



PLANNING COMMISSION MEETING AGENDA
Council Chambers, 1000 Laurel Street

May 8, 2019
Wednesday

Regular Meeting
7:00 p.m.

- 1. Call to Order and Flag Salute**
- 2. Roll Call**
- 3. Additions/Deletions to Agenda**
- 4. Citizen Participation**
- 5. Approval of Minutes**
 - A. April 10, 2019 Regular Meeting
- 6. Regular Agenda**
 - A. Vacant Building draft Ordinance
- 7. Commissioner Reports**
- 8. Adjournment**

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PLANNING COMMISSION MINUTES

Regular Meeting
Wednesday, April 10, 2019
7:00 p.m.

1. CALL TO ORDER AND FLAG SALUTE

Vice Chair Whalen called the meeting to order at 7:00pm and Commissioner Sweat lead the flag salute.

2. ROLL CALL

Present: Vice Chair Whalen, Commissioners Balsley, Gillespie, Sweat and Boyle.

Absent: Chair LaVergne and Commissioner White

Staff Present: Trisha Summers, City Clerk

MOTION TO EXCUSE LaVergne and White (Gillespie/Balsley) Passed 5/0

3. ADDITIONS, DELETIONS TO AGENDA

None

4. CITIZEN PARTICIPATION

None

5. APPROVAL OF MINUTES

A. March 27, 2019 as amended

MOTION TO APPROVE MINUTES (Boyle/Gillespie) – Passed 5/0.

6. REGULAR AGENDA

A. Vacant Building Draft Ordinance

Commissioners continued working through the draft copy of ordinance and making corrections and changes to it. Will continue working further and hope to finish up next meeting.

7. COMMISSIONER REPORTS

Vice Chair Whalen-

- Next meeting is May 8th.

Commissioner Sweat

- Civil Service is doing great. We have come up with a process for hiring that will make it easier.

Commissioner Balsley

- Milton Days planning happening now and any help is appreciated.
- Fife and Edgewood presented at FME Chamber lunch today. Milton was unable to attend.

Commissioner Boyle

- Looking forward to a tour of the decant facility once it's ready.
- Edgewood City Council meeting last night had upset citizens about more proposed apartments being built.
- Interesting how growth management and zoning is so important to future growth. We need to protect the city with a clear vision as a planning commission.

Commissioner Gillespie

- Diaper drive brought in approximately 158,000 diapers total. Personal goal was 20,000 and we received 26,000. The City of Milton was the winner of the competition between Edgewood, Fife and Milton.

8. ADJOURNMENT

The meeting was adjourned at 9:08 PM.

Vice Chair Jacquelyn Whalen

Ordinance: Register/Establish Fees for Vacant Buildings in ~~Up-Town and Business District~~ the city of Milton, Washington

ORDNANCE NO. ____

AN ORDINANCE OF THE CITY OF MILTON, WASHINGTON, TO CREATE A POLICY TO IDENTIFY AND REGISTER VACANT BUILDINGS; TO ESTABLISH A PROCESS TO IMPROVE COMMUNITY SAFETY AND PROMOTE THE WELL BEING OF AREA BUSINESS; TO REPEAL ANY ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; AND TO DECLARE AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF MILTON, WASHINGTON:

 PURPOSE

The purpose of this article is to protect the public health, safety and welfare of Milton by establishing a program for identification and registration of vacant commercial buildings, determining the responsibilities of owners of vacant commercial buildings and structures, and providing for administration, enforcement, and penalties.

 ADMINISTRATION

This chapter will be administered by the building official, who may adopt administrative rules and regulations consistent with its terms. The building official (and his/her designee), or code enforcement officer, or both are authorized to enforce this chapter. (Ord. _____)

 DEFINITIONS

“City” means the city of Milton, its officers, employees, and agents.

“Commercial activity” means having the objective of supplying commodities (goods and services) and ancillary business functions.

“Commercial building” means a building with more than fifty (50) percent of its floor space used for commercial activity. For the purposes of this section, floor space shall be designated as the area on the main or street level of the building.

