REFERENCE NO: 20140918
ORDINANCE NO. 7748

AN ORDINANCE

AMENDING, Section 7-4-2, so as to add 7-4-2-150, Regulation of boarded up buildings, to the Marietta City Code.

NOW, THEREFORE BE IT HEREBY ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF MARIETTA, GEORGIA, THAT:

Section 1: Section 7-4-2-150 Regulation of boarded up structures, is hereby added so as to read as follows:

7-4-2-150 Regulation of boarded up structures

A. Purpose and authority.
   1. It is the purpose of this article to promote the health, safety and welfare of the citizens of the city by establishing reasonable regulations for boarded up structures in order to prevent their detrimental effects on other properties within the City of Marietta.
   2. The Code Enforcement Manager of the Department of Development Services, or his designated representative, shall be responsible for the administration and enforcement of the provisions of this article. The Code Enforcement Manager or designee(s) shall have the following authority:
      a. To inspect the properties.
      b. To obtain administrative search and inspection warrants, if necessary; and
      c. To issue notices of violation
   3. The Director of Development Services, or his designated representative shall have the following authority:
      a. To act as the hearing officer or assign a designated hearing officer for appeals to the notice of violation
      b. To process any appeals to the City Council and Municpal Court

B. 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:
   1. *Board up:* means boarding up of any means of egress and ingress, including ,without limitation,windows and doors, to an unoccupied structure.
   2. *Building:* any building or structure designed or built for the support, enclosure, shelter, or protection of persons, animals or property of any kind.

C. Requirements; time limits.
   1. An owner who registers a boarded up building pursuant to 7-4-2-150(E) of this section must comply with the guidelines for boarding up buildings established from time to time by the Department of Development Services.

2. An owner's registration of a boarded up building shall expire three months from the date of registration with the Department of Development Services and may not be renewed except as in Section 3 below.
3. An owner may request an additional renewal permit registration for three months from the expiration of the registration 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 or, alternatively, a detailed plan for the sale of the property to another person or entity with provision in the sale of correction, repair or rehabilitation. The owner may also choose to demolish the structure(s) and submit a timeline for doing so.
   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 renewal permit or alternatively, a timeline for the sale of the property;
   c. The renewal permit may be revoked by written notice of the Director of Development Services, at the recommendation of the Code Enforcement Manager, if the owner fails to comply with the plan for such work or fails to conform to the timeline submitted.
4. After the expiration of the renewal permit registration, a new application on the same property may not be accepted by the Department within one year from the date of expiration of the renewal permit, except for special excepted circumstances in section G.

D. Grace period. Any owner who has boarded up a building prior to the effective date of this article shall comply with the regulations contained herein within six months after the effective date of this article. If after six months, an owner has failed to register the building, the owner shall be in violation of this article.

E. Registration.
1. No owner shall board up a building without registering the building with the Department no later than 48 hours after boarding it up.
2. An application for registration must be made by the owner of the boarded up building on a form prescribed by the department, and submitted to the department. The completed registration form shall contain at a minimum the following information:
   a. The full true name and mailing address of the owner;
   b. The full true address and tax parcel number of the property upon which the building to be boarded is located;
   c. An accurate telephone number at which the owner may be reached;
   d. If the owner is a partnership or corporation, the owner shall designate one of its general partners or officers to act as its agent and provide the present residential and business addresses and telephone numbers for the agent;
   e. The owner's plan for the occupancy, repair or demolition of the building;
   f. The owner's plan for regular maintenance during the period that the building is boarded up; and
   g. Such other information as the department shall from time to time deem necessary.
3. The owner, under this section, shall have a continuing duty to promptly supplement registration information required by this section in the event that said information changes in any way from what it stated on the original registration.

4. Registration of boarded up buildings does not excuse the owner from compliance with any other applicable ordinance, regulation, or statute adopted by the City, without limitation. By accepting an owner's registration, the department has not determined that the building being registered is in compliance with any applicable local or state regulation or law.

