

AGENDA FOR PARKERSBURG CITY COUNCIL
TUESDAY, AUGUST 24, 2021, 7:30 PM
CITY COUNCIL CHAMBERS,
SECOND FLOOR, MUNICIPAL BUILDING

- I. CALL TO ORDER – Council President, Zach Stanley
- II. ROLL CALL
- III. MINUTES – Regular Council meeting August 10, 2021
- IV. REPORTS FROM STANDING OR SPECIAL COMMITTEES
- V. MESSAGE FROM THE EXECUTIVE – West Virginia State Auditor, J.B. McCuskey, Opengov.com, presentation.
- VI. PUBLIC FORUM
- VII. CITY COUNCIL FORUM
- VIII. ORDINANCE, FINAL READING
 1. An ordinance amending Article 125.01 concerning EMT certification pay for the Parkersburg Fire Department (Sponsored by the Personnel Committee)
- IX. ORDINANCE, FIRST READING
 2. An ordinance amending Article 1705 concerning more flexibility to the City in proceedings before the Building Enforcement Agency. (Sponsored by Councilmen Richards, Mercer, Kuhl, and Rexroad.)
 3. An ordinance amending Article 1701 to provide a mechanism for obtaining an administrative search warrant in requiring inspection of properties where owners refuse entry, or cannot be located. (Councilmen Richards, Mercer, Kuhl and Rexroad)
- X. ADJOURNMENT next meetings Sept, 14th and 28th, 2021

August 10, 2021

The Council of the City of Parkersburg met in regular session Tuesday, August 10, 2021, at 7:30 PM in the Council Chambers on the second floor of the Municipal Building at One Government Square, Parkersburg WV 26101

The meeting was called to order by Council President, Zach Stanley, who presided over the meeting. The Clerk noted the attendance and those present included Councilmen Jesse Cottrille, Sharon Kuhl, Bob Mercer, Wendy Tuck, JR Carpenter, Mike Reynolds, Chris Rexroad, Austin Richards, and Zach Stanley.

MINUTES – the minutes from the Council meetings held July 27, 2021 were approved as previously distributed, by unanimous vote, one special meeting that day and one regular meeting that day.

REPORTS FROM STANDING OR SPECIAL COMMITTEES – Ms. Kuhl reported that the Personnel Committee met August 9, 2021 and sent forth four items on the agenda this evening for approval.

President Stanley announced the appointment of Councilwomen Sharon Kuhl and Wendy Tuck to the Mayor's Moratorium Committee concerning group housing.

MESSAGE FROM THE EXECUTIVE – Mayor Tom Joyce introduced Parkersburg High School Track Team for their Championship year. Attending with the team was their Coach McDonald who has been a coach for 51 years, and has coached at Marshall, Kent State, Rio Grant, Caldwell and others, and told us how he appreciated the recognition given to this team. He also thanked Chief Martin and Chief Matthews for the job they do for our community.

Coach stated that Parkersburg High School has had seven championship teams over the years, and stated that the seniors going on have what it takes to be successful in whatever they choose to do. They received a standing ovation and applause and good wishes from all attending our meeting.

PUBLIC FORUM – Jeff Fox, 3315 Clement Avenue, stated that the Marketplace building should be used to rent at an affordable price for families and people to get together. Also, the citizens deserve to know the amount spent on that building on fees and repairs, and the total investment in the building.

Charles Roberts asks for a Town Hall meeting to discuss the American Rescue Plan funds. Marie Krinock, 918 Lincoln Drive, thinks that people from the community should be on the Moratorium committee. Since taxes cannot be lowered, they want the user fee to go away, she said, and they want a voice on how the Rescue money should be spent.

Rudy Flanagan, 47 Willowbrook Drive, asked Council to help our Code Department have the authority to do something with a house in his neighborhood that is in terrible condition with people living there with no utilities. He said there are about 50 cats there, it is dangerous, and it is depreciating the value of their homes.

John Stockwell, #9 Willowbrook, said that the government is to protect people and their property. He has had damage to his house because of the house in their area that is not being taken care of. There are weeds, gutters leaking, no utilities, sanitary issues, loud talking, paranormal activities, and his wife feels unsafe in her home. It is past time that something is done about this house, he said. (Mr. Stockwell was given additional time to speak after the first 3 minutes.)

