

First Reading: 4/8/2021

Second Reading: 6/10/2021

Ordinance# 02-24-2021-001

AN ORDINANCE REQUIRING THE ANNUAL REGISTRATION OF VACANT BUILDING AND ESTABLISHING VACANT BUILDING REGISTRATION FEES

WHEREAS, Section 11 (y) of the Charter of Hartly authorizes Town Commissioners to “pass ordinances and rules for the good government and good order of the Town and for all matters relating to the general health, safety, morals, peace, and welfare of the Town”;

WHEREAS, Section 16 of the Charter of Hartly authorizes the Town Commissioners “to vote on and enact all ordinances which may be requisite to secure good government to meet the lawful needs of the Town and its residents and for all matters relating to the general health, safety, morals, peace and welfare of the Town”;

WHEREAS, Title 25, Section 2901 of the Delaware Code creates a statutory lien against real property for any fee imposed by a municipal corporation "for registration of ownership of any vacant buildings located within the political subdivision" thereby implicitly authorizing municipalities to enact ordinances, including a corresponding fee, for the registration of vacant buildings;

WHEREAS, in the opinion of the Town Commissioners of the Town of Hartly, an ordinance requiring the annual registration of vacant buildings and establishing vacant building registration fees is necessary to accomplish the objectives outline in the Town of Hartly Charter and Town of Hartly Comprehensive Plan;

BE IT HEREBY ENACTED by the Town Commissioners of the Town of Hartly, a majority thereof concurring in council duly met, that all previously adopted ordinances that are inconsistent with this ordinance are hereby repealed and the following ordinance, #02-24-2021-001, “An Ordinance Requiring the Annual Registration of Vacant Buildings and Establishing Vacant Building Registration Fees” be, and hereby is, adopted as follows:

Section 1. – APPLICABILITY AND PURPOSE. This ordinance shall be applicable to the owners of such vacant buildings as set forth herein and are in addition to and not in lieu of any and all other applicable provisions of the laws and ordinances of the Town of Hartly. The purpose of this ordinance is to assist the Town Commissioners in protecting the public health, safety and welfare, to monitor the number of vacant buildings in the Town, to assess the effects of the condition of those buildings on the neighborhood and nearby businesses in which they are located, particularly in light of fire safety hazards and unlawful, temporary occupancy by transients, and to require of the owners of such vacant buildings their registration and the payment of related fees, and to promote substantial efforts to rehabilitate such vacant buildings.

Section 2. – DEFINITIONS. As used in this ordinance, the following terms shall have the specified meaning:

2.2 Building: Shall mean a building or structure having a roof supported by columns, poles, or walls for the housing or enclosure of persons, animals, or miscellaneous belongings and any part or parts thereof. Additionally, the term building shall include, among other things, manufactured homes, trailers, and sheds.

2.3 Exterior maintenance and major systems: The phrase "exterior maintenance and major systems" shall mean the safe and lawful maintenance of the facade, windows, doors, roof, and other parts of the exterior of the building and the maintenance of its major systems consisting of the electrical, plumbing, water supply, and sewer systems, and there shall be no trash or debris inside or outside the building, sidewalk, or drive-way area of the lot.

2.4 Occupied: Any building shall be deemed to be occupied if one or more persons actually conducts 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, proof of continual electric, gas, heating, water and/or sewer services indicating that the subject property is the official business or residence address of the person or business claiming occupancy.

2.6 Owner/s – shall mean any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the State, County or Municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

2.7 Secured - A building shall be deemed to be secured if all exterior doors and windows are properly functioning, are not broken, and are capable of being locked and secured from intrusion. If any one or more exterior doors or windows are broken, open, closed without a properly functioning lock to secure it, or not capable of being locked and secured from intrusion, there must be in place of the doors or windows, a sheet or sheets of plywood or similar material covering the space of such doors or windows for the building to be deemed secured.

2.8 Vacant - A building shall be deemed to be vacant if not occupied, or no person or persons conduct a lawfully licensed business, or lawfully resides or lives in any part of the building as the legal or equitable owner(s) or tenant-occupant(s), or owner-occupants, or tenant(s) on a permanent, non-transient basis.

Section 3. – REGISTRATION STATEMENT, FEES, AND PROCESS.

3.01 – Registration shall be whenever any building has remained vacant for 90 consecutive days or more. The starting point for counting a building as being vacant shall begin on the effective date of this ordinance or such time thereafter that a building becomes vacant.

3.02 – The owner of vacant building shall submit a vacant building registration to the Town of Hartly upon the vacancy of the building, and prior to 90 consecutive days of said vacancy. Registration may be delivered via electronic mail, U.S. Postal mail, or in person to a Town of Hartly Commissioner. Registration shall contain the following information:

- a. Name, address and contact information of owner(s), or responsible party;
- b. Physical address or accurate description of the location of vacant building;
- c. Date of Vacancy

3.03 - The owner of vacant property shall be responsible for the payment of a non-refundable annual registration fee, invoiced by the Town of Hartly in January and due by March 31 of each year. Said fee shall be billed annually and based on the duration of the vacancy as determined by the following scale:

- a. No fee for properties that are vacant for less 90 consecutive days;
- b. \$100.00 for properties that are vacant for at least 90 consecutive days but less than one year;
- c. \$250.00 for properties that are vacant for one year but less than two years;
- d. \$500.00 for properties that are vacant for two years but less than three years;
- e. \$1,000.00 for properties that are vacant for three years or greater.