“Commercial space” means any portion of a structure in the City of Milton that is not intended for residential use.

“Dangerous structure” means a structure that is potentially hazardous to persons or property, including, but not limited to: (a) a structure that is in danger of partial or complete collapse; (b) a structure with any exterior parts that are loose or in danger of falling; or (c) a structure with any parts, such as floors, porches, railings, stairs, ramps, balconies or roofs, that are accessible and that are either collapsed, in danger of collapsing or unable to support the weight of normally imposed loads.

“Occupied” means a permitted, nonresidential use that is physically located and lawfully operating in a commercial space for at least six consecutive months.

“Owner” means the person, persons, or entity shown to be the owner of record on the records of the Pierce County or King County Register of Deeds, those identified as the owner or owners on a vacant building registration form, holder of an unrecorded contract for deed, a mortgage or vendor in possession, assignee of rents, receiver, executor, trustee, lessee, other person, firm or corporation in control of the freehold of the premises or lessor state therein. Any such person, person’s or entity, shall have a joint and several obligations for compliance with the provisions of this article.

“Responsible person” means any person, firm, association, corporation or any agent ~~thereof, owning, leasing, renting or having lawful possession of a structure in the City of Milton~~ of the owner.

“Secured by other than normal means” means a building secured by means other than those used in the design of the building.

“Unoccupied” means a building which is not being used for a legal occupancy. The storage of products and materials does not constitute occupancy unless authorized by the zoning ordinance of the city.

(Still in question and request this to be looked at by city attorney)

“Unsecured” means a building or portion of the building that is open to entry by unauthorized persons without the use of tools.

“Vacant commercial building” means a building structure or portion of a building structure that is:

- (1) Unoccupied and secured;
- (2) Unoccupied and unsecured;
- (3) Unoccupied and secured by other than normal means;
- (4) Unoccupied and a dangerous structure;
- (5) Unoccupied and condemned;
- (6) Unoccupied and has city code violations; or
- (7) Condemned and illegally occupied.

VACANT COMMERCIAL BUILDING does not mean any structure being constructed pursuant to a valid permit to the city building code.

(street level removed)

“Vacant commercial space” means any portion of a commercial space that, on or after (date of ordinance), is not occupied and has not been occupied during the preceding ninety days.

GENERAL MINIMUM MAINTENANCE REQUIREMENTS

All responsible persons shall perform the following with respect to each structure they own, lease, rent, or lawfully possess:

- A. Maintain all exterior surfaces, including but not limited to doors, windows, door and window frames, cornices, porches, trim, balconies, decks, and fences, in good condition.
- B. Protect exterior wood surfaces, other than decay-resistant woods, from the elements and decay with paint or other protective covering or treatment. If protection of the surface is compromised, restore adequate protection within a reasonable time; for example, remove peeling, flaking or chipped paint and repaint the compromised surface.

- C. Cause all siding and masonry joints and joints between the building envelope and the perimeter of windows, doors, and skylights to be weather-resistant and watertight.
- D. Coat all metal surfaces subject to rust or corrosion, except those designed to be stabilized by oxidation, to inhibit rust and corrosion, after first stabilizing any existing rust and corrosion. Remove oxidation stains from exterior surfaces.
- E. Maintain all exterior walls free from moss, algae, dirt, grime, holes, breaks and loose or decaying materials. Weatherproof and properly coat the surface of all exterior walls when required to prevent deterioration.
- F. Maintain the roof and flashing of all structures so that they are sound, tight, free of moss, algae or defects that admit rain, attract pests or create a public nuisance. Maintain adequate roof drainage to prevent dampness and deterioration in the walls and inside the structure. Maintain roof drains, gutters, and downspouts in good repair and free from obstructions.
- G. Maintenance of overall property, inclusive of parking spaces.