Dominique Kirl, 600 18th Street (St. Joseph's Landing) invited Council to a meeting tomorrow at Grant Point concerning an ARC grant. They have received funding for planning and development for emergency shelter for mental disorders, this is step #1. There is a re-entry council in each County, she said. She was representing Step 1, Crisis Center; MOV Re-entry Council; Jobs and Hope WV; and ARC Inspire Grant.

Mr. Richard Wittberg, 209 Wyoming Road, spoke to Council about addiction, and they have been having Listening Sessions. They go around six or seven counties and talk about re-entry. He said he was frustrated about housing. There is early and late recovery, he said, and we need to support them. The ratio from treatment to re-entry is 7-1. Seven people come out of treatment and there is only one bed available. We can't expect people to recover if they have no place to go, or they will go back to the problem. Relapse is common, he said. There is a lot of support for

people with a tobacco problem, but not for drugs. Mr. Wittberg believes we should have to find a place to help them be sober. Council also gave Mr. Wittberg additional time to speak.

CITY COUNCIL FORUM – Ms. Tuck said that Wood County has rescue funds that overlap, and it is important to hear from the citizens, and she encouraged the City to set up hearings for that purpose.

Ms. Kuhl reported on improvements at the Seats of Honor at Southwood Park for our emergency personnel. They will honor members of our Police and Fire Departments on October 16, 2021 at 11:00 AM and she invited everyone to attend. There are two flag poles, 20' and 25' and there will be a third one, then they will redo the base.

RESOLUTION

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF PARKERSBURG that the City of Parkersburg's Community Development Block Grant-Coronavirus Program Annual Action Plan and Budget be hereby amended as follows:

2020 CDBG-CV Adjustment of Funds

Activity	Current Budget	Proposed Budget	Change
Meals on Wheels - Wood County Senior Citizens Association	\$ -	\$ 65,000.00	\$ 65,000.00
Parkersburg Fire Department - Critical Equipment Support		\$ 45,000.00	\$ 45,000.00
Homeless Outreach Coordinator Position		\$ 50,041.00	\$ 50,041.00
			\$ -
Totals	\$ -	\$ 160,041.00	\$ (160,041.00)

Notes:

The above mentioned activities/projects are made possible by a special allocation of the Community Development Block Grant funds to the City of Parkersburg in the Coronavirus Aid, Relief and Economic Security (CARES) Act appropriated by the U.S. Congress and signed into law on March 27,2020. The total allocation of CDBG-CV funds was \$689,780

MOTION – Mr. Reynolds moved, seconded by Ms. Kuhl, to adopt the resolution, and the motion was adopted by unanimous vote.

RESOLUTION

RESOLUTION AUTHORIZING THE SOLICITATION FOR ELIGIBLE BIDDERS FOR CITY-OWNED PROPERTY - 113 ANN STREET

WHEREAS, the city of Parkersburg is the owner of the real property located at 113 Ann Street, commonly known as The Point Park Marketplace; and

WHEREAS, pursuant to §8-12-18 the sale, lease, or disposition of municipal property in West Virginia Code empowers municipalities to sell any of its real or personal property for fair and adequate consideration; and

WHEREAS, before making any sale, a notice of the time, terms and place of said sale shall be published as a class II legal advertisement; and

WHEREAS, information concerning the size, use, and zoning of the Property, and grading metrics are set forth on Exhibit A, attached hereto and incorporated herein; and

WHEREAS, the city council has determined that it is in the best interest of the City and its residents to sell and dispose of the Property, which shall be conducted, and graded by a selection committee, including city staff, city council, and industry professionals; and

WHEREAS, the city hereby determines that it is in the best interests of the City to grade proposals that demonstrate the highest and best use for the property in terms of tourism advocacy, community, and economic development, maximize full use of the property, and compliment and/or build upon existing uses in the downtown area shall be graded favorably; and

WHEREAS, no applicant scoring below 75 points (100 possible) shall be considered; and

NOW, THEREFORE, BE IT RESOLVED by the city council of the city of Parkersburg that the city publish, advertise, seek solicitations, and grade respondents for eligible bidders for the sale of City-Owned property (113 Ann Street). Exhibit A can be found in document #9502.

MOTION – Ms. Kuhl moved to adopt the resolution, but there was no second to the motion.