3.04 - The owner shall have the right to appeal the imposition of the registration fees, upon written notice to the Town no later than 45 calendar days after the date of the Vacant Registration Fee invoice. On appeal, the owner shall bear the burden of providing satisfactory objective proof of occupancy, as defined herein.

3.05 - A one-time waiver of the registration fee may be granted by the Town Commissioners if the owner:

- a. Provides satisfactory proof that the property is being actively marketed by a licensed real estate broker or owner who is regularly advertising the property for sale or lease at no more than 25 percent over market rate, and exterior

maintenance and major systems is in reasonable condition for sale or lease as determined by the Town Commissioners or designee. Burden of proof will be upon the property owner to produce an appraisal. The appraisal should be no more than one year old and utilize accepted appraisal standards; or

- b. Demonstrates with satisfactory proof that he/she is in the process of demolition, rehabilitation, or other substantial repair of the vacant building by possession of an active Town of Hartly building permit, as well as, an active Kent County building permit, and objectively demonstrates an anticipated length of time that is reasonable for the demolition, rehabilitation, or other substantial repair of the vacant building; or
- c. Provides satisfactory proof that the building is occupied or will be occupied prior to the due date of registration fee invoice.

3.07 - The vacant building shall be secured at all times. The vacant building exterior and major systems shall be kept in reasonable condition, utilities may be temporarily suspended for safety, there shall be no trash or debris inside or outside the building, and the building shall not be used as storage that is unrelated to its former use. The Town Commissioners or designee shall inspect any building in the town for purposes of this section, and the owner of such building shall permit access to all parts of the interior upon request.

3.08 - The Town Commissioners shall have the authority to make determinations regarding the ownership and/or responsible party for any building determined to be vacant pursuant to this section.

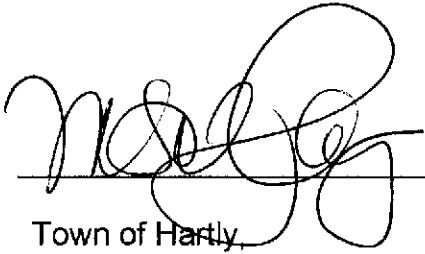
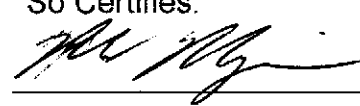
3.09 - In no instance shall the registration of a vacant building and the payment of registration fees be construed to exonerate the owner, agent or responsible party from responsibility for compliance with any other Municipal, County, State, Federal, or International property/housing code requirement.

Section 4. FAILURE TO COMPLY. Failure to register vacant property or any violation or refusal to comply with the provisions of this Ordinance, will waive any rights to appeal or obtain waiver as noted in Section 3. Failure to pay the registration fee by the invoice due date, will result in a Twenty-five Dollar (\$25.00) fee for each and every month until the registration fee is received in full.

Section 5. PAYMENT OF REGISTRATION FEES. An invoice shall be delivered in person, via electronic mail, or U.S. Postal mail to the property owner for the Vacant Building Registration fees incurred according to Section 3 and Section 4 of this ordinance. If the owner fails to pay the amount due, said amounts shall constitute a debt due and if not paid the fees will be added to the annual tax assessment invoice and as such shall constitute a lien against the property pursuant to 25 Del. C. § 2901, and the Town may take those legal actions necessary to collect the unpaid debt.

Section 6. EFFECTIVE DATE. This ordinance and the rules, regulations, provisions, requirements, orders, administration and management and matters established and adopted hereby shall take effect and be in full force and effect immediately upon its adoption by the Town of Hartly Commissioners.

This shall certify that this is a true and correct copy of Ordinance # 02-24-2021-001 titled "AN ORDINANCE REQUIREING THE ANNUAL REGISTRATION OF VACANT BUILDING AND ESTABLISHING VACANT BUILDING REGISTRATION FEES" duly adopted by the Town Commissioners of the Town of Hartly at a duly-noticed and convened meeting at which a quorum was present on June 10, 2021.

Attest:		So Certifies:	
	Town of Hartly, Secretary,		Town of Hartly, President.
Dated:	<u>6/10/2021</u>		<u>6/10/2021</u>

SYNOPSIS

This Ordinance requires buildings in the Town of Hartly that are vacant for more than 90 consecutive days to be registered with the Town and pay a vacant building registration fee based on the length of time the building has been vacant. An owner may appeal to the Town Commissioners the imposition of vacant building registration fees, and the Town Commissioners may grant one-time waiver when deemed applicable. This ordinance authorizes the Town Commissioners or designee to inspect vacant buildings and requires vacant building to be secured and free from trash and debris.