

**OWOSSO CITY COUNCIL**

**JANUARY 17, 2012**

**7:30 P.M.**

**PRESIDING OFFICER:** MAYOR BENJAMIN R. FREDERICK

**OPENING PRAYER:** COUNCILPERSON BURTON FOX

**PLEDGE OF ALLEGIANCE:** LES SCHNEIDER  
VICE COMMANDER, DISABLED AMERICAN VETERANS

**PRESENT:** Mayor Benjamin R. Frederick, Mayor Pro-Tem Cindy S. Popovitch, Councilpersons Loreen F. Bailey (arrived at 7:54 p.m.), Thomas B. Cook, Michael J. Erfourth, and Burton D. Fox.

**ABSENT:** Councilperson Christopher T. Eveleth.

**APPROVE AGENDA**

Motion by Councilperson Cook to approve the agenda with the addition of a presentation of a donation by the local Disabled American Veterans chapter by member Eddie Urban.

Motion supported by Councilperson Erfourth and concurred in by unanimous vote.

**APPROVAL OF THE MINUTES OF REGULAR MEETING OF JANUARY 3, 2012**

Motion by Councilperson Fox to approve the Minutes of the Regular Meeting of January 3, 2012 as presented.

Motion supported by Mayor Pro-Tem Popovitch and concurred in by unanimous vote.

**PROCLAMATIONS / SPECIAL PRESENTATIONS**

**DONATION PRESENTATION** (added to agenda)

Chaplain Eddie Urban and Vice Commander Les Schneider of the local Disabled American Veterans chapter presented Mayor Frederick and Councilperson Fox with a donation for \$100 for the restoration of the 1921 Lafrance Pumper Truck.

**PUBLIC HEARINGS**

None.

**CITIZEN COMMENTS AND QUESTIONS**

Jeff McIntyre, president of the Shiawassee Association of Realtors, indicated his group had met with City staff in an effort to come to an agreement on the language in the abandoned/foreclosed homes registration ordinance. He said the Association supports the idea of registering such properties but feels the inspection requirement should only apply to blighted homes.

Jerry Meyer, representative for the Home Builders Association of Shiawassee County, indicated he also met with City staff regarding the ordinance. He reiterated the reasons he felt the ordinance needs to be changed saying he felt the current wording deterred home buyers. He went on to thank the Council for the opportunity to be heard.

Eddie Urban, 601 Glenwood Avenue, indicated he would like to arrange a donation for the pumper truck from the Military Order of the Purple Heart.

Tom Manke, owner of 118 South Washington Street, inquired how many lots in town would be eligible for the installation of a wind energy system under the currently proposed language. It was explained that while not many lots in town would be large enough for a windmill tower the intent is to allow roof mounted versions that require much less space.

Councilperson Cook inquired how much money had been raised for the restoration of the pumper truck. It was noted approximately \$350 had been raised so far.

Lori Bailey arrived at 7:54 p.m.

Councilperson Fox expressed concern with code enforcement in the Westown area, specifically enforcement of the sign ordinance as it applies to defunct businesses.

### **CITY MANAGER REPORT**

City Manager Donald D. Crawford started his report saying there was a question at the last meeting regarding the budget set aside for entrance and wayfinding signs noting there was \$2,000. He went on to say that he would like to use that money and work with MDOT to install road signs noting the bike trail.

He went on to say that there were questions from the last meeting regarding the responsibilities of the new building inspector. He said the building inspector would handle serious code enforcement issues while the police department would continue to handle the routine cases. It is anticipated the new building inspector will begin work in early February.

Mayor Pro-Tem Popovitch said she was concerned that many code enforcement issues are not addressed until a citizen complains. She asked if the police could be more proactive in this effort.

Mayor Frederick indicated he would like the opportunity to speak to the new building official to relay Council's priorities relating to code enforcement.

### **CONSENT AGENDA**

Motion by Councilperson Cook to approve the Consent Agenda as follows:

Ordinance Amendment First Reading and Set Public Hearing – Wind Energy Systems. Conduct First Reading and set a public hearing for February 6, 2012 to receive citizen comment regarding proposed ordinance amendment to amend Chapter 38, Zoning, Sections 38-5 and 38-379 of the Code of Ordinances of the City of Owosso, Michigan to establish procedures and standards to ensure that the location and function of wind energy conversion systems are compatible with the protection of the public health, safety and welfare as follows:

#### **AN ORDINANCE AMENDING CHAPTER 38 ZONING OF THE CODE OF ORDINANCES TO PERMIT THE CONTINUANCE OF RESIDENTIAL USES IN NON-RESIDENTIAL ZONES**

AN ORDINANCE to amend Chapter 38, Zoning, of the Code of the City of Owosso, Sections 38-172, 38-197, 38-216, 38-242, 38-267, and 38-291 to formally allow continued residential use in non-residential areas to ensure homeowners of such properties are able to obtain mortgages and home loans and have assurances they will be allowed to rebuild should their home be catastrophically damaged.

