CITY OF CHARLES TOWN

ORDINANCE COMMITTEE
AGENDA • OCTOBER 2, 2025

Work Session **COUNCIL CHAMBERS** **6:00 PM**
101 E Washington Street, Charles Town, WV 25414

1. CALL TO ORDER

2. WORK SESSION

: **2025-1108:** Article 1759 - Vacant Structures
Ord. 2024-004 Article 1759 Vacant Buildings - signed.pdf

3. ADJOURNMENT

4. The Public May View the Meeting Live by Clicking on the Event Link at: https://www.charlestownwv.us/government/agendas_minutes.php

Ordinance Committee
101 East Washington Street
Charles Town, WV 25414

SCHEDULED

AGENDA ITEM (ID #)

Meeting: 10/02/25
Department: Ordinance Committee
Category: Ordinance
Initiator:

2025-1108: Article 1759 - Vacant Structures

ATTACHMENTS:

- Ord. 2024-004 Article 1759 Vacant Buildings - signed.pdf

ARTICLE 1759
Vacant Buildings

1759.01 Purpose and scope.

1759.02 Definitions.

1759.03 Registration of vacant buildings; enforcement.

1759.04 Maintenance of vacant buildings.

1759.05 Appeals.

1759.06 Schedule of registry fees.

1759.07 Severability.

1759.08 Transition Provisions.

1759.01 PURPOSE AND SCOPE.

This Article is enacted pursuant to W. V. Code Chapter 8, Article 12, Section 16c for the purpose of ensuring that each Vacant Building in the City is properly monitored and maintained so as to provide for public health, safety, and welfare, including being safe for entry by police officers, fire fighters, and other emergency personnel in times of emergency. This article provides for registration and inspection of Vacant Buildings.

1759.02 DEFINITIONS.

When used in this article, the following capitalized words and phrases shall have the meanings indicated:

(a) "Alternative Means of Service" means, when service of notice or process under this Article is required to be made by Certified Mail but cannot be obtained, service of the notice or process by all of the following: (i) regular U.S. mail addressed as specified in subsections (i) or (ii) of the definition of Certified Mail; (ii) publication as a Class II legal advertisement (as defined in W. Va. Code § 59-3-2); and (iii) posting on the front door or other conspicuous location on the subject Building. Service of notice or process by Alternative Means of Service shall be deemed made on the third (3rd) day following the earliest date on which such mailing, publishing, and posting have all occurred.

(b) "Building" means a structure having a roof supported by walls or columns that stands more or less permanently in one place and is utilized or intended for the shelter, housing, or enclosure of persons, animals, or personal property.

(c) "Building Code" means, collectively, the West Virginia State Fire Code, as adopted by the City under Article 1511 of the Codified Ordinances, and the West Virginia State

Building Code, as adopted and amended by the City under Article 1705 of the Codified Ordinances.

(d) "Certified Mail" means U.S. certified mail, return receipt requested, addressed to: (i) in all cases except where a Non-resident Owner has designated a Local Agent pursuant to Section 1759.03(c) of this Article, the name and last known address of the Owner according to the records of the Jefferson County Tax Office; and (ii) in the case where a Non-resident Owner has designated a Local Agent pursuant to Section 1759.03(c) of this Article, the name and address of the designated Local Agent. Service of notice or process by Certified Mail shall be deemed made upon delivery, as evidenced by the return receipt.

(e) "Non-resident Owner" means an Owner of a Vacant Building whose legal residence is outside the State of West Virginia.

(f) "Owner" means a person who individually or jointly with others:

(1) Has legal title to the property, with or without actual possession of the property;

(2) Has charge, care or control of the property as owner or agent of the owner;

(3) Is an executor, administrator, trustee, or guardian of the estate of the owner;

(4) Is the agent of the owner for the purpose of managing, controlling, or collecting rents; or

(5) Is entitled to control or direct the management or disposition of the property.

(g) "Staff" means the Vacant Buildings Official and any of his or her staff or other City employees to which the Vacant Buildings Official delegates duties.

(h) "Vacant Building" means any residential Building that has not been occupied lawfully as a residence, or any non-residential Building that has not been occupied lawfully for its ordinary expected use, during the immediately preceding six (6) consecutive months or, in the case of seasonal Buildings, such as vacation homes, one (1) year.

(1) Occupancy will be determined by the status and use of the utilities, property condition, and similar factors, including, but not limited to, the following:

(A) A Building shall not be considered occupied merely due to entry for purposes not consistent with its ordinary expected use.