____ VACANT COMMERCIAL SPACE REGISTRATION

A. At least one responsible person for each vacant commercial space must register that space with the city within ~~10~~ 14 consecutive calendar days of the date the space becomes vacant commercial space, as that term is defined in section __, unless:

- 1. The space is the subject of a current, valid building permit for repair or rehabilitation and the responsible person provides proof, such as receipts, invoices or executed contracts, that the repair or rehabilitation is proceeding without significant delay; or
- 2. The space meets all applicable codes and regulations that apply to a permitted nonresidential use, and the responsible person is actively attempting to sell, lease, or rent the property (which is evidenced, in part, by appropriate signage and not over pricing the property from the going rate in that particular area); or
- 3. The property the commercial space is located on is the subject of a land use application for redevelopment for which approval has been granted but building permits have yet to be issued.

B. A space will be **considered registered** on the date the city receives, on a form provided by the building official and properly completed and signed by a responsible person, the following information:

- 1. The street address and parcel number of the vacant commercial space;
- 2. The name, address, daytime and evening telephone numbers of each responsible person for the vacant commercial space, including any owner or tenant;
- 3. The period of time the vacant commercial space is expected to remain vacant;
- 4. Any other information requested by the building official for the administration of this chapter.

C. For every registered vacant commercial space, a responsible person must record a notice that the space is registered with the city as a vacant commercial space with the Pierce County **or King County** Auditor. The notice must be approved by the building official, and a copy of the recorded notice must be received by the city no later than thirty days from the date the space is registered.

To be reviewed by Legal-if not necessary, delete

D. A responsible person must post the following notice **on a form provided by the building official** inside every vacant commercial space, **to be** clearly visible to all potential tenants, lessees, renters or buyers upon entering the space but not visible from outside the space:

1. This Vacant Commercial Space is registered with the City of Milton.
2. This Vacant Commercial Space may not meet all applicable codes and regulations, which may include codes and regulations required to occupy the space for a permitted use in the **City of Milton**.
3. The Vacant Commercial Space was registered on (date).

E. A responsible person must renew the registration of each vacant commercial space on or before January 1st of each year that the space remains vacant. A responsible person must submit the renewal application to the city on forms provided by the building official.

F. Upon satisfactory proof to the building official that the vacant commercial space is occupied as defined in Section __, the vacant commercial space will be unregistered. Proof of physical occupation may include, but is not limited to, usable furniture, office equipment, retail inventory or other equipment and inventory in the space that are consistent with the unit's intended use, and persons regularly present at and using the space for its intended use. Proof of physical occupancy must also include documentation, which may include, but is not limited to, a current, executed lease agreement, paid utility receipts reflecting payments for six consecutive months from the month the space is occupied, or valid state and local business licenses, federal income tax or city business and occupation tax statements indication the subject space is the official business address of the person or business claiming occupancy.

G. The determination of the number of vacant commercial spaces a structure contains will be at the reasonable discretion of the building official.

WINDOW DISPLAYS FOR COMMERCIAL SPACES ~~NOT OCCUPIED VACANT FOR THIRTY DAYS~~

When commercial space is unoccupied for more than thirty days, a responsible person must take steps to maintain a vibrant streetscape and avoid adverse impacts on neighborhood character by applying at least one of the following measures to all ground-floor windows that face sidewalks, streets, or public open space:

- A. Paint windows with visually appealing scenes depicting or suggesting business or cultural activities;
- B. Display works of art or provide other displays of cultural or educational value, using background panels or other methods to screen views from the street of the unoccupied space;
- C. Other measures consistent with these examples approved by the building official.

FEES (not taxes) FOR VACANT COMMERCIAL SPACE REGISTRATION

A. At least one responsible person shall pay an annual registration fee of \$100.00 for each registered vacant commercial space. At least one responsible person must pay the fee to the city at the time the space is registered and on January 1st of each year that the space remains vacant.

B. Registration waivers may be granted if the owner provides satisfactory proof that the vacancy is temporary and may be due to illness of the owner, active military service or some other reasonable explanation believed to be short-term in nature and documentable as necessary.

C. After a vacant **commercial space/building** is placed on the registry, the city will inspect the property to ensure it is secure and safe. ~~from water damage.~~ The owner of the building will be required to pay a ~~\$40.00~~ **\$100.00** fee for the inspection. The ~~legal department~~ **Building Department** will notify the property owner of any maintenance issues, and citations will be issued if the property is not brought into compliance.