Whereas, the city council of the city of Owosso realizes that there are numerous housing structures existing in non-residential zones in the city that are still viable.

Whereas, these residential uses may not be able to be placed to a higher and better use due to the condition of the economy;

Whereas, these home owners are finding it very difficult to secure lending for improvements and for purchase due to the non-conformance of the existing use;

Whereas, rezoning all such parcels would be very impractical and problematic.

Now, Therefore, Be It Resolved, by the City Council of the City of Owosso, Michigan that the following amendments be made to Chapter 38, Zoning Code of the City of Owosso to allow continued used of residential structures in non-residential zoning areas.

THE CITY OF OWOSSO ORDAINS:

Section 1. That Chapter 38, Zoning, of the Code of the City of Owosso, Sections 38-172, 38-197, 38-217, 38-242, 38-267, and 38-292 *Principal uses permitted* be amended by adding, in the appropriate place, the following language to the list of permitted uses:

*Residential structures existing as of January 1, 2012.*

Section 2. This amendment shall become effective 20 days after passage.

Section 3. This ordinance may be purchased or inspected in the city clerks' office, Monday through Friday between the hours of 9:00 a.m. and 5:00 p.m.

First Reading and Set Public Hearing – Ordinance Amendment. Conduct First Reading and set a public hearing for February 6, 2012 to receive citizen comment regarding proposed ordinance amendment to amend Chapter 38, Zoning, Sections 38-172, 38-197, 38-217, 38-242, 38-267 and 38-292 of the Code of Ordinances of the City of Owosso, Michigan to grandfather current residential structures in non-residential zoning areas be permitted to be rebuilt in the event that they were destroyed as follows:

#### **AN ORDINANCE AMENDING CHAPTER 38 ZONING OF THE CODE OF ORDINANCES TO REGULATE WIND ENERGY CONVERSION SYSTEMS**

Whereas, the city council of the city of Owosso realizes the benefits of wind energy turbines for the entire community that includes:

- Reduced pressure on the local electrical grid
- Increased security that can provide back-up power to essential and public services
- Increased local energy independence
- Enhanced reliability and power quality of the electrical grid
- Diversified energy supply portfolio
- Reduced pollutants
- Increased market competition
- Reduced utility costs

Whereas, Owosso has sufficient wind energy to support a variety of small and potentially medium sized wind energy conversion systems;

Whereas, the city council wants to establish procedures and standards to ensure that the location and function of wind energy conversion systems including generation, transmission, and potential distribution are compatible with the protection of the public health, safety and welfare;

THE CITY OF OWOSSO ORDAINS that the City of Owosso Zoning Ordinance Sections 38-5 et seq. shall be amended as follows:

Section 1. That Chapter 38, Zoning Code of the City of Owosso Sec. 38-5. Definitions be amended by adding in the appropriate place:

*Small Tower-Mounted Wind Energy System (STWES)* is a tower-mounted small wind energy system that converts wind energy into electricity by using equipment that includes any base, blade, foundation, generator, nacelle, rotor, tower, transformers, vane, wire, inverter, batteries, or other components ancillary to such use in the system. The SWES is an accessory building that does not exceed 50 kilowatts or 120 feet.

*Small Structure-Mounted Wind Energy System (SSWES)* is a structure-mounted small wind energy system that converts wind energy into electricity by using equipment that includes any base, blade, foundation, generator, nacelle, rotor, tower, transformers, vane, wire, inverter, batteries, or other components ancillary to such use in the system. This structure an accessory building that is permanently affixed to a structure's roof, walls, or other elevated surface. The SSWES does not exceed 10 kilowatts or 15 in height as measured from the highest point of the roof, excluding chimneys, antennae, and similar protuberances.

*Small Wind Energy System (SWES)* represent all SSWES and STWES systems.

*Shadow Flicker* is the moving shadow, created by the sun or other permanent light source shining through the rotating blades of a wind energy system (WES). The amount or degree of shadow flicker is calculated and quantified by computer models.

Section 2. That Chapter 38, Zoning Code of the City of Owosso Sec. 38-379 (2). Accessory buildings be amended to read as follows:

Accessory buildings, except as otherwise permitted in this chapter, shall be subject to the following regulations:

- (2) Accessory buildings shall not be located in any required yard, except a rear yard.

Section 3. That Chapter 38, Zoning Code of the City of Owosso Sec. 38-379 (7). Accessory buildings be amended to read as follows:

- (7) On residential lots of less than seventeen thousand five hundred (17,500) square feet, only two (2) accessory buildings shall be permitted. On residential lots seventeen thousand five hundred (17,500) square feet or greater, only three (3) accessory buildings shall be permitted. These limits shall not apply to wind energy systems, satellite dishes, or dog pens.