F. Multifamily properties
In cases where more than 20 percent or more of the residential units are boarded up, the entire complex shall come into compliance

G. Exceptions.
Permits to board up structures shall not be required for temporary emergency situations including but not limited to damage caused by weather, accidential or unintentional fire, flood or natural disaster up to six months. After six months, a boarding permit shall be required. Also a permit shall not be required for structures that are boarded up in anticipation of extreme weather conditions. Undamaged structures shall remove all boarding within 30 days or must otherwise comply with this article.

H. Violations.
1. Its shall be unlawful for the owner of a boarded up building to fail to register such building with the department as required in 7-4-2-150(E) above. except as otherwise provided in this article.
2. It shall be unlawful for an owner who has registered a boarded up building to leave the building boarded up after the expiration of the registration as set forth in 7-4-2-150(C), except as allowed elsewhere in this article.
3. It shall be unlawful for an owner to board up a building in a manner that does not comply with the department's guidelines unless the owner has obtained the department's prior written approval for an alternative method of boarding up a building.

I. Notice of violation; penalties. Except as otherwise provided in this article, the Code Enforcement Manager or designee(s) shall notify the owner of a boarded up building of a violation of any provision of this article, and the owner shall have ten days from the date of the notice of violation to correct the violation. Any owner who fails to correct the violation within the time specified shall be subject to a fine in the amount of $500.00 for the first day of noncompliance and $50.00 for each day thereafter until the owner complies. After 30 days, should the owner fail to comply to correct the violation(s), the Code Enforcement Manager shall declare the structure(s) that are out of compliance to be a nuisance pursuant to 10-8-010.

J. Notices. Any notice required or permitted to be given by the Department of Development Services under this article to the owner may be given either by personal delivery or by first class United States mail, postage prepaid, to the most current address as specified in the registration which has been received by the department or to the address listed for the responsible person in the county property tax records if an owner has not registered with the department. Notices mailed as above shall be deemed given upon their deposit in the United

States mail and shall be deemed to have been received on the third regular postal delivery day thereafter.

K. Adjudicatory hearing.

1. An owner who has been been given a notice of violation and assessed a fine for a violation of this article may appeal to a hearing with the Director of the Department of Development Services or his designated hearing officer. Such request must be made in writing, filed with the department within ten days of the notice of assessment, and state the reasons why the fine should not have been assessed. Failure to request a hearing in the time and manner specified shall constitute a waiver of the right to contest the penalty.
2. The Director or his designated hearing officer shall consider the evidence that is presented by the City and the owner to determine if the structure is out of compliance. Should the Director, or designated hearing officer, determine that the violation is out of compliance there shall be a written order to affirm the fine and continue the action in Municipal Court. A written order affirming the violation shall automatically be appealed to the City Council and scheduled at the next available meeting time as determined by the City Clerk. Should the owner agree in writing with the order and not wish to persue appeal, the owner shall have ten days to meet the requirements of the order.
3. The City Council will consider all appeals of the Director's written order and after hearing the evidence in the record shall determine whether to affirm or reverse the order. Should the the City Council affirm the order, the owner shall have ten days to meet the requirements of the order. Should the owner fail to meet the requirements of the order, the Code Enforcement Manager shall declare the structure(s) that are out of compliance to be a nuisance pursuant to 10-8-010.

Section 2: It is hereby declared to be the intention of this Ordinance that its sections, paragraphs, sentences, clauses and phrases are severable and if any section, paragraph, sentence, clause or phrase of this Ordinance is declared to be unconstitutional or invalid, it shall not affect any of the remaining sections, paragraphs, sentences, clauses or phrases of this Ordinance.

Section 3: All Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed.

Section 4: This Ordinance shall become effective upon the signature or without the signature of the Mayor, subject to Georgia laws 1983, page 4119.

DATE: August 13, 2014

Approved: R. Steve Tumlin

R. Steve Tumlin, Mayor

ATTEST: Stephanie Guy

Stephanie Guy, City Clerk

Approved as to Form: D. Haynie

Doug Haynie, City Attorney