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Committee: Committee on Land Use and
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council session

Ordinance supplement the Pittsburgh Code, Title Six, Conduct, Article VII, Disruptive Properties, by adding the Chapter 672, Protocols for Boarding-Up Vacant and Abandoned Residential Properties.

WHEREAS, The City Council determines that the presence of unsecured vacant and abandoned buildings creates blight; and,

WHEREAS, it is recognized that blight lowers property values, leads to deteriorating conditions, undermines the quality of life, impacts public health, safety and general welfare and also invites and results in human injury and criminal activities; and,

WHEREAS, the traditional method of boarding up windows with plywood is unsightly and can contribute to blight and decline in property values in neighborhoods with large number of vacant and abandoned buildings; and,

WHEREAS, the City Council finds the prolonged presence of unsecured, vacant and abandoned structures to be unacceptable to the citizens of the City of Pittsburgh; and,

NOW, THEREFORE, be it resolved that the Council of the City of Pittsburgh hereby enacts as follows:

Section 1. The Pittsburgh Code, Title Six, Conduct, Article VII, Disruptive Properties, is hereby supplemented as follows:

Chapter 672. PROTOCOLS FOR BOARDING-UP VACANT AND ABANDONED RESIDENTIAL PROPERTIES

Section 672.01 - DEFINITIONS

- a. FINANCIAL INSTITUTION. A lender, bank, financial institution, or servicer engaged in the financial services business and any of their successors or assigns that own, hold, service and/or serve as trustee of a secured interest in a residential property by way of a mortgage or otherwise. "Engaged in the financial services business" applicable to a financial institution means to engage in underwriting, originating or making loans secured by a mortgage on real property; or servicing loans secured by a mortgage on real property in any respect, including, but not limited to, collection of payments, creation and administration of escrow and insurance accounts, assessment of late-payment charges, management of loss mitigation, securing and managing foreclosed real property or real property undergoing foreclosure on behalf of a mortgage holder; and engaging in the preservation and maintenance of real property secured by a mortgage on such real property that has become unoccupied and unsecured.

- b. **PITTSBURGH LAND BANK OR LAND BANK.** The separate public body corporate and politic established pursuant to and in accordance with the provisions of Title One: Administrative, Article IX: Boards, Commissions and Authorities, Chapter 174A: The Pittsburgh Land Bank
- c. **RESIDENTIAL PROPERTY.** Real property comprised of dwelling units that are intended for residential occupancy. Residential property includes condominiums or row houses; and manufactured or mobile homes. A residential property can be a dwelling that is a single or multi-unit house, and can include apartment, condominium or row house complexes. If one or more individual dwellings in an apartment, condominium or row house complex is unoccupied and unsecured, such dwellings shall be subject to the requirements of this Chapter.
- d. **UNOCCUPIED.** As used herein means:
 - 1. No trade or business is present by the owner or any person having a leasehold interest of record in the residential property or other lawful occupancy;
 - 2. Uninhabited with no visible signs or active indications, upon casual observation, that the residential property is undergoing improvements as evidenced by an unexpired building or improvement permit, an unexpired application for such permit or other facts indicating the residential property is undergoing ongoing improvements;
 - 3. One or more utility connections including water, sewer, natural gas or electric connections are no longer servicing the residential property, or one or more of such utility connections are not actively being billed by such a utility provider to the residential property;
 - 4. The residential property has been boarded up or otherwise sealed in order to prevent it from becoming unsecured or because such boarding up or sealing was ordered by the City of Pittsburgh pursuant to its applicable municipal, county, state, or federal police powers; or
 - 5. The residential property is condemned or otherwise declared a nuisance by such City of Pittsburgh.
- e. **UNSECURE or UNSECURED or UNSECURED PROPERTY.** An unoccupied residential property that is open, compromised or breached in such a way as to allow unauthorized physical access to the interior space of the residential property by persons. Such unsecured property includes but is not limited to broken windows, doors, crawl space or any other opening in the property greater than one (1) square foot in area located less than ten (10) feet above grade at any point along the perimeter of the residential property.
- f. **OWNER.** The legal or equitable owner of real property, including a land contract vendee, tenant or lessee of that real property under a lease term of one year or more, a mortgagee in possession of a residential property and any financial institution acquiring legal or equitable ownership in a property. A financial institution in face of which a foreclosure, receivership, quiet title or other transfer decree has been ordered by a board or court of competent jurisdiction with respect to residential property shall be deemed an owner. In the case of multiple legal or equitable owners of a residential property including a mortgagee in possession, each such owner shall be considered an owner of a residential property, and