(B) A Building that is unsecured and occupied by one or more unauthorized persons shall not be considered occupied lawfully for purposes of the above definition.

(2) Notwithstanding anything to the contrary above, the following shall not be considered a Vacant Building:

(A) A new Building under construction while a building permit for the construction is issued, the work is proceeding on schedule with appropriate inspection requests, and the permit is unexpired.

(3) When this Article refers to a Vacant Building with respect to filing a lien thereon, or registering the same in the Vacant Buildings Registry, or otherwise as the context requires, such reference shall include the real property upon which the Vacant Building is located.

(i) "Vacant Buildings Official" means the City Building Official designated under Article 1705 of the Codified Ordinances.

1759.03 REGISTRATION OF VACANT BUILDINGS; ENFORCEMENT.

(a) Registry. There shall be established and maintained a Vacant Buildings Registry, in which all Vacant Buildings in the City shall be registered.

(b) Notice of Requirement to Register. Prior to the last day of April in each year, the Vacant Buildings Official shall cause a Notice of Requirement to Register to be published as a Class II legal advertisement (as defined in W. Va. Code § 59-3-2) and mailed by regular U.S. mail to: the name and address of the Owner, as appearing in the Vacant Buildings Registry, of each Vacant Building then registered in such registry; and the name and last known address of the Owner, according to the records of the Jefferson County Tax Office, of each Building that Staff has determined to be, or reasonably suspects to be, a Vacant Building. The Notice of Requirement to Register shall provide notice that: (i) the Owner of any Vacant Building within the City is required to register that Vacant Building in the Vacant Buildings Registry by submission of a completed Vacant Building Registration no later than the first day of July in the subject year; (ii) upon the initial registration of a Vacant Building in such registry, or in the event of re-registration of a Vacant Building that previously was registered but later removed from the registry, payment of a registry fee in the specified applicable amount must accompany submission of the Vacant Building Registration; (iii) in the event that a Vacant Building Registration is not timely submitted with respect to a Building then or subsequently determined to be a Vacant Building pursuant to Section 1759.03(e), such Vacant Building shall be involuntary registered pursuant to Section 1759.03(e) and the Owner of the Vacant Building shall be charged a registry fee in the specified applicable amount whether or not the subject Vacant Building is then registered in the Vacant Buildings Registry pursuant to registration in a prior year; (iv) if any applicable registry fee is not timely paid, the City may bring a civil action against the Owner to collect such registry fee and/or file a lien against the subject real property for the amount of such registry fee; and (v) a Non-resident Owner of a Vacant Building is required to designate a Local Agent to accept service of process and certain notices on behalf of the Non-Resident Owner. Publication of the Notice of Requirement to Register shall state where a person may obtain a blank Vacant Building Registration, and a blank Vacant Building Registration shall be sent with any mailed Notice of Requirement to Register.

(1) Neither the failure of the Vacant Buildings Official to mail a Notice of Requirement to Register to any Owner of a Vacant Building nor the non-receipt of a Notice of Requirement to Register by any Owner of a Vacant Building will relieve the Owner of the requirements under this Article.

(c) Non-resident Owners. Each Non-resident Owner is required to provide to the Vacant Buildings Official signed and notarized document designating the name and address of a person who resides within the State of West Virginia and who the Non-resident Owner authorizes to accept service of process and notices of fees due under this section on behalf of the Non-resident Owner and who is designated as the Non-resident Owner's responsible agent for the purposes of receipt of notification in the event of an emergency affecting the public health, safety, or welfare (a "Local Agent"). Once provided, such document shall remain in effect until cancelled in writing by the Owner; *provided that*, the Owner shall be responsible for notifying the Vacant Buildings Official of any changes in the name or address of a Local Agent. Failure to provide such document by July 1 of the first year following enactment of this Article in which a Non-resident Owner owns a Vacant Building is a violation of this Ordinance subject to the General Penalty fine specified in Section 101.99 of the Codified Ordinances. Any provision herein requiring notice to or service upon an Owner shall be satisfied by notice to or service upon the Owner's designated Local Agent.

(d) Voluntary Registration. By July 1 of each year, the Owner of any Vacant Building within the City is required to register the Vacant Building in the Vacant Building Registry by submitting a completed Vacant Building Registration to the Vacant Buildings Official. A Vacant Building Registration will not be considered effective unless and until any registry fees required under Section 1759.03(g) are received by the Vacant Buildings Official.