Section 4. That Chapter 38, Zoning Code of the City of Owosso Sec. 38-379. Accessory buildings be amended by adding (10) as follows:

- (10) A small wind energy system shall be an accessory building in all zoning districts subject to the following requirements:

- a. Setbacks and location, as measured from the furthest outward extension of all moving parts.
  1. A STWES shall be set back a distance equal to its total height plus an additional five feet from any occupied building, street or highway right-of-way; any overhead utility lines; all property lines; and any existing guy wire, anchor or small wind energy tower on the property.
  2. A SSWES shall be a minimum of fifteen (15) feet from the property line, public right-of-way, public easement, or overhead utility lines if mounted directly on a

roof or other elevated surface of a structure.

3. A SSWES shall not be affixed to the roof or wall of a structure facing a street.
  4. A STWES shall not be located in any front yard except for properties zoned and used for industrial purposes.
  5. The lowest extension of any blade or other exposed moving component of a WES shall be a least fifteen (15) feet above the ground as well as any outdoor surface intended for human use.
  6. Setbacks may be reduced to not less than twenty (20) feet if the applicant provides a registered engineer's certification that the WES is designed to collapse within a zone smaller than the height of the tower, yet still remain within the owner's property or the applicant acquires an easement to meet the required setback distance.
- b. Access.
1. All ground mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.
  2. The tower shall be designed and installed so as to not provide step bolts or a ladder readily accessible to the public for a minimum height of 8 feet above the ground.
- c. Electrical wires. All electrical wires associated with a small wind energy system, other than wires necessary to connect the wind generator to the wind tower wiring, the wind tower wiring to the disconnect junction box, and the grounding wires shall be located underground.
- d. Lighting. A wind tower and generator shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration (FAA). Lighting of other parts of the small wind energy systems, such as appurtenant structures, shall be limited to that required for safety purposes, and shall be reasonably shielded from abutting properties.
- e. Appearance, color, and finish. The wind generator and wind tower shall remain painted or finished the color or finish that was originally applied by the manufacturer.
- f. Signs. All signs, other than the manufacturer's or installer's identification, appropriate warning signs, or owner identification on a wind generator, wind tower, building, or other structure associated with a small wind energy system visible from any public road shall be prohibited.
- g. Code compliance. A small wind energy system including wind tower shall comply with all applicable construction and electrical codes.
- h. Utility notification and interconnection. Small wind energy systems that connect to the electric utility shall comply with the Public Service Commission regulations.
- i. Small wind energy systems may be attached to any building, including guy wires, provided the city approves the submittal of documentation sealed by an engineer licensed by the state of Michigan showing the proposed connection of the system to the structure and whether any additional reinforcing is required. The city may not be found liable for damage caused by noise or vibration created by the system.

- j. Meteorological towers shall be permitted under the same standards, permit requirements, restoration requirements, and permit procedures as a small wind energy system.
- k. Each property is eligible for two small wind energy systems only, except properties of at least one contiguous acre may be allowed one additional system for each additional one-half acre or portion thereof
- l. A small wind energy system that is out-of-service for a continuous six-month period will be deemed to have been abandoned. The zoning administrator may issue a notice of abandonment to the owner of a small wind energy system that is deemed to have been abandoned. The owner shall have the right to respond in writing to the notice of abandonment setting forth the reasons for operational difficulty and providing a reasonable timetable for corrective action, within 30 days from the date of the notice. The administrator shall withdraw the notice of abandonment and notify the owner that the notice has been withdrawn if the owner provides information that demonstrates the wind energy system has not been abandoned.
- m. If the small wind energy system is determined to be abandoned, the owner of a small wind energy system shall remove the wind generator from the wind tower at the owner's sole expense within 90 days of the date of the notice of abandonment. If the owner fails to remove the wind generator from the wind tower, the administrator may pursue a legal action to have the wind generator removed at the owner's expense.
- o. Noise emanating from a small wind energy system shall not exceed 50 dB(A) as measured from any offsite habitable structure or 55dB(A) to any lot line.
- p. Wind energy systems shall not interfere with communication systems such as radio, telephone, television, satellite, emergency communications, or Wi-Fi.
- q. Shadow Flicker created by a STWES shall not exceed thirty (30) hours per year as observed on the windows or outdoor spaces (such as porches, patios, and decks) of any offsite building intended for human habitation or occupation. The zoning administrator may request a study to demonstrate the impact of a WES proposal.
- r. Public inquires and complaints by an aggrieved property owner that alleges that a STWES or SSWES does not meet noise or shadow flicker requirements shall be processed as follows:
  - 1. The property owner shall notify the city in writing regarding the concerns related to noise and/or shadow flicker.
  - 2. If the city zoning administrator or engineer deem the complaint sufficient to warrant an investigation, the city will request the aggrieved party to deposit funds in an amount sufficient to pay for a noise level test conducted by a certified acoustic technician and/or a shadow flicker study as performed by a professional.
  - 3. If the tests(s) show that the WES does not exceed the noise or shadow flicker requirements of this chapter, the city will use the deposit to pay for the test.
  - 4. If the WES is violating this chapter's noise requirements, the owner(s) shall reimburse the city for the testing and take immediate action to bring the WES into compliance, include ceasing operation of the WES till the violations are corrected. The city will refund the deposit to the aggrieved property owner.

