

EXHIBIT B.

ARTICLE III. - VACANT PROPERTY REGISTRATION<sup>(3)</sup>

Footnotes:

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**Editor's note**— [Ord. No. 2012-30](#), § 1(Exh. A), adopted Aug. 20, 2012, repealed the former Art. III, §§ 21-31—21-36, and enacted a new Art. III as set out herein. The former Art. III pertained to similar subject matter and derived from Ord. No. 2010-54, § 4, adopted Jan. 3, 2011.

Sec. 21-31. - Purpose.

The mayor and council declare and find that within the city limits, there are vacant real properties properties that are in an unsafe, dangerous, or unsecure condition which need to be cured of code violation, made safe, and if determined necessary by the chief of police, and secured. Such properties pose a danger to the health, safety, and welfare of the citizens of Powder Springs by increasing neighborhood blight, creating fire and other hazards to adjoining properties, attracting criminal activities, and creating an attractive nuisance to children. For all of these reasons, it is essential to public health, safety and welfare that such properties be properly maintained, cured of code violations and secured.

([Ord. No. 2012-30](#), § 1(Exh. A), 8-20-12)

Sec. 21-32. - 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:

*Agent* means an individual with a place of business in this state at which he or she is authorized to accept inquiries, notices, and services of process on behalf of a vacant or foreclosed real property owner.

*City* means the City of Powder Springs, Georgia.

*Code enforcement* means the code enforcement or quality of life division of the department charged with ensuring compliance with building code requirements..

*Director* means the director of the community development or his/her duly authorized appointee.

*Owner* means any person, mortgagee, agent, operator, service company, property manager, real estate broker, firm, partnership, corporation or trust:

- (1) Having a legal or equitable interest in the property;
- (2) Having possession of the property;
- (3) That holds, owns or controls mortgage loans for mortgage backed securities transactions and has initiated the foreclosure process;
- (4) That is recorded in the official records of the state, county or municipality as holding title to the property; or
- (5) Otherwise having control of the property, including the guardian of the estate or 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.

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*Securing* means causing a vacant building or structure to be secured against unauthorized entry in compliance with this article.

*Street address* means the street or route address but does not mean a post office box.

*Structurally sound* means free of imperfections which affect the intended use of a building or structure in compliance with applicable building codes.

*Vacant real property* means real property that:

- (1) Is intended for occupancy, has not been lawfully occupied for at least sixty (60) days, and has no evidence of utility usage within the past sixty (60) days; or
- (2) Is partially constructed or incomplete, without a valid building permit.

Such term does not include a building or a structure containing multiple units with common ownership that has at least one (1) unit occupied with evidence of utility usage.

[\(Ord. No. 2012-30, § 1\(Exh. A\), 8-20-12\)](#)

Sec. 21-33. - Maintenance.

All vacant real properties (residential or commercial) within the city shall comply with the following requirements:

- (1) All exterior doors and windows shall be kept in sound working condition free of broken glass.
- (2) All exterior doors shall be equipped with a workable lock or locking device and shall be kept securely locked during the period of time said building is vacant.
- (3) All windows shall be secured by latch, lock or other means so as to prevent easy entry into such structure by children, vagrants, or unauthorized persons.
- (4) All exterior walls and roofs shall be kept in good repair and free of holes, cracks, defective materials and structural deterioration.
- (5) The exterior of said building and the premises thereon shall be kept free of any accumulation of flammable or combustible rubbish or waste materials of sufficient quantity to constitute a danger to said building or any other building or premises in the event that such waste materials shall become ignited.
- (6) The exterior of the premises shall be kept free of weeds and/or grass in excess of eight (8) inches, any accumulation of trash, garbage, rubbish or any waste material of such quantity as to constitute an unsanitary condition.
- (7) Any existing fence shall be maintained in good repair with gates locked at all times.
- (8) All buildings existing on said property shall be structurally sound.

[\(Ord. No. 2012-30, § 1\(Exh. A\), 8-20-12\)](#)

Sec. 21-34. - Permit to correct code violations.

Within 30 days after issuance of a notice of violation by code enforcement, the owner of the vacant real property shall submit to the building permit office an application for building permit that includes a detailed plan for correction, repair or rehabilitation of violation of state or local building codes. Corrective action to bring a vacant structure into full compliance with minimum building code shall begin within 30 days of after issuance of the building permit. Failure to timely begin or complete corrective action shall constitute a violation of this article.

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Sec. 21-35. - Permit to secure vacant structure.

