

CITY OF HOPKINS
Hennepin County, Minnesota

ORDINANCE NO. 2010-1012

**AN ORDINANCE ENACTING SECTION 455 OF THE HOPKINS CITY CODE
RELATED TO VACANT PROPERTIES IN RESIDENTIAL ZONING DISTRICTS**

THE CITY COUNCIL OF THE CITY OF HOPKINS HEREBY ORDAINS AS FOLLOWS:

Section 1. Background and Findings.

- 1.01** As part of the "Residential Neighborhood Policies" included in the Comprehensive Plan of the City of Hopkins, the City and the City Council have adopted and approved the following policies:

The City will work to assure strong and well maintained neighborhoods in order to foster an overall positive economic development climate in Hopkins.

The City will work to provide an overall mixture of residential land use in the City.

The City will work to correct the disproportional amount of multiple family land uses within the City.

As part of the "Residential Neighborhoods" section of the Comprehensive Plan, the following is highlighted:

[O]ne of Hopkins' greatest assets is its neighborhoods of single-family homes, which ... give Hopkins its character and cohesiveness. ... [R]edevelopment may threaten existing single-family homes. The City needs to consider means to restrict the loss of single-family housing.

- 1.02** Consistent with the Residential Neighborhood Policies stated in the City's Comprehensive Plan, the City Council, as part of the two-year action plan for the Metropolitan Livable Communities Act, adopted June 4, 1996, and the current 2009 version of the Comprehensive Plan, has placed particular importance on preserving all existing single family housing within the City.
- 1.03** Further, as part of the City of Hopkins Strategic Plan for Economic Development, the City Council of the City has established a high priority on the maintenance of owner-occupied housing.
- 1.04** The City of Hopkins 1992 Housing Analysis Report (based on 1990 Census data), as adopted September 9, 1992, included the following finding: "Hopkins has a much lower percentage

of single family homes than the average for Hennepin County (30 percent in Hopkins compared to an average of 55 percent in Hennepin County)."

- 1.05** The City Council finds that the conditions identified in the City of Hopkins 1992 Housing Analysis Report continue to exist. Specifically, the City Council believes that single family residential use within the City constitutes a much lower percentage of overall residential use than the average for all of Hennepin County.
- 1.06** Consistent with the policies and goals stated in the City's Comprehensive Plan, Two-Year Action Plan and Strategic Plan for Economic Development, and in order to assist in achieving the City's goal of preserving single family residential housing within the City, the City Council has reviewed the City's Ordinances, Regulations and Official Controls relating to the demolition or removal of single family residential structures located within the City.
- 1.07** The City Council finds that demolition of an existing single family home in a residential zoning district without replacement with a new single family home is not in accordance with the City's Comprehensive Plan
- 1.08** The City Council finds, based on the report of City Staff, that vacant properties are often ill-maintained, and that this lack of maintenance leads to a state of disrepair in the vacant property which, in some cases, can only be abated by demolition. Demolition, as state above, is not in accordance with the City's Comprehensive Plan.
- 1.09** The report of City Staff cited an article in the Star Tribune, "Meet Your New Neighbors, the Squatters," January 3, 2010, A section, Page 1, stating that the unprecedented numbers of vacant homes have become home to "squatters" or other transients who have no legal right to be in the property.
- 1.10** The City Council finds that the owner of a vacant property is often unknown or difficult to locate, making it difficult or impossible to remove individuals without authority to reside in a property.
- 1.11** The City Council finds that vacant properties are also frequently targets for theft of copper pipes, copper wiring, or other building-fixtures, are used for the sale, purchase, and ingestion of illegal drugs, and are targets for vandalism and other property damage.
- 1.12** The City Council believes that by requiring the registration of vacant properties, the City will be better able to efficiently inspect and monitor these vacant properties to ensure that the single-family housing stock does not decline in quality or quantity.
- 1.13** The City Council finds that the neighboring property owners are often helpful in reporting property maintenance violations or other problems with vacant properties.
- 1.14** The City Council finds that when multiple vacant properties are aggregated in a small area, there are fewer neighboring property owners to report property maintenance violations or other problems. The City Council further finds that this will increase the cost of monitoring these aggregations of vacant properties, as they require additional supervision by City Staff.

- 1.15** The City Council finds that the vacant properties owned by “snowbirds;” that is, those who spend a portion of the year living outside the City, do not generally have these same problems and therefore, there is not an additional cost to monitor them.
- 1.16** The City Council finds that vacant properties which possess a valid a rental license issued under Section 407 and which are actively marketed as “for rent” do not generally have these same problems and therefore, there is not an additional cost to monitor them.
- 1.17** The City Council finds that vacant properties owned by the City of Hopkins, the Housing and Redevelopment Authority in and for the City of Hopkins (the “HRA”) are already known to the City and extensively monitored by the City and, therefore, there is no need to subject them to the registration and fee requirements of the proposed registration ordinance.
- 1.18** The City Council finds that vacant properties under a development contract with the City of Hopkins or the HRA are already known and monitored by the City, and therefore, there is not an additional cost to monitor them.
- 1.19** The City Council directs the City Manager or his/her designee(s) to actively monitor vacant properties subject to this Ordinance to ensure compliance with all applicable codes and ordinances.
- 1.20** The City Council finds that the proposed registration fees are reasonable, and will be used to defray the costs of monitoring vacant properties in the City.
- 1.21** The City Council states that this is an exercise of its general police power for the benefit of the health and welfare of its citizens and is not an exercise of its zoning power. Therefore, there are no exceptions to this ordinance based on the date the vacant property was acquired.