subject to the requirements of this Chapter.

Section 672.02 - UNSECURE RESIDENTIAL PROPERTY

a. Owners

1. Within 72 hours of any residential property becoming an unsecured property or within 72 hours of an owner acquiring an unsecured property, any owner of the property shall apply to the Department of Permits, Licenses and Inspections for a permit to secure the property and shall secure it pursuant to the requirements of Section 673.03 within seven (7) days of permit issuance.
2. Within 72 hours of receiving notice from the Department of Permits, Licenses and Inspections that a residential property is an unsecured property, any owner of the property shall apply to the Department of Permits, Licenses and Inspections for a permit to secure the unsecured property and shall secure it pursuant to the requirements of Section 672.03 within seven (7) days of permit issuance.

b. Pittsburgh Land Bank

1. Within 72 hours of any residential property becoming an unsecured property or within 72 hours of an owner acquiring an unsecured property, the Land Bank shall apply to the Department of Permits, Licenses and Inspections for a permit to secure the property and shall secure it pursuant to the requirements of Section 673.03 within seven (7) days of permit issuance.
2. Within 72 hours of receiving notice from the Department of Permits, Licenses and Inspections that a residential property is an unsecured property, the Land Bank shall apply to the Department of Permits, Licenses and Inspections for a permit to secure the unsecured property and shall secure it pursuant to the requirements of Section 672.03 within seven (7) days of permit issuance.

c. Financial Institutions

1. Voluntary Action. A financial institution that is not the owner of the unsecured property, but that holds, owns, or services a residential mortgage on the unsecured property, may board up and secure a residential property in order to preserve it from the elements, vandalism, deterioration, criminal activity, unauthorized access and such other purposes deemed necessary to secure the collateral. Such financial institution shall, in all cases apply for a permit to secure the property and shall secure it pursuant to Section 672.03.
2. Upon Order of the Department of Permits, Licenses and Inspections. Within 14 days of receiving notice from the Department of Permits, Licenses and Inspection that a residential property not owned by a financial institution, but for which it holds, owns or services a residential mortgage on the property, is unsecured property, the financial institution shall apply for a permit to secure the property and shall secure it pursuant to the requirements of Section 672.03 within seven (7) days of permit issuance.
3. In all instances, a financial institution shall be required to comply with this Chapter from the

date that it gives the owner notice of a default under the terms of the mortgage with secures the residential property, or files a notice of *lis pendens*, whichever occurs first, and shall so continue to comply until such time as the subject residential property is sold or transferred to a new owner at auction or otherwise. If the financial institution acquires the residential property at foreclosure auction, it shall comply with this Chapter as an owner.

4. A financial institution that is not the owner of an unsecured property, but that holds, owns, or services a residential mortgage on the unsecured property and that secures that property as prescribed in Section 672.03, shall not be deemed an owner, mortgagee-in-possession, or exercising dominion or control of the property, and shall not be liable in trespass, or unauthorized entry onto the property as a result of securing the property pursuant to the requirements of Section 672.03.