RESOLUTION

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF PARKERSBURG that the Mayor, or his designee, be authorized to request approval from State Auditor's Office for the following budget revision within the General Fund for the Fiscal Year 2021-2022 prior to the expenditure or obligation of funds for which no appropriation or insufficient appropriation currently exists, and to make said budget revisions upon the State Auditor's approval:

GENERAL FUND					
Account	Description	Current Budget	Proposed Adjustment	Revised Budget	Comments
REVENUE					
368-000-000	TRANSFERS IN - OTHER FUNDS	1,984,791	<u>56,658</u>	2,041,449	STABILIZATION TRANSFER IN
FINANCE					
414-103-315	OTHER SALARIES & WAGES	515,197	63,882	579,079	TWO ADDITIONAL IT TECHNICIANS
414-104-000	FICA EXPENSE	45,479	4,887	50,366	TWO ADDITIONAL IT TECHNICIANS
414-106-000	RETIREMENT EXPENSE	69,500	6,388	65,888	TWO ADDITIONAL IT TECHNICIANS
414-226-005	WORKERS COMP	13,961	1,501	15,462	TWO ADDITIONAL IT TECHNICIANS
414-230-050	CONTRACTUAL SVS- IT	32,000	(20,000)	12,000	TWO ADDITIONAL IT TECHNICIANS
	Subtotal - Expenditures		56,658		
	GRAND TOTAL		-		

The above resolution proposes to revise the FY22 General Fund Adopted Budget to fund the addition of two additional IT Technicians, funded in this initial fiscal year by a \$20,000 reduction in IT Contractual Services and a \$60,600 transfer in from the Stabilization Fund

MOTION – Ms. Kuhl moved, seconded by Mr. Richards, to adopt the resolution, and the motion was adopted by majority vote with all members voting "yes" with the exception of Mr. Reynolds, who voted "no".

ORDINANCE, FIRST READING:

AN ORDINANCE AMENDING AND REENACTING THE CLASSIFICATION AND COMPENSATION PLAN FOR THE CITY OF PARKERSBURG, TABLE III, CIVIL SERVICE NON-EXEMPT POSITION CLASSIFICATIONS

MOTION – Mr. Mercer moved, seconded by Mr. Reynolds, to adopt the ordinance on first reading (amended from 50 cents in Personnel Committee, to \$1.00)

MOTION TO REFER – Ms. Kuhl moved, seconded by Mr. Richards, to refer the ordinance to the Finance Committee.

VOTE – the motion to refer was defeated, as follows:

VOTING 'YES'
Ms. Kuhl
Mr. Carpenter
Mr. Richards
Mr. Stanley

VOTING 'NO'
Ms. Cottrille
Mr. Mercer
Ms. Tuck
Mr. Reynolds
Mr. Rexroad

MOTION TO AMEND TO \$1.50

Mr. Carpenter moved to amend the ordinance for the retention amount to be \$1.50 cents per hour with 20 years, but there was no second to the motion,

MOTION TO TABLE

Ms. Kuhl moved, seconded by Mr. Carpenter, to table the ordinance.

VOTE – the motion to table was adopted by majority vote, as follows:

VOTING 'YES'
Ms. Cottrille
Ms. Kuhl
Mr. Carpenter
Mr. Richards
Mr. Stanley

VOTING 'NO'
Mr. Mercer
Ms. Tuck
Mr. Reynolds
Mr. Rexroad

ORDINANCE, FIRST READING

AN ORDINANCE AMENDING SECTION 125.01
OF ARTICLE 125, FIRE DEPARTMENT, OF THE
CODIFIED ORDINANCES OF THE CITY OF PARKERSBURG
(EMT pay)

MOTION – Mr. Mercer moved, seconded by Mr. Rexroad, to adopt the ordinance on first reading, and the motion was adopted by unanimous vote.

ORDINANCE, FIRST READING:

AN ORDINANCE AMENDING AND RE-ENACTING
THE CITY OF PARKERSBURG PERSONNEL
POLICY AND PROCEDURE MANUAL
(civil service holiday pay)

MOTION – Ms. Cottrille moved, seconded by Mr. Mercer, to table the ordinance and the motion was adopted by majority vote with all members voting "yes" with the exception of Ms. Kuhl, who voted "no".

The meeting adjourned at 8:40 PM.

