded up residential structure pursuant to Sec. 5-5 of this article must comply with the guidelines for boarding up residential structures established from time to time by the Department.

(b) An owner's registration of a boarded up residential structure shall expire six (6) months from the date of registration with the Department and may not be renewed.

Sec. 5-4. Grace Period.

Any owner who has boarded up a residential structure prior to the effective date of this ordinance shall comply with the regulations contained herein within six (6) months after the effective date of this ordinance. If after six (6) months, an owner has failed to register the structure, the owner shall be in violation of this article.

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Sec. 5-5. Registration.

(a) No owner shall board up a residential structure without registering the structure with the Department no later than 48 hours after boarding it up.

(b) An application for registration must be made by the owner of the boarded up residential structure on a form prescribed by the Department, and submitted to the Department. The completed registration form shall contain at a minimum the following information:

(1) The full true name and mailing address of the owner;

(2) The full true address and tax parcel number of the residential structure to be boarded;

(3) An accurate telephone number at which the owner may be reached;

(4) If the owner is a partnership or corporation, the owner shall designate one of its general partners or officers to act as its agent and provide the present residence and business addresses and telephone numbers for the agent;

(5) The owner's plan for the occupancy, repair or demolition of the residential structure;

(6) The owner's plan for regular maintenance during the period the residential structure is boarded up; and

(7) Such other information as the Department shall from time to time deem necessary.

(c) The owner, under this section, shall have a continuing duty to promptly supplement registration information required by this section in the event that said information changes in any way from what is stated on the original registration.

(d) Registration of a boarded up residential structure does not excuse the owner from compliance with any other applicable ordinance, regulation, or statute, including, without limitation, Chapter 11 of the Charlotte City Code. By accepting an owner's registration, the Department has not determined that the residential structure being registered is in compliance with any applicable local or state regulation or law.

Sec. 5-6. Violations.

(a) It shall be unlawful for the owner of a boarded up residential structure to fail to register such structure with the Department as required by Sec. 5-5 of this article, except as otherwise provided in this article.

(b) It shall be unlawful for an owner who has registered a boarded up residential structure to

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leave the structure boarded up after the expiration of the registration as set forth in Sec. 5-3 of this article.

(c) It shall be unlawful for an owner to board up a residential structure in a manner that does not comply with the Department's guidelines unless the owner has obtained the Department's prior written approval for an alternative method of boarding up a residential structure. .

Sec. 5-7. Not an Infraction or Misdemeanor.

A violation of any provision of this article shall not constitute an infraction or misdemeanor punishable under G.S. 14-4, 14-188, 14-216, 14-217, 14-218, 14-219, 14-220, 14-221.

Sec. 5-8. Notice of violation; Penalties.

Except as otherwise provided in this article, the Code Enforcement Official or designee(s) shall notify the owner of a boarded up residential structure of a violation of any provision of this article and the owner shall have ten (10) days from the date of the Notice of Violation to correct the violation. Any owner who fails to correct the violation within the time specified shall be subject to a civil penalty in the amount of $500.00 for the first day of noncompliance and $50.00 for each day thereafter until the owner complies. The civil penalty may be recovered in the nature of a debt if the owner does not pay the penalty within 30 days of assessment of the civil penalty.

Sec. 5-9. Notices.

Any notice required or permitted to be given by the Department under this article to the owner may be given either by personal delivery or by first class United States mail, postage prepaid, to the most current address as specified in the registration which has been received by the Department or to the address listed for the responsible person in the county property tax records if an owner has not registered with the Department. Notices mailed as above shall be deemed given upon their deposit in the United States mail and shall be deemed to have been received on the third regular postal delivery day thereafter.

Sec. 5-10. Adjudicatory Hearing.

(a) An owner who has been assessed a civil penalty for a violation of this article may request a hearing with the Department's key business executive or his designee. Such request must be made in writing, filed with the Department within 10 days of the notice of assessment, and state the reasons why the civil penalty should not have been assessed. Failure to request a hearing in the time and manner specified shall constitute a waiver of the right to contest the penalty.

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(b) An owner requesting a hearing must post a $500.00 bond with the Department before an appeal hearing will be scheduled. Once the bond is posted, the hearing will be scheduled within 15 business days.

(c) The Department's key business executive or his designee shall serve as the hearing officer. Any owner against whom a decision of the hearing officer is made may seek judicial review of the decision by filing a written petition within 30 calendar days after receipt of the notice of the decision, but not thereafter, with the superior court of the county. The proceedings in superior court shall be in the nature of certiorari.

Section 2. This ordinance shall become effective on _____.

Approved As to Form:

_____
City Attorney

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