(e) Involuntary Registration. Staff shall investigate any Building that is suspected to be a Vacant Building and determine whether it shall be considered a Vacant Building. Upon Staff's determination that a Building is a Vacant Building, Staff shall: (i) set forth in a written statement its findings supporting the determination; (ii) place the Owner of such Vacant Building on the list of persons to receive Notice of Requirement to Register pursuant to Section 1759.03(b); (iii) notify the Owner of the Vacant Building in writing by Certified Mail or Alternative Means of Service of Staff's determination that the Building is a Vacant Building that the Owner must register in the City's Vacant Buildings Registry by submission of a completed Vacant Building Registration by the following July 1, after which the City will involuntarily register the Vacant Building, with all applicable fees due; and (iv) in the event the Owner fails to register the Vacant Building by timely submitting a completed Vacant Building Registration, involuntarily register the Vacant Building in the Vacant Building Registry and assess against the Owner any registry fees required under Section 1759.03(g) whether or not the subject Vacant Building is then registered in the Vacant Buildings Registry pursuant to voluntary or involuntary registration in a prior year.

(f) Exemption from Registration. The Owner of a Vacant Building may submit in writing to the Vacant Buildings Official, for presentation to and consideration by City Council, a request for exemption from registration of such Vacant Building in the Vacant Buildings Registry due to inability to occupy the Building for a period stated and for reasons stated in the request. Upon a finding of good cause shown, City Council may exempt the Building from registration for a time specified in City Council's decision. Examples of circumstances when good cause for an exemption may exist include when the Vacant Building is being actively marketed for sale following the Owner's move to other

property, or when the Vacant Building is being offered for lease following a prior tenant's vacation of the property.

(g) Registry Fees.

(1) The voluntary registry fee set forth in Section 1759.06(a) for the applicable type of Building shall be assessed to the Owner of a Vacant Building upon its initial voluntary registration by the Owner and also in the instance that the Vacant Building is voluntarily re-registered in the Vacant Buildings Registry after previously having been registered and later removed from such registry. Thereafter, the voluntary registry fee shall not be further assessed for so long as the Owner continues to voluntarily register the Vacant Building annually. The voluntary registry fee shall be submitted with the Owner's submission of the Vacant Building Registration by which the Vacant Building is first registered (or first re-registered in the case of a prior registration and removal from the registry) and due at that time.

(2) The involuntary registry fee set forth in Section 1759.06(b) for the applicable type of Building shall be assessed to the Owner of a Vacant Building in each year that it is involuntarily registered pursuant to Section 1759.03(e). In addition to the involuntary registry fee, the Owner shall reimburse the City for all its costs incurred in notifying the Owner of Staff's determination of Vacant Building status and of the registry fee due. The Owner shall be notified in writing of the involuntary registry fee due, together with all costs reimbursable to the City hereunder, by Certified Mail or Alternative Means of Service, which amounts are due when service of the notice is deemed made under Section 1759.02(a) or Section 1759.02(d), as the case may be.

(3) The City may take the following actions in order to collect any registry fees and costs reimbursable to the City that are not paid in full within thirty (30) days of when due:

(A) After providing the Owner the notice specified below, file in the Office of the Clerk of the County Commission of Jefferson County a lien against the Vacant Building for the full amount of the delinquent registry fees and reimbursable costs, plus filing fees. Prior to filing such lien, the Vacant Buildings Official shall notify the Owner of the Vacant Building in writing by Certified Mail or Alternative Means of Service that the City may file said lien unless all delinquent amounts are paid by a date stated in the notice, which stated date shall be no less than thirty (30) days following the date on which service of the notice is deemed made under Section 1759.02(a) or Section 1759.02(d), as the case may be.

(B) Institute a civil action in the Circuit Court of Jefferson County against the Owner for the delinquent registry fees, reimbursable costs, and reasonable attorney fees and court costs incurred relative to the civil action.

(4) A registry fee paid shall be refunded if, on timely appeal, Staff's determination requiring registration as a Vacant Building is reversed.

(h) Removal from Registry. In the event a Building in the Vacant Buildings Registry becomes lawfully occupied or is removed from the subject real property, the Owner of the Building is required to provide to the Vacant Buildings Official a written notice explaining the situation, together with evidence thereof (such as a copy of a lease of the property, photographs of demolition, etc.), and requesting removal of the Building from the Vacant Buildings Registry. Upon Staff's verification of lawful occupation or removal of the Building, the Building shall be removed from the Vacant Buildings Registry. In the event Staff is unable to verify lawful occupation or removal of the Building, the Vacant Buildings Official shall notify the Owner of the Building in writing by Certified Mail or Alternative Means that Staff has determined that it is unable to verify lawful occupation or removal of the Building and that the Building shall continue to be considered a Vacant Building and remain registered in the Vacant Buildings Registry.