Corina S. Jones

City Clerk

Council President

An Ordinance Amending
Section 125.01, Of Article 125,
Fire Department, Of The
Codified Ordinances Of The
City Of Parkersburg

Be It Ordained By The Council Of The City Of Parkersburg that Section 125.01 of Article 125, Fire Department be and it is hereby amended as follows:

125.01 Composition

(a) The Fire Department shall consist of a Chief, five (5) Captains, eleven (11) Lieutenants and as many Firemen as may from time to time be authorized by Council. Further there shall be designated and appointed from said members a Chief Fire Inspector and a Fire Inspector/Public Education member.

(b) Members of the Fire Department who have successfully passed the final examination for the Bureau of Apprenticeship and Training (U.S. Department of Labor) shall be given the designation of Firefighter First Class.

(c) All members of the Department who attain the designation of Firefighter First Class shall receive an increase in pay of seventy-five cents (\$0.75) per hour for all fifty-four (54) hour work week personnel and one dollar and one cent (\$1.01) per hour for all day shift personnel effective July 1, 2019.

(d) Members of the Fire Department who are certified as an Emergency Medical Technician shall be given the designation of Firefighter/EMT. All members of the Department who attain the designation of Firefighter/EMT and maintain certification as an Emergency Medical Technician shall receive an increase in pay of fifty cents (\$0.50) per hour effective on the passage of this ordinance. Such designation shall be a non-civil service designation rate.

VBN

Mayor Thomas T.
Joyce



CITY OF PARKERSBURG
ONE GOVERNMENT SQUARE
PO BOX 1627
PARKERSBURG, WV 26102

C. Blaine Myers
City Attorney
(304) 424-8520

Memorandum

TO: Tom Joyce, Mayor
Members of City Council *CBM*

FROM: C. Blaine Myers, City Attorney

DATE: July 27, 2021

Two separate ordinances have been prepared for which I recommend for your favorable consideration, and which are attached.

First, an ordinance has been prepared by Assistant City Attorney, Rob Tebay, which amends Article 1705. The ordinance incorporates provisions authorized by the West Virginia Legislature this past session. These amendments give more flexibility to the City in proceedings before the Building Enforcement Agency. The changes are shown in red.

Second, an ordinance has been prepared amending Article 1701. The purpose is to provide a mechanism for obtaining an administrative search warrant for the purpose of requiring inspections of properties where owners refuse to permit inspections or cannot be located. Although this rarely occurs, the City has recently encountered such a scenario resulting in pending litigation (City of Parkersburg v. Emanuel's LLC, Case No. 21-C-61).

Although the same mechanism is available to the City under the BEA Ordinances, I believe it would be helpful to have the same remedy available to our Code Enforcement and Fire Inspectors.

Please feel free to contact myself or Rob Tebay should you have any questions.

**Authority: HB 4797-Code 8-12-16
SB 42- Code 8-12-22**

WEREAS, the Legislature of the State of West Virginia has Building Enforcement Agencies with certain new powers to combat conditions of slum and blight, and

WHEREAS, the Council of the City of Parkersburg desires to take advantage of those powers to assist in the ongoing fight against slum and blighted properties within the City limits,

THEREFORE LET IT BE ORDAINED: That Article 1705 of the Codified Ordinances of the City of Parkersburg be amended as follows:

1705.02 POWERS.

The Building Enforcement Agency, acting by majority vote, shall have the power and authority to require the repair, alteration or improvement, or the vacating and closing or removal or demolition, or any combination thereof, of any dwelling or other building unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accidents or other calamities, lack of ventilation, light or sanitary facilities or any other condition prevailing in any dwelling or building, whether used for human habitation or not, which would cause such dwelling or other building to be unsafe, unsanitary, dangerous or detrimental to the public welfare. In addition thereto the Agency may table action on any such dwelling or other building and recommend action to the Urban Renewal Authority of the City, **or take such other action as authorized by West Virginia Code.**

1705.09 REMEDIES OF THE CITY CODE ENFORCEMENT DIVISION/AGENCY.

(a) If the Owner fails to respond to the Notices issued in this Article **1705**, and the notice has not been rescinded or set aside, the Code Enforcement Agency may recommend that the subject property, in order to cure the blighted condition be subject to a proceeding by the Urban Renewal Authority of the City of Parkersburg, to obtain title to the subject property by eminent domain;