Section 5. This amendment shall become effective 20 days after passage.

Section 6. This ordinance may be purchased or inspected in the city clerks' office, Monday through Friday between the hours of 9:00 a.m. and 5:00 p.m.

Boards and Commissions Appointments. Consider the following Mayoral boards and commissions appointments:

Name	Board/Commission	Term Expires
Tom Kurtz	Planning Commission Filling unexpired term of B. Fox	06-30-2012

Payment Authorization. Emergency Repair of the Palmer No. 3 Drinking Well and Pump was required. Authorize payment to Layne Christiansen Company for repair of the well and pump in the amount of \$17,288.20 as follows:

**RESOLUTION NO. 06-2012**

**RESOLUTION AUTHORIZING PAYMENT TO  
LAYNE CHRISTENSEN COMPANY  
IN THE AMOUNT OF \$17,288.20 FOR THE EMERGENCY REPAIR  
TO THE PALMER #3 DRINKING WATER WELL AND PUMP**

WHEREAS, the City of Owosso, Shiawassee County, Michigan, required the emergency repair of the Palmer # 3 drinking water well and pump; and

WHEREAS, Layne Christensen Company is a licensed well contractor with the specialized personnel and equipment to perform the necessary work in the timely manner dictated by the operational needs of our municipal water supply system; and

WHEREAS, Layne Christensen Company has completed the emergency repair in a timely and professional manner;

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Owosso, Shiawassee County, Michigan that:

- FIRST: The City of Owosso determined that it was necessary to repair the Palmer # 3 well and replace the well pump and column pipe on an emergency basis in the amount of \$17,288.20 as proposed from Layne Christensen Company.
- SECOND: The purchase agreement between the City and Layne Christensen Company is in the form of a City Purchase Order.
- THIRD: The above expenses shall be paid from the Water Fund.

Warrant No. 435. Accept Warrant No. 435 as follows:

Vendor	Description	Fund	Amount
Brown & Stewart PC	Professional Services- December 13, 2011 – January 9, 2012	General	\$ 7,053.28
Caledonia Charter Township	Caledonia Utility Fund Payment- October – December 2011	Water	\$15,201.84
Huron & Eastern Railway Company Inc	Annual maintenance of active traffic control devises- 2011	Major Streets	\$ 5,690.00

Owosso Charter Township	Owosso Charter Township 2011 Water Agreement Payment – October – December 2011	Water	\$ 6,367.96
Mario Chiesa	Professional Services –Arbitration	General	\$ 6,786.12
		<b>TOTAL</b>	<b>\$41,099.20</b>

Check Register. Receive and approve the Check Register for December 2011. (Full text of this document is available in the Clerk’s Office.)

Motion supported by Councilperson Fox.

Roll Call Vote.

AYES: Councilpersons Bailey, Erfourth, Mayor Pro-Tem Popovitch, Councilpersons Fox, Cook and Mayor Frederick.

NAYS: None.

**ITEMS OF BUSINESS**

**FIRST READING AND SET PUBLIC HEARING – ORDINANCE AMENDMENT**

The First Reading was conducted regarding the proposed ordinance amendment to Chapter 8, Buildings and Building Regulations, Sections 8-162, 8-163, 8-168 and 8-174 of the Code of Ordinances of the City of Owosso, Michigan to remove potentially burdensome requirements that may affect home sales.

Community Development Director Adam H. Zettel detailed the discussions that were had between the stakeholder group and City staff saying there was a significant amount of common ground. While further discussions will need to take place, with the possibility of more changes to the language, he said he felt that some of the proposed language was close to what is needed by all parties. Concern was focused on whether the ordinance should apply to blighted homes only or to all vacant/foreclosed homes. As well as who should be allowed to conduct any inspections required by the ordinance. Staff took the position that inspections should be limited to certified inspectors/inspection firms while the stakeholder group proposed allowing contractors to perform the requisite inspection. There was some question on the part of Council as to whether the City should get in the business of trying to regulate home sales. Councilperson Cook noted the intent was not to obstruct traditional home sales but to attempt to regulate the non-traditional sales that seem to cause many issues for the City.

City Attorney William C. Brown recommended staff look into whether some of the proposed options were preempted by the State construction code prior to adopting any final language.

Motion by Councilperson Cook to set a public hearing to receive citizen comment regarding the proposed ordinance amendment to Chapter 8, Buildings and Building Regulations, Sections 8-162, 8-163, 8-168 and 8-174 of the Code of Ordinances of the City of Owosso, Michigan to remove potentially burdensome requirements that may affect home sales as follows:

**AN ORDINANCE TO REQUIRE ABANDONED OR FORECLOSED PROPERTY REGISTRATION AND MAINTENANCE**

AN ORDINANCE to amend Sections 08-160 through 08-176, naming a new Article VIII, *Registering Abandoned and Foreclosed Homes*, Chapter 8, Buildings and Building Regulations, to insure the health, safety and welfare of the residents of the city of Owosso, by preventing blight, protecting property values and neighborhood integrity, avoiding the creation and maintenance of nuisances and ensuring safe and sanitary maintenance of structures, and repealing all ordinances and/or resolutions in conflict therewith.

WHEREAS, the City of Owosso has been hit particularly hard by the recent recession; and

WHEREAS, the recession has lead to a large increase in foreclosed and abandoned homes in the City; and

WHEREAS, foreclosed and abandoned homes are many times subject to neglect bringing down property values and presenting a health and safety risk to the neighborhoods they are a part of; and

WHEREAS, the City needs a mechanism to track foreclosed and abandoned homes to prevent them from becoming nuisances.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Owosso, Michigan that all foreclosed and abandoned homes in the City of Owosso be registered in accordance with Article VIII, *Registering Abandoned and Foreclosed Homes*, of Chapter 8, Buildings and Building Regulations, as follows:

THE CITY OF OWOSSO ORDAINS:

SECTION 1. Secs 8-160 through 8-176 shall read as follows:

**Sec. 8-160. Purpose.**

It is the purpose and intent of the city of Owosso, through the adoption of this article, to establish an abandoned residential property registration program as a mechanism to protect residential neighborhoods from becoming blighted through the lack of adequate maintenance and security of abandoned properties.

**Sec. 8-161. Definitions.**

For the purpose of this article, certain words and phrases are defined as follows:

*Abandoned* means a property that is vacant and is under a current complaint for foreclosure or notice of foreclosure and/or notice of trustee's sale, pending tax sale, and/or properties that have been the subject of a foreclosure sale where the title was retained by the beneficiary of a mortgage involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure/sale.

*Accessible property* means a property that is accessible through a compromised/breached gate, fence, wall, etc.

*Accessible structure* means a structure/building that is unsecured and/or breached in such a way as to allow access to the interior space by unauthorized persons.

*Agreement* means any agreement or written instrument which provides that title to residential property shall be transferred or conveyed from one owner to another owner after the sale, trade, transfer, or exchange.

*Assignment of rents* means an instrument that transfers the beneficial interest under a mortgage from one lender/entity to another.

*Beneficiary* means a lender under a note secured by a mortgage.

*Buyer* means any person, co-partnership, association, corporation, or fiduciary who agrees to transfer anything of value in consideration for property described in an agreement of sale, as defined in this section.

*Dangerous building* means any building/structure that is in violation of any condition referenced in chapter 8 of this Code.

*Days* means consecutive calendar days.

*Deed in lieu of foreclosure/sale* means a recorded document that transfers ownership of a property from the trustor to the holder of a mortgage upon consent of the beneficiary of the mortgage of a deed from mortgagor to mortgagee.

*Default* means the failure to fulfill a contractual obligation, monetary, or conditional.

*Distressed* means a property that is under a current notice of default and/or notice of trustee's sale and/or pending tax assessor's lien sale or has been foreclosed upon by the trustee or has been conveyed to the beneficiary/trustee via a deed in lieu of foreclosure/sale.

*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 and/or dead vegetation, accumulation of newspapers, circulars, flyers and/or mail, past due utility notices and/or disconnected utilities, accumulation of trash, junk and/or debris, the absence of window coverings such as curtains, blinds and/or shutters, the absence of furnishings and/or personal items consistent with residential habitation, statements by neighbors, passersby, delivery agents, 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 if the trustor or mortgagor (borrower) defaults.

*Local* means within forty (40) road/driving miles distance of the subject property.

*Mortgage* means an instrument by which title to real estate is transferred to a third party trustee as security for a real estate loan or by which a mortgagor grants mortgagee a lien on real estate.

*Mortgagee* means a lender that has taken a lien on real property to secure a loan.

*Mortgagor* means an owner of real property that has granted a lien on real property to secure a loan.

*Neighborhood standard* means those conditions that are present on a simple majority of properties within a three-hundred-foot radius of an individual property. A property that is the subject of a neighborhood standard comparison, and any other abandoned property within the three-hundred-foot radius, shall not be counted toward the simple majority.

*Out-of-area* means in excess of forty (40) road/driving miles distance of the subject property.

*Owner* means any person, co-partnership, association, corporation, or fiduciary having a legal or equitable title or any interest in any real property excluding governmental agencies.

*Owner of record* means the person having recorded title to the property.

*Property* means any unimproved or improved real property, or portion thereof, situated in the city and includes the buildings or structures located on the property regardless of condition.

*Residential building* means any improved real property, or portion thereof, situated in the city, designed, or permitted to be used for dwelling purposes, and shall include the buildings or structures located on such improved real property. This includes any real property being offered for sale, trade, transfer, or exchange as residential whether or not it is legally permitted and/or zoned for such use.

*Secure* or *secured* means such measures as may be directed by the city of Owosso building official or his or her designee that render the property inaccessible to unauthorized persons, including but not

limited to the repairing of fences and walls, chaining/padlocking of gates, and the repair or boarding of doors, broken windows and/or other openings. In the case of broken windows, securing means the reglazing or boarding of the window. Boarding shall be completed or required. In addition, secure or secured means closing and locking windows, doors (walk-through, sliding and garage), gates and any other opening of such size that it may allow a person to access the interior of a property and/or structure(s).

*Trustee* means the person, firm, or corporation holding a mortgage on a property.

*Trustor* means a borrower under a mortgage, who deeds property to a trustee as security for the payment of a debt.

*Vacant* means a building/structure that is not legally occupied.

**Sec. 8-162. Registration.**

Any beneficiary/trustee or mortgagee, who holds a mortgage on a property located within the city, shall perform an examination, to the extent permitted by law or under the mortgage, of the property that is the security for the mortgage, upon default by the trustor or mortgagor, within five (5) days after either filing a complaint for foreclosure (if foreclosure is by judicial action) or publishing a notice of foreclosure (if foreclosure is by advertisement). If the property is found to be vacant or shows evidence of vacancy, it is, by this article, deemed abandoned and the beneficiary/trustee or mortgagee shall, within ten (10) days of the examination, register the property with the city of Owosso building official or his or her designee on forms provided by the city.

If the property is occupied but remains in default, it shall be examined, to the extent permitted by law and the mortgage, by the beneficiary/trustee or mortgagee, or his designee, monthly until (1) the trustor, mortgagor or other party remedies the default or (2) it is found to be vacant or shows evidence of vacancy at which time it is deemed abandoned, and the trustee shall, within ten (10) days of that examination, register the property with the city of Owosso building official or his or her designee on forms provided by the city.

In either case the registration shall contain the name of the beneficiary/trustee or mortgagee (corporation or individual), the direct street/office mailing address of the beneficiary/trustee or mortgagee (no P.O. boxes), a direct contact name and phone number for the beneficiary/trustee or mortgagee and, in the case of a corporation or out-of-area beneficiary/trustee or mortgagee, the local property management company responsible for the security, maintenance, and marketing of the property. Registration fees will not be prorated.

An annual registration fee shall accompany the registration form. The fee and registration shall be valid for the calendar year, or remaining portion of the calendar year, in which the registration was initially required. Subsequent registrations and fees are due January 1 of each year and must be received no later than January 31 of the year due.

This section shall also apply to properties that have been the subject of a foreclosure sale where the title was transferred to the beneficiary of a mortgage or mortgagee involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure/sale. Such properties shall be registered with the city in accordance with the terms of this section upon transfer even if occupied at the time of transfer.

Properties subject to this article shall remain under the annual registration requirement, security, and maintenance standards of this section as long as they remain vacant.

A person, firm, or corporation that has registered a property under this article must report any change of information contained in the registration to the city of Owosso building official within ten (10) days of the change.

**Sec. 8-163. Maintenance requirements.**

Vacant and abandoned properties subject to this section shall be, in comparison to the neighborhood standard, kept free of weeds, dry bush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspapers, circular, flyers, notices, except those required by federal, state, or local law, discarded personal items including but not limited to furniture, clothing, large and small appliances, printed material or any other items that give the appearance that the property is abandoned.

The property shall be maintained free of graffiti, tagging, or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior of the structure.

Visible front and side yards shall be landscaped and maintained to the neighborhood standard at the time registration was required. Landscape includes, but is not limited to, grass, ground covers, bushes, shrubs, hedges or similar plantings, decorative rock or bark or artificial turf/sod designed

specifically for residential installation. Landscape does not include weeds, gravel, broken concrete, asphalt, decomposed granite, plastic sheeting, indoor-outdoor carpet or any similar material.

Maintenance includes but is not limited to regular watering, irrigation, cutting, pruning, and moving of required landscape and removal of all trimmings.

Pools and spas shall be either kept in working order so the water remains clear and free of pollutants and debris or drained and kept dry or drained and covered. In either case properties with pools and/or spas must comply with the minimum security fencing requirements of the state of Michigan.

Adherence to this section does not relieve the beneficiary/trustee or property owner of any obligations set forth in any covenants, conditions, and restrictions and/or homeowners' association rules and regulations which may apply to the property.

**Sec. 8-164. Security requirements.**

Properties subject to this section shall be secured so as not to be accessible to unauthorized persons. If the property is owned by a corporation and/or out-of-area beneficiary/trustee/owner/mortgagee, a local property management company shall be contracted to perform weekly inspections to verify that the requirements of this section, and any other applicable laws, are being met.

The local property management company shall inspect the property on a weekly basis to determine if the property is in compliance with the requirements of this article.

**Sec. 8-165. Additional authority.**

In addition to the enforcement remedies established in this article or other chapters of the *Code of Ordinances*, the city of Owosso building official or his or her designee shall have the authority to require the beneficiary/trustee/owner/mortgagor/mortgagee and/or owner of record of any property affected by this section to implement additional maintenance and/or security measures including but not limited to securing any/all door, window, or other openings, installing additional security lighting, increasing on-site inspection frequency, employment of an on-site security guard or other measures as may be reasonably required to arrest the decline of the property.

**Sec. 8-166. Fees.**

The fee for registering an abandoned residential property shall be set by resolution of the city of Owosso.

**Sec. 8-167. Failure to secure and maintain.**

If a property has not been maintained or secured, the city and/or its contracted agent may maintain and/or secure the property and assess costs to the owner, beneficiary or trustee.

**Sec. 8-168. Re-occupancy.**

A registered property may not be occupied until all outstanding costs, assessments and/or liens owed to the city have been paid in full.

\* \* \*

**This section offers multiple versions of one section and is not in ordinance format.**

**Version One (Original):**

**An abandoned and/or vacant residential structure shall not be occupied until a certificate of occupancy has been issued by the city, and all violations have been corrected in accordance with the applicable requirements of the *Michigan Building/Residential Code, Michigan Electrical***

*Code, Michigan Mechanical Code, Michigan Plumbing Code, International Property Maintenance Code and applicable provisions of the City of Owosso Code of Ordinances. All mechanical, electrical, plumbing, and structural systems shall be certified by a licensed contractor as being in good repair.*

**Version Two:**

An abandoned and/or vacant residential structure shall not be occupied until the structure passes inspection by a licensed building inspector and is subsequently issued a certificate of occupancy by the city, and all violations have been corrected.

**Version Three:**

An abandoned and/or vacant residential structure shall not be occupied until the structure undergoes inspection by a licensed building inspector or certified home inspector and the inspection report is filed in the city building office and made available to the prospective occupant.

**Version Four (preferred by stakeholder group):**

An abandoned and/or vacant residential structure registered under this ordinance shall not be re-occupied until a copy of a home inspection report by a Licensed Contractor or Professional Home Inspection company of the buyers choice, has been signed by the buyer and a copy delivered to the city.

**Version Five:**

An abandoned and/or vacant residential structure registered under this ordinance shall not be re-occupied until a copy of a home inspection report by a licensed contractor or Professional Home Inspection company of the buyers choice, signed by the buyer has been delivered the city, all health and safety related violations have been corrected and certificate of occupancy has been issued by the city.

\* \* \*

**Sec. 8-169. Violation/abatement.**

Violations of this article shall be treated as a strict liability offense regardless of intent. Violations of this article may be enforced as allowed in this chapter. Alternatively, at the sole discretion of the city, the city may issue to the beneficiary/trustee/owner/mortgagor/mortgagee and/or owner of record a notice to abate. The notice to abate shall include:

- (1) The nature and location of the violation;
- (2) The time within which the violation must be abated;
- (3) Notice that the city may act to abate the violation if it is not abated by the owner within a reasonable time stated in the notice, but which may not exceed fifteen (15) days;
- (4) Notice that the cost of such action by the city, plus an administrative fee, shall be a personal debt of the owner, which may be assessed as a lien against the property until paid; and
- (5) Notice that any refusal to allow the city to abate an uncorrected violation shall be a separate violation under this Code.

**Sec. 8-170. Authorization for city abatement.**

Upon failure of a beneficiary/trustee/owner/mortgagor/mortgagee and/or owner of record to abate a violation as ordered in a notice to abate, the city may abate the nuisance. This abatement may be performed by the city, by a contract vendor, or by other means determined by the city.

**Sec. 8-171. Administrative fees.**

The fees necessary for the administration of this article shall be established from time to time by resolution of the city council. Such administrative fees shall include the following:

- (1) Notice to abate;
- (2) Search warrant;
- (3) Contact request or warning of abatement action;
- (4) Warning letter;
- (5) Civil infraction preparation;
- (6) Additional inspections;
- (7) Vending;
- (8) Second and subsequent vending;
- (9) Vehicle removal;
- (10) Second and subsequent vehicle removal; and
- (11) Denied entry.

