

ORDINANCE NO. 466

AN ORDINANCE TO AMEND THE CODIFIED ORDINANCES
OF THE CITY OF ROCKWOOD BY ADDING A NEW CHAPTER,
CHAPTER 110, REQUIRING A CITY INSPECTION UPON
TRANSFER OF TITLE AND THE REGISTRATION AND
MAINTENANCE OF VACANT PROPERTY

THE PEOPLE OF THE CITY OF ROCKWOOD ORDAIN:

Section 1. That the codified ordinances of the City of Rockwood be hereby amended by adding a new Chapter 110, including City inspection of homes upon transfer of title and the registration and maintenance of vacant property as follows:

**CHAPTER 110
HOUSING
ARTICLE I
INSPECTION ON TRANSFER OF TITLE**

110.01: Definitions.

The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory use means a garage, shed, pool, gazebo, pigeon coop, doghouse, playhouse, or similar use.

Certificate of occupancy means a certificate issued by the building department in accordance with the provisions of Chapter 110, pertaining to zoning, for an approved use or occupancy.

Certificate of review means a certificate issued by the building department which certifies that a preliminary inspection by the department has been conducted and that the dwelling meets the minimum standards required to permit the transfer of a one or two-family dwelling, as best as can be determined. A current certificate of review is a certificate which has been applied for not more than 30 days before a unit covered by this Ordinance is listed for sale, and received prior to the date of transfer.

Dwelling means a one or two-family residential structure and accessory uses located in the city, or any individual family unit cooperatively owned buy individually occupied pursuant to a trust, common tenancy or stock ownership in accordance with sections 99 through 109 of Public Act No. 327 of 1931 (MCL 450.99 -- 450.104).

New dwelling means a one or two-family dwelling unit which has never been occupied.

Transfer means the sale or conveyance of title to another by consideration, or the execution of a land contract, the exercise of an option to purchase a dwelling, or, in the case of a cooperative, the change of occupancy in conjunction with a transfer of an interest. A conveyance by lease, gift, devise, or lien foreclosure is not included in this definition. A transfer subject to the terms of a purchase agreement entered into prior to the effective date of this Ordinance, is not included in this definition.

110.02: Certificate of review required.

It shall be unlawful for any person to transfer a dwelling or for any person to act as a broker for the transfer of a dwelling which has not been issued a current certificate of review for such dwelling, except as otherwise permitted by this Ordinance.

110.03: Issuance of certificate of review; revocation.

(a) The building department shall issue a certificate of review only after it has conducted a preliminary inspection of the dwelling and finds that the dwelling meets the minimum requirements necessary to permit the transfer of the property. An inspection report shall be completed by the inspector after completing the inspection of the property. The report shall note all violations found in the dwelling.

(b) A new dwelling shall be issued a certificate of review upon final inspection and approval of the new construction work.

(c) The building official may revoke a certificate of review for a violation of any code, ordinance, rule or regulation of the city.

110.04: Disclaimer of liability

(a) A certificate of review is not a warranty or guarantee that there are no defects in the dwelling and the city shall not be held responsible for hidden or latent defects, or those not noted in the inspection report.

(b) This inspection of the land use, exterior posture and interior accessories of the structure is limited to visual inspection only. The city does not guarantee or approve by inference any latent, structural or mechanical defects therein, or such items that are not apparent by visual inspection.

(c) The city shall not assume any liability to any person by reason of the inspections required by this article or the code adopted in this article or the issuance of a certificate of review or a certificate of occupancy.

(d) This inspection is solely for the purpose of permitting the city to continually assess the condition of the city's housing stock, to monitor compliance with the building code, and to encourage owners to improve their properties. Purchasers must rely solely upon the representations and disclosures made by the seller, their own judgment and experience, and the advice of

consultants and advisors of their own selection. Purchasers may not rely upon the city's inspection and reports to represent a full and comprehensive itemization of defects or assume that a certificate of review means that the structure is in full compliance with all local codes.

110.05: Dangerous conditions.

Should the building department, upon inspection, determine that there are conditions which constitute an imminent danger to health and safety, it may, in addition to revoking a certificate of approval, order the conditions to be remedied and may limit or prohibit occupancy.

110.06: Registration; fees.

Any person intending to transfer a dwelling must first register and make arrangements with the building department for an inspection of the dwelling, to occur prior to the date of transfer. The fee for the registration and inspection shall be established from time to time by the city council.

110.7: Correction of violations by buyer; period of validity of inspection report; issuance of certificate of approval.

(a) The buyer may assume the responsibility of correcting violations, provided such corrections are completed within a six-month period, by executing a notarized affidavit on a form provided by the building department to keep on file to this effect and submitting said affidavit to the building department.

(b) If a property is inspected and the sale does not occur, the inspection report is valid for a six-month period. If the owner corrects all violations, a certificate of approval will be issued.