(b) If the Owner fails to respond to the Notices issued in this Article **1705** and the notice has not been rescinded or set aside, the Code Enforcement Agency may cause all necessary repairs, alterations or improvements to be made, or if the public welfare requires, may cause the dwelling or other building to be closed, removed or demolished, or any combination thereof. The Agency shall keep an accurate account of all costs against the real property upon which such dwelling or other building is situated. The Director of Finance may make provisions as he deems necessary or proper for the collection of all costs incurred with respect to such property and including the costs for such repairs, improvements, alterations, vacating, any required relocation of occupants under the Federal Relocation Assistance Act, and closing, removal or demolition, and attendant attorney fees and court costs or any combination thereof. Such assessment shall bear interest at ten percent (10%) and shall be immediately due and payable. If the assessment is not paid after the same is made, the Director of Finance, after any sale of any or all salvaged materials is credited to the account, may:

Place a lien against the real property upon which all costs were incurred, in an amount not to exceed the maximum allowed by law.

The notice of lien shall be a certified statement thereof, showing the nature of the work, the date and amount thereof, the property affected and the owner thereof, and shall be recorded in the Office of the Clerk of the County Commission of Wood County in the General Lien Books as are deeds of trust and mortgages. Such lien shall remain a lien upon the real property upon which the subject dwelling or other dwelling is situated for a period often (10) years from the recording thereof and for succeeding ten (10) year periods from the date of an affidavit of non-payment and extension as executed by the Mayor;

(c) If the Owner fails to respond to the Notices issued in this Section, and the notice has not been rescinded or set aside, the Code Enforcement Agency may institute a misdemeanor action in the Municipal Court of the City of Parkersburg.

(d) Procedure for Misdemeanor Actions in Municipal Court: A complaint for the violation of the Building Code shall be initiated upon a sworn or affirmed statement before the Municipal Judge. If the Municipal Judge finds probable cause, the sworn statement becomes the complaint that initiates the misdemeanor proceeding. This Complaint along with a Summons shall set forth the date, time and place of appearance before the City judge shall be served in accordance with the law of the State of West Virginia concerning the service of process in civil action, except that personal service of a summons and complaint may be made by a code enforcement department official. If service is made by certified mail under rule 4 (d)(1)(D) of the West Virginia Rules of Civil Procedure and delivery of the summons and complaint is refused, the code enforcement division official, promptly upon the receipt of the notice of the refusal, shall mail to the person or entity being noticed, by first class mail, postage prepaid, a copy of the summons and complaint. If the first class mailing is not returned as undeliverable by the U.S. Postal Service, service of the summons and complaint is presumed to be effectuated. Upon service of the summons and complaint consistent with this subsection, the violation may be prosecuted consistent with this Article 1705; or

(e) If the Owner fails to respond to the Notices issued in this Article 1705 and the notice has not been rescinded or set aside, the Code Enforcement Agency may institute a civil action in Circuit Court against the landowner or other responsible party to take corrective action. The City may also initiate a civil action in circuit court against the Landowner(s) or other responsible party to obtain an Order to take corrective action up to and including demolition of any structure, dwelling or building that is unsafe, unsanitary, dangerous or detrimental to the public safety or welfare; and also to recover all reasonable costs and expenses incurred by the City with respect to the property and for reasonable attorney fees and court costs incurred in the prosecution of the action.

(f) Procedure for Civil Action in Circuit Court: No fewer than ten days before instituting a civil action as provided in this subsection, the City shall send notice to the landowner by certified mail, return receipt requested, advising the Landowner of the City's intention to institute such action. The notice shall be sent to the most recent address of the landowner of record in the Office of the Assessor of Wood County, and to any other address for the landowner as may exist on record with the City. If, for any reason such certified mail is returned without evidence of proper receipt the City shall resend the notice by first class mail, postage pre-paid, and also shall post notice on the front door or other conspicuous location on the subject property.