~~D. Violation of the Milton Sign Code Definition 17.50.020 Abandon Sign (a sign that has not been changed or removed within 180 days of ceasing to be relevant) and fall under 17.50.200 of the sign code Penalty for Violations which fall under MMC 9.04.040.~~

FEES IN LIEU of OCCUPANCY

~~D. A. The commercial space/building must be occupied for 11 consecutive months for it to be taken off the vacant commercial space/building registry.~~ The city will require the property owner to pay a **vacancy** fee if his or her building has been on the registry for one year.

~~E. Vacant commercial space/buildings must be registered with the City of Milton that have been 100% vacant for 30 days or more.~~

~~F. B. Failure to comply;~~ a notification from the City of Milton will be sent to the business owner. If they still do not comply, the city will register the building for him or her and will levy a fine of at least \$100.00.

~~G. C. The purpose of this is to keep unoccupied buildings in a safe, well-maintained condition and prevent them from becoming a safety hazard and lowering values of surrounding properties.~~

~~H. D. The fee will be based on the duration of the vacancy as determined by the following scale:~~

~~(Option 1)~~

~~1.E. The fee will be based on the vacant space/building's square footage at \$.40 per square foot. in the City of Milton \$.20 per square foot in all other areas. This fee will increase by \$.10 per square incrementally each year.~~

~~(Example: Hometown Hardware has 21,058 sq. ft on the interior and 1,000 sq. ft on the exterior. Total sq. ft is 22,058, leasing at \$13.00 per sq. ft is \$286,754.00 per month with a 10 year lease. The fee charged would be \$8,823.20 per month with an annual fee of \$105,878.00.~~

~~2. F. Fees will be billed annually. The legal department city will file lawsuits against those who do not pay the fee and place liens on their property.~~

3. G. Violation of the Milton Sign Code Definition 17.50.020 Abandon Sign (a sign that has not been changed or removed within 180 days of ceasing to be relevant) and fall under 17.50.200 of the sign code Penalty for Violations which fall under MMC 9.04.040.

~~(Option 2)~~

- ~~1. Two hundred fifty dollars for each space vacant for less than one year;~~
- ~~2. Five hundred dollars for each space vacant for at least one year but less than two years;~~
- ~~3. Seven hundred dollars for each space vacant for at least two years but less than three years;~~
- ~~4. One thousand dollars for each space vacant for at least three years and for each year thereafter until the building is occupied.~~

DELINQUENT REGISTRATION FEES-COLLECTION

If a responsible person fails to pay the registration fee by the due date, the city is authorized to take action to collect the registration fee, including filing civil actions or turning the matter over to collection, in which case costs incurred by the city as a result of the collection process will be assessed to the responsible person or responsible persons in addition to the registration fee.

DUTY TO AMEND REGISTRATION STATEMENT

Responsible persons for any registered vacant commercial space shall advise the building official, in writing, of any changes to the information on the registration form within thirty days of the occurrence of the change.

INSPECTIONS

The building official (and his designee), or code enforcement officers, or both are authorized to conduct inspections to enforce the provisions of this chapter.

ENFORCEMENT

A. Enforcement of the provisions of this chapter will be performed in accordance _____

B. No responsible person may violate or fail to comply with any provisions of this chapter. Each responsible person commits a separate offense for each day they commit, continue or permit a violation of any provision of this chapter.

C. All responsible persons for a commercial space are jointly and severally responsible with respect to that commercial space for compliance with the provisions of this chapter and for any payments that they may be required to make to the city under this chapter. If the commercial space is subject to a lease, the city shall have discretion to determine whether to enforce this chapter against the commercial space owner, the tenant or both. The city shall consider in this determination whether the

lease provides that the compliance with this chapter is the responsibility of the commercial space owner or the tenant.

_____ ANNUAL REPORT

The building official shall make a report to the city council in January of every odd year on the status of the vacant commercial space registration program.

References:

Huntington, West Virginia

Weeping Water, Nebraska

Everett, WA

Tucson, AZ

Drafted by: Jim Gillespie

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