Section 672.03 - RESIDENTIAL PROPERTY BOARD-UP STANDARD

- a. **General Requirement.** Unless otherwise provided in this Chapter, all residential property that is unsecure shall be secured by boarding unsecure windows, doors, and other openings with sheeting material in accordance with this Section. As used herein, “sheeting material” or “sheeting” means a minimum of .177-inch thick clear or semi-clear shatter-proof polycarbonate material with a strength capable of sustaining impact without breaking or shattering, absent excessive force. For example, such polycarbonate material shall be capable of sustaining a human propelled brick without breaking or shattering. Examples of such sheeting strength yields would include strength yields equal or greater than American Society for Testing and Materials (ASDM) D638 Tensile Strength, Yield value of 8000 psi. Sheeting shall be installed in a manner intended to provide an appearance approximating glass in the window casings and consistent in appearance with the surrounding surface in the case of all other openings that require securing. Unless otherwise granted a variance by the Department of Permits, Licenses and Inspections from strict compliance herewith, materials such as particle board, wafer board, Masonite or other similar material shall not be used for boarding up residential property.
- b. **Boarding Standard - Windows.**
 1. *Internal Compression Method.* Windows with broken, missing, or removed glass, or that are otherwise unsecure, shall be boarded as follows:
 - a. All remaining broken glass shall be removed from the window opening including damaged frames as to provide a clean opening;
 - b. The sheeting material shall be cut to match the dimensions of the inside of the window casing so that when installed, the sheeting will fit tightly and not permit a tool to be placed behind it;
 - c. A ½-inch hold shall be drilled into each of the four corners of the sheeting material. The holes shall be positioned so they are no more than 1-inch from the window frame at the width and no more than 6 inches from the window sill and top frame.

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- d. Two solid continuous composite cross-beams shall be cut in sufficient length to be no less than 8 inches longer than the horizontal width of the interior window casing. Each cross-beam shall be 1 x 1.5 inch thickness and predrilled with 7/16-inch holes that are positioned to match the horizontal pattern of the holes in the sheeting.
 - e. The sheeting shall be secured in place over the exterior of the window opening by placing a 3/8-inch corrosion resistant, smooth-head carriage bolt through each of the holes in the sheeting and then placing one washer onto each of the carriage bolts; the cross-beams shall then be aligned and affixed to such carriage bolts from the interior of the window opening. Another nut and washer shall be placed onto each of the carriage bolts and tightened with a ratchet to achieve sufficient torque and a slight deflection in the cross-beams so that the nuts cannot be loosened by hand. Once secured, no space shall exist between the sheeting and the exterior window casing.
2. *Exterior Screw Method.* Fixed or inoperable windows with intact glass; or windows in which the internal compression method is impractical shall be secured as follows:
 - c. The sheeting material shall be cut to match the dimensions of the inside of the window casing so that when installed, the sheeting will fit tightly and not permit a tool to be placed behind it;
 - c. Drill and countersink holes shall be made along the perimeter of the sheeting material starting with a hold at each of the four corners and adding additional holes at 10-inch increments around the perimeter of the sheeting. Minimum length 2-inch corrosion resistant security head screws shall be used in each hole to affix the sheeting to the window frame or exterior casing.
 - c. In the event the sheeting cannot be secured by cutting the sheeting material so as to neatly fit the inside window casing, the sheeting shall be placed over the exterior window casing such that the sheeting material covers the entire window casing and extends beyond the window casing at least 8 inches on center. The sheeting material shall be secured with minimum length 2-inch corrosion resistant security head screws secured at the corners, and along the sheeting outer edges in 10-inch spaces increments as described in subsection (a) above
 3. *Variance.* If circumstances make the foregoing methods of installation impractical such as due to excessive frame, door and wall damage, or windows that are in an arc encasing or other unusual inset or characteristic the window or opening shall still be installed with the sheeting, but may be affixed and secured in any manner approved by the Department of Permits, Licenses and Inspections as to achieve substantial compliance with this Chapter.
- c. Boarding Standard - Unsecure Doors; Sliding or Other Doors.
 1. Exterior Access Door. At least one exterior door shall allow authorized persons access to the interior of the residential property. Such exterior access door may be secured by:
 - a. Using a solid core wood or steel door with no windows or other openings in the door;
 - b. Or hinged sheeting material. The door shall be securely locked using a padlock and hasp

assembly that is bolted through the door or sheeting material. The lock look portion of the hasp shall be attached to the door frame using a minimum of 3-inch long security screws.