1759.04 MAINTENANCE OF VACANT BUILDINGS.

(a) Required Maintenance. The Owner of a Vacant Building is required to maintain the Vacant Building in accordance with all applicable provisions of the Building Code and so as not to constitute a public nuisance prohibited by Article 1101 of the Codified Ordinances.

(b) Enforcement. In the event an Owner fails to maintain a Vacant Building as required by Section 1759.04(a) as determined by the Vacant Buildings Official, the Vacant Buildings Official may notify the Owner of the Vacant Building in writing by Certified Mail or Alternative Means of Service of such determination and the specifics of the identified failure and that the City may elect to take specified actions, which may include repairs, maintenance, and/or demolition, at the Owner's cost to bring the Vacant Building into compliance with the Building Code and/or eliminate the public nuisance, as the case may be, if the Owner does not take and complete the specified actions within a specified number of days following the date on which service of the notice is deemed made under Section 1759.02(a) or Section 1759.02(d), as the case may be, which number of days shall be determined by the Vacant Buildings Official considering the urgency for the action in light of the potential harm to public health, safety, and welfare due to the condition of the Vacant Building. If the Owner fails to take and complete the specified actions within the number of days specified in such notice, the City may, in its discretion and notwithstanding any provision of Article 1101 or Article 1705 of the Codified Ordinances to the contrary, thereafter take such actions and the Owner shall be responsible for the costs of such actions, as well as all related legal and administrative costs incurred by the City. The City may bring a civil action against the Owner to collect all such costs.

(c) Alternative Enforcement. Nothing in this Section 1759.04 shall be considered to affect or limit the City's authority or actions to enforce any other provisions of the Codified Ordinances pertaining to a Vacant Building or its condition, including without limitation provisions of Articles 1101 and 1705.

1759.05 APPEALS.

An Owner adversely affected by a determination made pursuant to this Article (excepting a determination regarding a request for exemption from registration made pursuant to Section 1759.03(f)) may appeal such determination to City Council by filing with the City Clerk a written notice of appeal within thirty (30) days of the date on which service of the notice of the subject determination is deemed made under Section 1759.02(a) or Section 1759.02(d), as the case may be, after which 30 day period the right to an appeal shall expire. The decision of City Council on any such appeal, as well as a determination by City Council regarding a request for exemption from registration made pursuant to Section 1759.03(f), may be appealed by an Owner to the Circuit Court of Jefferson County within thirty (30) days of the Owner's receipt of the subject decision or determination, after which 30-day period the right to an appeal shall expire.

1759.06 SCHEDULE OF REGISTRY FEES.

(a) Voluntary Registry Fee. The following voluntary registry fee, as specified for the type of Building at issue based upon its use when last occupied, shall be charged upon the voluntary registration of a Vacant Building pursuant to Section 1759.03(d) as provided in Section 1759.03(g)(1):

(1) Less than one-year: $250

(2) At least one year but less than two years: $500

(3) At least two years but less than three years: $1,000

(4) Plus an additional $1,000 per year for each year thereafter.

(b) Involuntary Registry Fee. Any vacant property existing upon the registry, and not voluntarily registered pursuant to Article 1759.03(b), will be subject to registration fees each year in accordance with the schedule above, with the exception of the initial fee, which shall be assessed at twice the rate."

(c) Use of Registry Fees. All registry fees assessed under this Article shall, when collected, be deposited in a separate account and be used for only the following purposes, as City Council shall determine from time to time:

(1) To improve public safety efforts, especially for police and fire personnel, who most often contend with dangerous situations manifested in Vacant Buildings; and

(2) To monitor and administer this Article.

1759.07 SEVERABILITY.

If any provision of this Article is held to be invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not otherwise affect or

invalidate the other provisions hereto, all of which are hereby declared, and shall be construed, to be separate and severable.

1759.08 TRANSITION PROVISIONS.

All registry fees, fines, penalties, liens, notices, letters, communications, orders, remedies, or other enforcement actions assessed, charged, imposed, placed, filed, issued, or otherwise instituted or taken under any prior version of this Article shall remain fully effective and enforceable notwithstanding the revision of this Article and nothing herein shall be deemed to modify, negate, limit, or otherwise affect such items.

Passed on First Reading : April 1, 2024

Passed on Second Reading : May 6, 2024
(following public hearing)

Robert M. Trainor
Mayor

Attest :
John Nissel
City Manager/Clerk