(a) *Permit to secure.*

- (1) If the owner or the city determines that a vacant structure is or has become unsecure, within ten (10) days of such determination, the owner shall apply for, allow necessary inspections by the city and obtain a permit to secure the vacant structure ("permit to secure"). The permit to secure application shall contain sufficient information for the department to confirm that the securing is in compliance with this section. The permit to secure expires after six (6) months.
- (2) The issuance of a permit to secure shall also be subject to all of the following conditions:
  - a. The owner shall submit a detailed plan for correction, repair or rehabilitation of violations of state or local building and housing standards and for the securing of the doors, windows and other openings by the conventional method used in the original construction and design of the building or structure;
  - b. The owner shall submit a timeline for applying for appropriate permits for such work and for completing such work prior to the expiration of the permit to secure;
  - c. The permit to secure may be revoked by written notice of the director if the owner fails to comply with the plan for such work or fails to comport to the timeline submitted; and
  - d. A letter of written consent by the owner granting permission for city officials to enter and inspect the property and all structures upon it during the period of time in which the permit to secure is in effect.
- (3) Corrective action to bring the vacant structure into full compliance with the plan for correction shall begin within thirty (30) days after issuance of the permit to secure and shall be completed prior to the expiration of the permit to secure. Failure to have timely begun and/or completed the corrective action shall constitute a violation of this article.
- (4) The city will not consider a new application for a permit to secure for the same property.

(b) *Non-conforming structures.* If the city determines that an owner of a vacant structure has, prior to the passage of this article, secured the structure in a manner inconsistent with the provisions of this section, the city shall notify the owner of same and give the owner sixty (60) days from issuance of the notice to properly secure the structure and obtain the required permit.

(c) *Exceptions to permit requirements.* Neither registration nor a permit to secure are required in the following circumstances:

- (1) Temporary emergency situations, not to exceed sixty (60) days in length, including but not limited to damage caused by vandalism, theft or weather or hurricane preparation; or
- (2) Seasonal residences in which the owner lives at least six (6) months out of the year in the residence.

(d) *Standards for securing vacant structures.*

- (1) Unless an alternative plan is accepted by the department, the securing of the doors, windows or other openings of any building or structure, other than by the conventional method used in the original construction and design, shall comply with the following minimum standards:
  - a. *Windows and similar openings.* Windows and similar openings shall be secured with opaque material ("material") of a minimum thickness of five-eighths-inch nominal or its equivalent. Vent holes may be required, as deemed necessary by the city. The material shall be secured in place in a manner approved by the department.
  - b. *Exterior doors.* Exterior doors shall be boarded with opaque material ("material") of a minimum thickness of five-eighths-inch nominal or its equivalent, fitted to the entry doorjamb with maximum one-eighth-inch clearance for each edge. The existing door

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should be removed and stored inside the building. The material shall be attached in a manner approved by the department.

- c. *Fencing.* The following requirements shall be followed when securing a building by fencing:
  - 1. Fencing shall consist of a metal chain link fence six (6) feet in height. The fence shall be installed to withstand a fifty-pound lateral force applied to the top of the fence.
  - 2. The fence shall completely encircle the property and not be directly attached to the structure as to provide a climbable surface for accessing the structure's upper floor or roof.
  - 3. The fencing must comply with all other city codes.
- d. All work shall be done in a neat and workmanlike fashion.
- (2) In addition to the requirements set forth above, the owner shall also comply with the following requirements:
  - a. The interior of the structure shall be cleaned of all trash, junk, garbage, debris and solid waste and personal possessions shall be removed from the interior of the structure so as to eliminate any fire or health hazard and prevent hindrance to firefighting equipment or personnel in the event of a fire. Disposal of trash, etc. must comply with any and all provisions of this Code;
  - b. All garbage, trash, and debris shall be removed from the exterior of the property; and
  - c. All weeds or grass in excess of eight (8) inches shall be removed from the exterior of the property.
- (e) *Fees.* Applications for a permit to secure shall be accomplished by the required fee, set forth in the fee schedule adopted by mayor/council.

[Ord. No. 2012-30](#), § 1(Exh. A), 8-20-12)

Sec. 21-36. - Penalties for violation of this article.

- (a) Should the owner and/or responsible party fail to respond to the city's notice, register or renew registration pursuant to the terms hereof, allow inspections, pay all associated fees or obtain all required permits, the department may issue a citation setting a hearing in municipal court. All persons found in violation are subject to the penalties set forth in section 1-8. Each day of violation may be considered a separate violation.
- (b) A person who believes the provisions of this article have been applied in error may appeal in the following manner:
  - (1) Within ten (10) days of an adverse decision, an appeal must be filed in writing with the city manager. The city manager shall respond to the appeal in writing within thirty (30) days.
  - (2) The decision of the city manager may be further appealed by filing a written notice of appeal to the municipal court within thirty (30) days of the decision. Notice of the appeal shall be delivered to the municipal court, stating the grounds for further appeal. Upon the filing of the notice of appeal, the city manager shall transmit all documentation constituting the record upon which the decision appealed from was taken.
  - (3) The municipal court shall fix a reasonable time, not to exceed ninety (90) days, for hearing the appeal and give written notice to the appellant at least ten (10) days prior to the hearing date. The notice shall indicate the place, date and time of the hearing.
  - (4) A person aggrieved by the decision of the municipal court may appeal that decision to the Superior Court of Cobb County within thirty (30) days of the decision.

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[\(Ord. No. 2012-30, § 1\(Exh. A\), 8-20-12\)](#)