2. Sliding glass doors and other exterior doors. Sliding glass doors or exterior doors other than the exterior access door shall be secured in the same manner as described in Section 672.03(B).

Section 672.04 - ALTERNATIVE BOARD-UP STANDARD FOR EXEMPTED ENTITIES AND NON-RESIDENTIAL PROPERTIES

- a. As an alternative to the sheeting material described in subsection (A) of this Section 672.03, alternative sheeting material may be used for securing non-residential properties or residential properties that are secured by exempted entities as described in subsection (D) of this Section. As used herein, “alternative sheeting material” or “alternative sheeting” shall mean minimum ½-inch thick exterior grade plywood painted flat gray or to match the surrounding trim color of the residential property. “Non-residential property” shall mean any property with buildings in which no more than 40% of the usable space is dedicated by official use classification as dwelling or residential.
- b. Unless secured pursuant to Section 672.03, non-residential properties or residential properties that are secured by exempted entities shall be secured as follows:
 1. Remove all glass, waste, rubbish or debris from the casing or door entranceway;
 2. Barricade all unsecured doorways, windows or exterior openings with the alternative sheeting material which shall extend to the molding stops or studs;
 3. Mount at least two wood stocks or cross-beams of minimum 1 x 1.5 inch thickness to the reverse face of the alternative sheeting with minimum 3/8-inch carriage bolts mated with nuts and two flat washers;
 4. Extend the cross-beams a minimum of 8-inches on each side of the interior wall;
 5. Cause all hardware to be galvanized or cadmium plated;
 6. The Department of Permits, Licenses and Inspections may waive or change these standards so long as the property is secured adequately so as to prevent unauthorized entry or vandalism to the property.
- c. Notwithstanding anything to the contrary in this Chapter, where the City of Pittsburgh has no proprietary or pecuniary interest in the residential property, the City of Pittsburgh may elect to use the alternative sheeting material described in subsection (D)(1) of this Section when the need to secure the unsecured property is based on any one or more of the following reasons:
 1. Health, safety and welfare protection of the public pursuant to such City of Pittsburgh’s police powers;
 2. Emergencies such as fire damage, vandalism or other imminent threat to the health and safety of

persons or property;

3. Attractive nuisance conditions;
 4. Condemnation orders declaring the unsecured property a nuisance; or
 5. Actual or threatened illicit activity such as illegal drug use or trafficking, unlawful vice activity such as prostitution, trafficking in persons, kidnapping, unlawful gambling and other such vice activity.
- d. Notwithstanding anything to the contrary in this ordinance, where a City of Pittsburgh employs a third party for hire, independent contractor, non-profit community development entity or utilizes the services of an agent acting on behalf of the City of Pittsburgh to secure a residential property pursuant to this Chapter, such party and agent shall likewise be permitted to use alternative sheeting material if instructed to do so by the City of Pittsburgh. In all such cases, such third parties, independent contractors or agents shall not be deemed to be exercising dominion and control over the residential property, not shall be liable in trespass under the common law, nor liable under the common law for unauthorized entry in or upon the unsecured property, nor be deemed in possession on account of securing an unsecured property pursuant to this ordinance.

Section 672.05 - JOINT AND SEVERAL OBLIGATION

A financial institution that is not an owner of the unsecured property to which an order to secure such property is issued by the Department of Permits, Licenses and Inspections, shall be required to comply with any such orders as prescribed herein. However, nothing herein shall absolve or diminish the owners' obligation to comply with the requirements of this Chapter regardless of the issuance of any order to a financial institution. A financial institution not in ownership of the unsecured property and any owner shall be jointly and severally liable to comply with this Chapter, and shall be jointly and severally liable for all civil fines and charges levied against them for non-compliance with any portion of this Chapter.