Section 2. Enactment of Section 455.

- 2.01** The above Findings are adopted and Section 455 is enacted, as follows:

Section 455 - Vacant Properties

455.01 Definitions. For the purposes of this Section, the terms defined have the following meanings:

Vacant Property; Vacant Properties. A Vacant Property is 1) a Lot in any R zoning district containing a building with one (1) to four (4) dwelling units, as defined in Hopkins Ordinance 515.07, Subd. 64., which is unoccupied for 90 or more consecutive days as a dwelling or which is illegally occupied; or 2) an unimproved Lot in any R zoning district located within 500 feet of Lot described in clause 1, where both lots are owned by the same Owner.

Vacant Properties is the plural of Vacant Property.

Discontinuance of municipal trash removal or failure to use a minimum of 50 gallons of water per month shall constitute a rebuttable presumption that the Property is a Vacant Property. It shall be the responsibility of the Owner of such a property to establish that it is not a Vacant Property.

Lot. Lot has the same meaning as defined in Hopkins Ordinance 515.01, Subd. 101.

Enforcement Officer. The Enforcement Officer is the City Manager or his/ her designee(s).

Owner. An Owner includes any individual, entity, or affiliated entities.

Affiliated Entities. Affiliated entities means, for the purposes of this section, (i) two entities which are owned, managed, or controlled by one or more individuals or entities in common; or (ii) an entity and an individual, when that individual owns, manages, or controls any part of the entity.

455.03 Vacant Property Registration.

(a) The Owner or Owners of all Vacant Property shall register with the Enforcement Officer any Vacant Property located within the City of Hopkins.

(b) The registration shall be submitted on forms provided by the Enforcement Officer and shall include the following information supplied by the Owner:

- (1) A description of all Vacant Property or Vacant Properties owned by the Owner or Owners within the City of Hopkins;
- (2) The names and addresses of the Owner or Owners;
- (3) The names and addresses of all known lienholders and all other parties with an ownership interest in the properties;
- (4) The period of time each Vacant Property is expected to remain vacant; and a plan and timetable for returning the Vacant Property to appropriate occupancy or use.

The Owner shall also execute an authorization appointing the Hopkins Police Department an agent of the Owner for the purpose of making a demand to depart therefrom pursuant to Hopkins Ordinance 2005.57, Subd. 2.

(c) The Owner and any subsequent Owner of Vacant Property shall keep the Vacant Property secured and safe and the buildings and grounds properly maintained in compliance with all state and local laws, ordinances, and codes.

(d) The subsequent Owner(s) of a Vacant Property shall register or re-register the Vacant Property with the Enforcement Officer within thirty (30) days of any transfer of any ownership interest in a Vacant Property.

(e) Vacant Property Registration fees:

The following fees are imposed to defray the costs of registering, monitoring, and inspecting Vacant Properties, and otherwise enforcing the requirements of this Section:

(1) Single Property/ Distant Properties: The Owner of a single Vacant Property or Vacant Properties not within 500 feet of one other shall pay a registration fee of five hundred dollars (\$500.00) per Vacant Property the first calendar year the property/properties become Vacant Property or Vacant Properties, and one thousand dollars (\$1,000.00) each subsequent calendar year the property or properties remain Vacant Property or Vacant Properties, unless an exemption under Section 455.05, below, applies.

(2) Adjacent/ Nearby Properties: The Owner of two or more Vacant Properties located within 500 feet of each other shall pay, for the first calendar year the properties become Vacant Properties, a registration fee of one thousand dollars (\$1,000.00) per Vacant Property and two thousand five hundred dollars (\$2,500.00) per Vacant Property for each subsequent year the properties remain Vacant Properties. The records of the City Assessor shall be deemed sufficient for determining the location and distance of properties from one another.

(3) The first annual fee shall be paid at the time of registration and shall be prorated for the initial year of registration based on the number of days in the calendar year after the Vacant Property is required to be registered. The annual fees for subsequent years shall be paid on or before January 1 of each subsequent year.

(4) All delinquent fees shall be paid prior to any transfer of an ownership interest in any Vacant Property. If the fees are not paid prior to any transfer, the new Owner of the Vacant Property shall pay the annual fee no later than thirty (30) days after the transfer of ownership.

455.05 Exemptions.

(a) Exemption from Registration. The following are exempt from the Vacant Property registration and fee requirements of Section 455.03:

(1) All Vacant Property owned by the City of Hopkins or the Housing and Redevelopment Authority in and for the City of Hopkins (the "HRA") is exempt from the Vacant

Property registration and fee requirements of Section 455.03.

- (2) Any Vacant Property for which the owner possesses a valid building permit for remodeling the dwelling located thereon or for construction of a new dwelling on such Vacant Property.

(b) Exemption from Registration Fees. The Vacant Property registration fee shall be waived for:

- (1) All dwelling units which possess a valid rental license issued pursuant to Hopkins Ordinances Section 407 which is actively marketed as "for rent" in a newspaper or in an online listing at a fair market value rental rate based upon market rental rates for comparable properties. It is the obligation of the Vacant Property owner to produce evidence of active marketing to claim this exemption. In the event that the rental license lapses, is suspended, or revoked, this exemption shall no longer apply, the Vacant Property in question shall be subject to the registration fees provided for above and shall immediately be due and owing.
- (2) All homes which are being actively marketed as "for sale" at a reasonable price by a licensed real estate broker or by the owner. It is the obligation of the Vacant Property owner to produce evidence of active marketing at a reasonable price to claim this exemption. A home which is listed on the MLS (Multiple Listing Service) or similar listing service is presumptively being actively marketed. An asking price not greater than 150% of the taxable market value, as determined by Hennepin County Property Tax records, is presumptively a "reasonable price."
- (3) All Vacant Property or Vacant Properties subject to a valid Development Agreement or Redevelopment Agreement the City of Hopkins or the HRA.
- (4) Any single Vacant Property for which the Owner executes a valid affidavit on a form provided by the City averring that the Owner intends to resume occupancy of the Vacant Property as a dwelling within 180 days. Failure to actually resume use of the Vacant Property as a dwelling within 180 days will result in imposition of the registration fee that was waived under this section.

- (5) An Owner who acquires a Vacant Property for which the registration fee has already been paid for the calendar year shall register the change of ownership with the City, but is not liable for an additional registration fee for that calendar year. (Example: If X registers Vacant Property with the City in January of 2010 and pays the applicable registration fee, then sells Vacant Property to Y in June of 2010, Y must register the change of ownership with the City, but is exempt from registration fees until January 1, 2011.)

455.07 Inspections.

The Enforcement Officer may inspect or cause to be inspected any premises in the city for the purpose of enforcing and assuring compliance with the provisions of this chapter. Upon the request of the Enforcement Officer, an Owner shall provide access to all interior portions of any Vacant Property or suspected Vacant Property in order to permit a complete inspection.

455.09 Notification.

The Enforcement Officer shall maintain a current list, updated monthly, of all Vacant Properties which have become known to the Enforcement Officer.

455.11 Gas Flow Shut-Off Valve.

In order to decrease the risk of fire, explosion or dangerous conditions, the Owner shall install an excess flow automatic gas shut-off valve ("excess flow valve") on the gas piping immediately downstream of the gas meter outlet of any Vacant Property within sixty (60) days of acquisition. Any excess flow valve model must be approved, installed and inspected as required by applicable laws, ordinances, or codes.

455.13 Penalties/ Enforcement.

Violation of any provision of this Section or providing false information to the Enforcement Officer shall be a misdemeanor.

The City may bring an action in a court of appropriate jurisdiction to enjoin a violation of this Section.

If an Owner fails to register within 30 days of notice from the City, the Owner shall be liable for a registration fee of three times the amount otherwise due for the Vacant Property or Vacant Properties.

455.15 Alternative procedures.

Nothing in this chapter shall be deemed to abolish or impair existing remedies available to the City under its code or State Law.

455.17 Collection of unpaid fees.

(1) *Written notice.*

a. Written notice of fees. Following registration, the Enforcement Officer or designee shall provide written notice to the Owner(s) of fees due.

b. Notice for collection of fees shall include the amount of the Vacant Property registration fee that is the responsibility of the Owner and a statement that the fee shall be paid within the time period(s) identified in the notice.

(2) *Fee and liability.* All of the fees and other amounts payable under this Section 455 shall be a debt owed to the City and, if unpaid, shall be collected by special assessment under the authority in Minnesota Statutes, Section 429.101. Action under this section does not preclude any other civil or criminal enforcement procedure.

455.19 *Applicability.* The provisions of this Section are an exercise of the City's general police/ regulatory powers; not an exercise of statutorily delegated zoning authority. All Vacant Property or Vacant Properties are subject to this Section without exception, regardless of when the property was acquired.

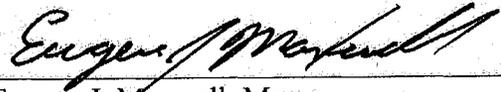
Section 3. Effective Date.

This Ordinance shall be effective on publication.

First reading: January 19, 2010

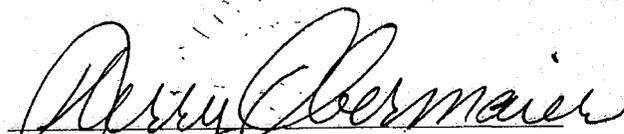
Second reading: February 1, 2010

Date of Publication: February 11, 2010



Eugene J. Maxwell, Mayor

ATTEST:



Terry Obermaier, City Clerk