(g) Institute Civil Action to place slum and blighted property into Receivership

In addition to the enforcement options set forth above, the City may institute a Complaint in the Municipal Court of Parkersburg requesting that slum and blighted structures, dwellings or buildings be placed in Receivership; if the following conditions are present:

(A) The owner cannot be located after reasonable inquiry by the code enforcement agency as required by this section, or if the owner refuses entry

(B) the code enforcement agency obtains an administrative search warrant from either the municipal court or the magistrate court located in the jurisdiction of the municipality or county where the structure, dwelling or building is located;

(C) upon entry, the code enforcement agency determines that the structure, dwelling or building is salvageable and does not require demolition; and

(D) the code enforcement agency proffers to the court that the structure, dwelling or building will require demolition or presents a substantial threat to nearby structures, property, or residents due to risk of fire, structural instability, or attractive nuisance if it is not repaired, altered, or improved in the near future. If those circumstances are present, the municipal court may place the structure, dwelling or building into receivership with the municipality or another entity that is capable of making the necessary repairs, alterations, and improvements to the structure, dwelling or building. Any owner of the structure, dwelling, or building may petition the municipal court to end the receivership at any time and, upon showing that they will make the necessary repairs, alterations, and improvements to the structure to the satisfaction of the code enforcement agency, the municipal court may end the receivership.

1705.10 PREVENTION OF “ZOMBIE FORECLOSURES” ON ABANDONED PROPERTIES:

The Building Enforcement Agency may refer an abandoned unsafe, unsanitary, dangerous property that is subject to a Deed of Trust to the Office of the City Attorney to proceed under the provisions of W.Va. Code 8-12-22, in accordance therewith as follows:

(a) No action may be brought pursuant to this section until the municipality has informed any and all mortgagees in writing and by certified mail, return receipt requested, to the mortgagee's registered agent identified by the mortgagee at the office of the West Virginia Secretary of State or, if not registered with the West Virginia Secretary of State, then to the mortgagee's principal place of business, of the municipality's intent to file a proceeding pursuant to subsection (b) of this section and provide the mortgagee 45 days from receipt by the agent or at the principal place of business referenced above of the notice of intent to file an action pursuant to subsection (c) of this section to respond to the notice and notify the municipality of the status of the property, the status of the note and the mortgagee's response to the notice: *Provided*, That the municipality may not issue a notice pursuant to this

subsection or bring an action pursuant to subsection (b) of this section if the owner of the property is in bankruptcy without the express consent of the bankruptcy court.

(b) If a property has been determined to be unsafe, unsanitary, dangerous, or detrimental to the public safety or welfare pursuant to an ordinance adopted pursuant to §8-12-16 of this code, or determined vacant and abandoned pursuant to subsection (c) of this section, the municipality in which the property is located may commence a proceeding in which the property is located to compel any or all mortgagees to:

(1) If the mortgagee has classified that the note is in default, the trustee or mortgagee shall commence a foreclosure procedure within four months and shall meet all deadlines to ensure the case is ready to be moved to a trustee sale within a reasonable time period but not to exceed one year;

(2) In the case of a loss mitigation application being filed by the borrower, all provisions of this section shall be tolled until such time as the note is again in default and the time period described in subdivision (1) of this subsection of this section has passed, or otherwise until the mortgagee has determined that the borrower is ineligible for loss mitigation;

(3) If a foreclosure has already been commenced, submit the necessary notices and documentation needed to move the foreclosure to a trustee sale within four months; or

(4) Issue a certificate of discharge of the trust deed lien or mortgage within three months and file a release of the lien or mortgage with the office of the clerk of the county commission in the county where the property is located.

(c) As used in this section, "vacant and abandoned property" means real property with respect to which the plaintiff has proven, by a preponderance of the evidence, that it meets any of the following requirements:

(1) No person or persons actually and currently conduct a lawfully licensed business, or lawfully reside, dwell, or live in any part of the building as the legal or equitable owner(s), tenant-occupant(s), owner-occupant(s), or tenant(s) on a permanent, nontransient basis; or

(2) If the exterior maintenance and major systems of the building and the surrounding real property thereof are in violation of applicable building codes or health and sanitation codes and there is no continual utility service evidencing actual use of electric, gas, water service, etc.; or

(3) Each mortgagor has separately issued a sworn written statement, expressing his or her intent to vacate and abandon the property and an inspection of the property shows no evidence of occupancy to indicate that any persons are residing there.

(4) As used in this section, "continual" shall mean to be without more than one 30-day interruption in any given 360-day period and must be more than merely registered to the owner for purposes of billing and must be utilized, at a minimum, in order to keep the property and the major systems of the building in compliance with applicable building and safety codes.