**Sec. 8-172. Charge for costs.**

When the city has abated a cited nuisance, the cost of abatement, plus any applicable administrative charges as established by city council resolution, shall be billed to the property owner or beneficiary/trustee/mortgagor/mortgagee. Such billing shall be a personal debt of the owner to the city, which may be assessed as a lien against the property, including interest thereon, until paid.

**Sec. 8-173. Appeals.**

Any person aggrieved by any of the requirements of this section may appeal to the Owosso Building Board of Appeals, provided that a written application for appeal is filed within twenty (20) days after the day the decision, notice, or order was served. An application for appeal shall be based on a claim that the true intent of this Code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this Code do not fully apply, the requirements of this Code are adequately satisfied by other means, or the strict application of any requirement of this Code would cause an undue hardship.

**Sec. 8-174. Owner, unoccupied premises.**

If a property is not in foreclosure but is otherwise unoccupied for a period of more than 180 days, the owner shall comply with all of the following:

- (1) Maintain the property in accordance with section 8-163 herein and article VI of this chapter.
- (2) Register the property in accordance with section 8-162
- (3) Responsible for the fee identified pursuant to section 8-166 herein.
- (4) Keep the property secure in accordance with sections 8-164 and 8-165 herein.
- (5) Not permit re-occupancy until all outstanding costs, assessments and/or liens owed to the city are paid in full.
- (6) If the owner leases or lets the property, the owner shall comply with article VII of this chapter in addition to the requirements herein.
- (7) Inspect the property in accordance with section 8-168.

**Sec. 8-175. Exempt properties.**

Properties currently registered with the City as a rental dwelling unit in accordance with Section VII of this Chapter are exempt from the *City of Owosso Abandoned or Foreclosed Property Registration and Maintenance Ordinance*.

**Sec. 8-176. Penalty.**

Violation of this article is a civil infraction wherein a fine of up to five hundred dollars (\$500.00) may be assessed for each violation.

Section 2: Severability.

If any section, subsection, sentence, clause or phrase of this article is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this article. The city hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one (1) or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 3: Effective Date.

This ordinance shall take effect 20 days after passage.

Section 4: Inspection.

This Ordinance may be purchased or inspected in the City Clerk's Office Monday through Friday between the hours of 9:00 a.m. and 5:00 p.m.

Motion supported by Councilperson Bailey.

Roll Call Vote.

AYES: Councilpersons Cook, Fox, Erfourth, Mayor Pro-Tem Popovitch, Councilperson Bailey and Mayor Frederick.

NAYS: None.

**REGIONAL PARK ENTITY**

Council discussed the potential for the formation of a regional parks entity. A brief presentation was given by City Manager Crawford describing the alternative forms and the laws governing them.

Council was very interested in the proposition and asked that the item be placed on the agenda for the 5<sup>th</sup> Monday meeting for further discussion. They also indicated they would like to hold a meeting in the future with any interested jurisdictions in the County to gauge whether there is a desire for such an organization.

**COMMUNICATIONS**

- Gary Palmer, Building Official. December 2011 Building Department Report.
- Gary Palmer, Building Official. December 2011 Code Violations Report.
- Michael T. Compeau, Public Safety Director. December 2011 Police Department Report.
- Michael T. Compeau, Public Safety Director. December 2011 Fire Department Report.
- Owosso Main Street/Downtown Development Authority. Minutes of January 4, 2012.
- Owosso Planning Commission. Minutes of January 9, 2012.

**CITIZEN COMMENTS AND QUESTIONS**

There were no citizen comments.

Mayor Pro-Tem Popovitch asked about rumors that the trails in Collamer Park would be widened. Public Safety Director Compeau noted there were plans to clear brush and overhanging branches from the trails to aid in emergency rescue should it be needed, but there were no plans to widen the trails themselves.

Mayor Pro-Tem Popovitch also noted the BMX track needs more dirt.

Councilperson Fox announced an informational meeting on meth labs will be held at Treasures Restaurant on Saturday, January 28<sup>th</sup> at 2:00 p.m.

**NEXT MEETING**

Monday, January 30, 2012 – 5<sup>th</sup> Monday  
Monday, February 6, 2012

**BOARDS AND COMMISSIONS OPENINGS**

Historical Commission, term expiring June 30, 2014  
Zoning Board of Appeals – Alternate, term expiring June 30, 2013

**ADJOURNMENT**

Motion by Councilperson Cook for adjournment at 9:22 p.m.

Motion supported by Mayor Pro-Tem Popovitch and concurred in by unanimous vote.

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Benjamin R. Frederick, Mayor

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Amy K. Kirkland, City Clerk