110.8: Penalty.

Any person who shall fail to obtain a certificate of approval as required by this Ordinance, or who shall fail to correct any violations within the time required by this Ordinance, or who shall violate any of the terms of this Ordinance, shall be guilty of a Municipal Civil Infraction.

110.9 -110.151: Reserved.

ARTICLE II
VACANT PROPERTY REGISTRATION AND MAINTENANCE

110.152: Scope.

The provisions of this chapter shall apply to all existing properties and structures.

110.153: Purpose.

The purpose of establishing a registration process for vacant properties is to provide requirements for responsible parties to implement a vacant property maintenance plan for such properties which will protect the public health, safety and general welfare of the citizens and prevent neighborhood blight, ensure properties are secured, prevent deterioration, and protect property values and neighborhood integrity.

110.154: Definitions.

The following words, terms and phrases, when used in this Ordinance, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning.

Abandoned means a property that is vacant and is under a current notice of default and/or notice of trustee's sale, pending tax assessor's lien sale, or a property that has been the subject of a foreclosure sale where the title was retained by or transferred to the beneficiary of the deed of trust involved with the foreclosure, or a property transferred under a deed in lieu of foreclosure/sale.

Accessible property means real property that is accessible to the public, either, in general or through an open and unsecured door, window, gate, fence, wall, or other such openings.

Beneficiary means a lender participating in a real property transaction that holds a secured interest in the real property in question identified in a deed of trust.

Days mean consecutive calendar days.

Deed of trust means an instrument by which title to real estate is transferred to a third party trustee as security for a real estate loan. This definition includes any subsequent deeds of trust.

Evidence of vacancy means any condition that on its own, or combined with other conditions present would lead a reasonable person to believe that the property is vacant. Such conditions include but are not limited to, overgrown or dead vegetation, accumulation of newspapers, circulars, flyers or mail, past due utility notices or disconnected utilities, accumulation of trash, junk or debris, the absence of window coverings such as curtains, blinds or shutters, the absence of furnishings or personal items consistent with residential habitation, statements by neighbors, passersby, delivery agents, or government employees that the property is vacant.

Foreclosure means the process by which a property, placed as security for a real estate loan, is sold at auction to satisfy the debt of the trustor (borrower) under deed of trust defaults.

Notice of default means a recorded instrument that reflects and provides notice that a default has taken place with respect to a deed of trust, and that a beneficiary intends to proceed with a trustee's sale.

Owner means any person, co-partnership, agent, operator, firm, association, corporation, or fiduciary having a legal or equitable interest in the property; or recorded in the official records of the state, county, or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

Property means any unimproved or improved real property, or portion thereof, located in the City of Rockwood, including the buildings or structures located on the property regardless of condition.

Securing means such measures as may be directed by the building official or his or her designee that assist in rendering the property inaccessible to unauthorized persons, including but not limited to the repairing of fences and walls, chaining/padlocking of gates, the repair or boarding of doors, windows, or other openings.

Trustee means any person, partnership, association, corporation, fiduciary or other legal entity holding a Deed of Trust securing an interest in real property.

Trustor means any owner/borrower identified in a deed of trust, who transfers an interest in real property to a trustee as security for payment of debt by that owner/trustor.

Vacant means any building, structure or real property that is, or has been unoccupied, or occupied by a person without a legal right of occupancy.

Yard means the open unoccupied spaces on the same lot with a main building extending along the entire length of front, side, and rear lot lines.

110.155: Eviction of personal property.

When an eviction by court order occurs, the owner shall place on the private area of the owner's property only and not on any public area adjacent to the owner's property, a movable container of sufficient size and type, which will allow access from its side for disposal of the personal property. Any personal property not relocated from the premises shall be placed and disposed of only in the movable container. The movable container shall be removed from the owner's property within 48 hours of its placement.

110.156: Registration of vacant property required.

Owners and/or owners' agents of real property are required to register all vacant property within 30 days of the vacancy or the effective date of this ordinance whichever is later. Registration pursuant to this section shall be renewed annually. Registration required by this Ordinance shall include the following Information:

- (1) Name, address and contact number of the owner.
- (2) Name, address and contact number of the local agent or representative for the property.
- (3) Name, address and contact number of the management company assigned to the property for the security and maintenance of the property.
- (4) Common address and tax parcel identification number of the property.
- (5) The date on which the property became vacant.
- (6) Affirmation of utility connections or disconnections.
- (7) Signed maintenance plan agreement as required by this Ordinance.

110.157: Requirement to keep information current.

If at any time the information contained in the registration is no longer valid, the property owner shall file a new registration within ten days containing current information. There shall be no fee to update the current owner's information.

110.158: Vacant property maintenance plan.

It is declared a public nuisance for any owner to cause, permit, or maintain any property condition contrary to the provisions of this section. The owner or owner's agent must adhere to the vacant property maintenance plan as contained in this section and the time schedule requirements on the registration.