(5) Residential real property may not be considered vacant and abandoned if a structure located on the property meets any of the following:

(A) An unoccupied building that is undergoing construction, renovation, or rehabilitation that is proceeding diligently to completion;

(B) A building occupied on a seasonal basis, but otherwise secure;

(C) A building that is secure, but is the subject of a probate action, action to quit title, or other ownership dispute of which the mortgage servicer has actual notice;

(D) A building damaged by a natural disaster and one or more of its owners intends to repair and reoccupy the property; or

(E) A building occupied by the mortgagor, a relative of the mortgagor, or a tenant lawfully in possession.

(d) For any foreclosure resulting under this section or otherwise pursuant to any trust deed of record, if the successful bidder is the mortgagee, the trustee shall transfer by recorded deed, the property to the mortgagee within 30 days of the foreclosure sale. Any municipality wherein the property is located may seek an injunction to require the trustee, acting on behalf of the mortgagee, to convey the property to the mortgagee by recorded deed of record. Any municipality filing such an action and obtaining relief by injunction may recover attorney's fees and costs related to the action.

(e) Any property fitting the criteria described in subsection (d) of this section which is not situated within the boundaries of any incorporated municipality may be served in the manner described in subsections (b) and (c) of this section by the county commission of the county in which the property is located, with all attendant duties thereto.

(f) Nothing in this section may be construed to limit or restrain any incorporated municipality's powers to dispose of unencumbered properties that are unsafe, unsanitary, dangerous, or detrimental to the public safety or welfare pursuant to §8-12-16 of this code.

1705.11 REMEDIES AND PENALTY.

The relative severity of the remedies of the Code Enforcement Agency set forth above are not mandatory, but solely discretionary upon the Agency, and may be instituted alone or in conjunction with any other remedy set forth above.

AN ORDINANCE AMENDING ARTICLE 1701.01
RELATING TO RIGHT OF ENTRY FOR PROPERTY INSPECTIONS

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PARKERSBURG that Article 1701.01 of the Codified Ordinances of the City be amended and re-enacted as follows:

1701.01 RIGHT OF ENTRY

- (a) Upon presentation of proper credentials, a duly authorized representative of the City Department of Public Works, Code Enforcement Agency, or Fire Department may enter at reasonable times any building, structure, or premises in the City to inspect said building, structure or premises and to perform any other duty imposed by the State Building Code.
- (b) Said right of entry shall extend to any building, structure or premises for which a permit has been issued but for which a Certificate of Occupancy has not been received, in which there is reasonable cause to believe that work is being performed for which a permit would be required, to inspect corrective action taken by the Code Enforcement Agency, or whenever said agent or representative has reasonable cause to believe that a building, structure or premises is unsafe, unsanitary, dangerous or detrimental to the public welfare.
- (c) When any representative of the City enters the premises of the property for investigating or inspecting the structure, dwelling or building, the investigation shall be performed to minimize the inconvenience to the owner or persons in possession and shall be consistent with the following:
 - (1) Except in exigent circumstances and as permitted by law, any representative of the City shall provide reasonable advance notice and request permission from the owner to enter the property.
 - (2) If the owner cannot be located after the reasonable inquiry, or if the owner refuses entry, the City representative may obtain an administrative search warrant from either the Municipal Court of the City of Parkersburg or the Magistrate Court of Wood County. Before obtaining an administrative search warrant, the City representative is required to make a sworn statement and prima facie case showing that access to the structure, dwelling or building was unable to be obtained after reasonable and good faith efforts, and that there is a legitimate basis under this article that supports the requested entry.
 - (3) If granted by the Court, and the owner can be located, the City shall provide the owner a copy of the administrative search warrant five days before entering the property. If applicable, the City shall provide the same notice to any tenant or other person upon the property;
 - (4) Entry is for the sole purpose of inspection of the structure, dwelling or building and not for the purpose of criminal prosecution or gathering evidence for use in any criminal charge or proceeding unrelated to the purpose of said inspection.
 - (5) Entry is for the sole purpose of inspection of the structure, dwelling or building and not for the purpose of criminal prosecution or gathering evidence for use in any criminal charge or proceeding unrelated to the purpose of said inspection.

Sponsored by Councilmembers: