

**ORDINANCE 2005-22**

**AN ORDINANCE AMENDING THE CITY OF MARTINSBURG CODE, PART  
17, BY ADDING ARTICLE 1718.**

*Vacant Structure Code*

WHEREAS, City of Martinsburg City Council is of the opinion that improperly maintained vacant structures within this City have the potential of presenting a hazard to police officers and fire fighters for safe entry in times of emergency, and that such vacant structures and their contents may, at times, present a hazard to the public during the time that the structure remains vacant; and

WHEREAS, The City of Martinsburg City Council is of the opinion that the potential hazard that such vacant structures present is of such public concern and importance that the City of Martinsburg should adopt a Vacant Structure Code that regulates the same.

NOW, THEREFORE, be it Ordained by the Council of the City of Martinsburg, West Virginia, that the Code of the City of Martinsburg, Part 17, be amended by adding "Article 1718 *Vacant Structure Code*" to include the following provisions:

**1718 VACANT STRUCTURE CODE**

1718.01 ADOPTION

There is hereby adopted a *Vacant Structure Code* for the City of Martinsburg.

1718.02 PURPOSE

The purpose of this Article shall be to ensure that all vacant structures will be kept weather tight and secure from trespassers, safe for entry by police officers and fire fighters in times of emergency, and to ensure that the structure and its contents do not present a hazard to the public during the time that the building remains vacant.

1718.03 DEFINITION

For purposes of the Article, the term vacant structure shall include any building which has not been occupied for either residential or business use for a period of one hundred and twenty (120) days or more.

1718.04 REGISTRATION

At the time of adoption of this Article, all owners of realty within the City of Martinsburg that possess a vacant structure, as defined in 1718.03 above, shall register the same with the Planning Department of the City. For those structures that qualify as a vacant structure after the adoption of this Article, the owner thereof shall be required to register the structure with the Planning Department within 30 days after the structure meets the definition of a vacant structure. The registration form shall require information from the registrant deemed necessary by the Building Code Official, Fire Chief, and Police Chief of the City, so as to ensure that the purpose of this Article is met. Specifically, the above named City Officers shall determine the structural integrity of building, determine the repairs necessary to ensure its structural integrity, that it will be safe for entry by fire fighters and police officers in time of emergency, and that the building and its contents do not present a hazard to the public during the time the building remains vacant. The above named officers shall have the authority to issue orders to the

owner for corrective action deemed necessary. The Building Code Official and Fire Chief shall rely upon the West Virginia State Building Code and Fire Code, as well as other applicable law, for guidance during any such structural review.

#### 1718.05 INSPECTION

At the time of registration, the Building Code Official, Fire Chief, and Police Chief shall determine whether it is necessary for any or all of them to inspect the structure so as to identify any public safety issues needing address. If an inspection is deemed necessary, the owner will be notified of the same and arrangements made for the same. If the owner fails or refuses to consent to and arrange for an inspection, the City will seek a search warrant from a Court of competent jurisdiction to authorize inspection of the premises for the purpose of determining the structural integrity of the building, the repairs necessary to ensure its structural integrity and that it will be safe for entry by fire fighters and police officers in time of emergency, and that the building and its contents do not present a hazard to the public during the time that the building remains vacant.

#### 1718.06 CORRECTIVE ACTION

The property owners shall be notified in writing of any corrective action deemed necessary by City Officials, the applicable code provisions or regulations, and will be afforded a reasonable time to take corrective action.

#### 1718.07 RIGHT OF APPEAL

Any person directly affected by a decision, notice or order of the City Building Code Official for violations of the applicable building code shall have the right to appeal to the board of appeals, provided that a written application for appeal is filed within twenty (20) days after the date the decision, notice or order was served. Any

person directly affected by a decision, notice or order of any City Official, other than the building code official, shall have the right to appeal to City Council, provided that a written application for appeal is filed within twenty (20) days after the date the decision, notice or order was served. City Council shall afford the property owner a public hearing and the opportunity to explain why he or she believes the corrective action at issue is unreasonable. At the conclusion of the public hearing, City Council shall determine whether the property owner's request shall be granted. Should City Council deny the relief as requested, the property owner shall be required to take the corrective action within ten (10) days of City Council's decision.

Any person, whether or not a previous party of the appeal, shall have the right to apply to the appropriate court of competent jurisdiction for a writ of certiorari to correct errors of law. Petitions for review shall be made in the manner and time required by law following the filing of the decision in the Planning Department.

#### 1718.08 REINSPECTION

All vacant structures shall be reinspected by the City Officials named herein on an annual basis.

#### 1718.09 SEVERABILITY

In the event that any court or administrative agency with jurisdiction over the subject matter within this Article deems any section or portion thereof unlawful, such decision shall not affect the validity of the remaining portions of this Article.

#### 1718.10 PENALTY

Any person who fails to comply with the provisions of this Article, or fails to take the corrective action required by City Officials so as to assure that a vacant

structure meets the requirements of this Article, shall be guilty of a misdemeanor, punishable by a fine of no more than Five Hundred dollars (\$500.00). Each day that a violation continues shall be deemed a separate offense.

Be it further ordained by the City Council of the City of Martinsburg that any Ordinance or Ordinances heretofore passed by the City Council of the City of Martinsburg, which are in conflict with this Ordinance, are hereby amended to incorporate the content of this Ordinance.

First Reading: *November 10, 2005*

Adopted: *November 28, 2005*

*George Karos*  
MAYOR

*Shanda L. Shie*  
CITY RECORDER