- (1) The owner or owner's agent shall perform regular weekly inspections of the property to assure compliance with the requirements of this section.
- (2) The owner or owner's agent shall allow access to the building department for the purpose of inspection and in case of emergency.

(3) Utilities must be properly disconnected or connected and in proper working order.

(4) All doors, windows and other openings shall be secured as required in section 110.159.

(5) Weeds shall be removed from landscape beds, the perimeter of buildings, along fence lines, and in parking lot joints and cracks.

(6) Grass height shall be maintained no higher than 6 inches and the trimmings removed from the property.

(7) Exterior properties shall be kept free of junk and debris, including, but not limited to, newspapers, flyers, circulars, furniture, appliances, containers, equipment, auto parts, garbage, clothing, inoperable vehicles, boats and campers, or any other items that give the appearance that the property is vacant.

(8) Building appurtenances must be securely attached so as not to cause a blighting condition, including, but not limited to, gutters, downspouts, shutters, railings, guards, steps, awnings, canopies, signs, light fixtures, and fire-escapes.

(9) Detached signs and lighting systems shall be structurally sound, and maintained so as not to cause a blighting condition, or removed.

(10) Property fencing and retaining walls shall be maintained structurally sound. Any fence or wall with broken or hanging components shall be repaired, straightened, or removed.

(11) Pools, spas, and ponds shall be drained and kept dry or kept in working order so that the water remains clear and free of pollutants and debris. Pools and spas comply with the barrier requirements of the adopted International Property Maintenance Code.

(12) The property shall be free of graffiti or similar markings by removal or painting over with a color that matches the exterior of the structure.

(13) Perishables shall be removed from the interior of the structures.

110.159: Security requirement.

Properties subject to this section shall be maintained in a secure manner so as not to be accessible to unauthorized persons. Secure manner includes, but is not limited to,

closing and locking of windows, doors, and any other opening that may allow access to the interior of any structure on the property. Broken glass shall be secured by replacement, re-glazing, or boarding of the opening. The boarding of any opening shall be painted with a color that matches the exterior of the structure.

110.160: Additional authority.

The building official or his or her designee shall have the authority to require the owner to implement additional maintenance, security, or other measures not specified in the vacant property maintenance plan, as may be reasonably required to prevent further decline.

110.161: Fees.

The fees for registering and the renewal of registering a vacant property shall be the cost of administering the provisions of this Ordinance and in the amounts established from time to time by the city council. In addition, in the case where the owner has failed to register, there shall be assessed the added costs of the city's expenses in having to determine ownership which may include, but are not limited to, title searches.

10.162: Penalties.

Any owner of vacant property that fails to register, fails to report changes to registration information, or fails to renew a registration annually shall be responsible for a civil infraction and assessed a fine in an amount established from time to time by resolution of the city council. Any owner or owner's agent of vacant property subject to the registration requirements of this Ordinance, and causes, permits, or maintains a violation of this Ordinance as to that property, shall be responsible for a civil infraction.

110.163: Appeals.

Any person aggrieved by any of the requirements of this Ordinance may appeal a determination made hereunder in a manner specified in the adopted International Property Maintenance Code.

110.164-200: Reserved.

Section 2. Conflicts. Where this Ordinance differs or conflicts with other Laws, rules and regulations, unless the right to do so is preempted or prohibited by the City, State or Federal government, this Ordinance shall apply.

Section 3. Severability. Should any section, subdivision, clause or phrase of this Ordinance be declared to be invalid by a court of competent judgment, the same shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so invalidated.

Section 4. Effective Date. The provisions of this Ordinance are hereby ordered to take effect immediately upon publication.

Section 5. Adoption. This Ordinance is hereby declared to be above been approved on the first reading by the City of Rockwood City Council in a meeting thereof duly held pursuant to the Open Meetings Act and called on the 16 day of February, 2011. A copy of the Ordinance is on file with the City Clerk.


AYES: Mayor Guzzi, Council members Bennett, Domitrz, Musch,
Scafifi, Wasner and Yanca-Laura

NAYS: None

STATE OF MICHIGAN)

COUNTY OF WAYNE)

I, the undersigned duly qualified clerk for the City of Rockwood, Wayne County, Michigan, do hereby certify that the foregoing is a true and complete copy of a Resolution adopted by the Rockwood City Council on the 16 day of February 2011, the original of which is in my office, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, as amended, and that the minutes of said meeting will be or have been made available as required by said Act.


Colleen Oney, City Clerk

Approved as to Form

William B. Beach, City Attorney

Introduced: 2/2/2011

First Reading: 2/2/2011

Second Reading: 2/16/2011

Effective: 3/1/2011

Published: 2/16/2011

Passed, approved and adopted this 16th day of February, 2011