Section 672.06 - FAILURE TO COMPLY

If the Land Bank or any owner or financial institution fails to comply with the requirements of this ordinance, upon notice of non-compliance from the Department of Permits, Licenses and Inspections, they shall jointly and severally be subject to a civil fine in an amount to be determined by PLI for each violation of this Chapter. Failure to comply with any portion of this Chapter within ten (10) days of such notice shall result in a civil fine of an additional dollar amount to be determined by PLI for each day thereafter that such owner or financial institution remains in non-compliance with this Chapter. In addition to the fine imposed herein, the City of Pittsburgh may, but is not required, to secure the unsecured property itself or through any authorized third party or agent, and charge the cost thereof to the Land Bank, owner and/or the financial institution, as the case may be. The Land Bank, owner and financial institution shall be jointly and severally liable for both the fine imposed herein and all costs to secure the unsecured property together with an administrative fee of an amount to be determined by PLI, plus fees to file or release any liens, postage and courier fees, legal fees and

any other fees incurred in enforcing this Chapter.

In addition to pursuing any money claim in a court of competent jurisdiction, the City of Pittsburgh may certify the charges and any continuing charges or fines:(a) to the real estate taxing authority as prescribed by the real estate tax collection laws of the State; and/or (b) to the county recorder as and for a lien against the unsecured property as may be permitted by law.

Section 672.07 - PERMITS

- a. If the Land Bank or any owner or financial institution to which this Chapter applies, shall file an application with the Department of Permits, Licenses and Inspections prior to commencing any work to secure the unsecured property, the Land Bank, owner or financial institution shall pay a permit application fee in an amount to be determined by PLI. The application shall require the applicant to supply the following information which may be prescribed on forms promulgated by the Department of Permits, Licenses and Inspections:
 1. Name, address and telephone number of the owner or natural contact person of the financial institution seeking the permit;
 2. Name, address and telephone number of the natural contact person of the entity performing the work on the unsecured property;
 3. Name, address and telephone number, if available, of the record owner of the unsecured property;
 4. The causes for which the applicant is seeking the permit (based on information and belief);
 - a. Vandalism;
 - b. Open, vacant;
 - c. Fire damage;
 - d. Code violation order from the City of Pittsburgh to secure the unsecured property;
 5. Proposed date on which the applicant proposes to secure the unsecured property;
- b. Any application for a permit which is not granted or responded to within five (5) business days, shall extend the time periods for compliance in Section 672.02 by the number of days in excess of the five (5) business day response period set forth in this Section.

Section 672.08 - APPEAL

- a. Upon receiving a written notice of non-compliance with this Chapter, the Land Bank, owner or financial institution claiming to be aggrieved may, within 10 days of such notice, file an appeal to the applicable administrative body concerning any aspect of the notice of non-compliance. Except in cases of fire damage and other imminent threat to the health and safety of persons or property, such appeal shall stay

the enforcement of this Chapter until an adjudication of the appeal by such administrative body.

- b. **Standard of Review.** Any order issued by the Department of Permits, Licenses and Inspections under this Chapter shall be presumed valid and lawfully as issued. However, the Department of Permits, Licenses and Inspections or administrative body to which the appeal was filed may make modifications or concessions based on a showing of hardship, the timeliness of a scheduled or intended demolition of the unsecured property, or special circumstances making strict compliance impracticable or ineffective. Provided the appellant in such an appeal achieves substantial compliance with this Chapter, the Department of Permits, Licenses and Inspections or administrative body to which such appeal was filed, may permit a variance to strict compliance.
- c. **Temporary Stay.** Upon the filing of an appeal as authorized in this Section, the action or order requested by the City of Pittsburgh may be temporarily stayed except in cases of fire damage or imminent threat to the health and safety of persons or property. Otherwise, such stay may remain in effect until the appeal is adjudicated by the administrative body to which the appeal was filed.

Section 672.09 - EFFECTIVE DATE

This chapter shall take effect on January 1, 2018. Properties that have been boarded up prior to the effective date of January 1, 2018 shall be grandfathered. For grandfathered properties, should any piece of plywood need to be removed and replaced after the effective date, the entire property needs to be re-boarded according to the standards of this chapter.