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CITY COUNCIL

- Joe Frank
President
- Sara Continenza
- Chanell Elston
- Jane Goodman
- Ruth Gray
- Susan Hardy
- Justin Tisdale

NOTICE OF MEETING

MEETING OF: **ZONING & PLANNING COMMITTEE**

CALLED BY: RUTH GRAY, CHAIR

DATE: **JANUARY 11, 2021**

LOCATION: VIRTUAL MEETING

TIME: 7:00 P.M.

RE: - ORD. 04-20 ESTABLISHMENT OF LANDMARK COMMISSION/PUBLIC HEARING.
- ORD. 13-19 NEW CHAPTER 1336 "REGISTRATION AND MAINTENANCE OF VACANT NON-RESIDENTIAL PROPERTIES".

COMMITTEE/COUNCIL MEMBERS:

CHANELL ELSTON
JANE GOODMAN

MEMBERS OF COUNCIL:

SARA CONTINENZA
JOE FRANK
JANE GOODMAN
JUSTIN TISDALE

ADMINISTRATION

LAURA HEILMAN, BUILDING COMMISSIONER
MIKE LOVE, ECON. DEVELOPMENT DIRECTOR
KEITH BENJAMIN, COMM. SERVICES DIRECTOR

THE CITY OF SOUTH EUCLID, OHIO

ORDINANCE NO.: 04-20
INTRODUCED BY: Frank
REQUESTED BY: Mayor

February 24, 2020
As Amended and Recommended by the
Planning Commission: September 10, 2020
Second Reading: September 29, 2020

AN ORDINANCE

ENACTING NEW SECTION 761.07 "LANDMARK COMMISSION" OF CHAPTER 761 "ADMINISTRATION" OF TITLE SIX "ADMINISTRATIVE PROVISIONS" OF PART SEVEN "PLANNING AND ZONING CODE" OF THE CODIFIED ORDINANCES OF THE CITY OF SOUTH EUCLID, OHIO.

WHEREAS, various public and private commercial and residential buildings throughout the city are seen as being significant to this community's past, present, and future; and

WHEREAS, certain neighborhoods in the city have homes with distinctive architectural features and could be designated as local historic districts; and

WHEREAS, creating a local Landmark Commission would allow for the city to designate and regulate the future of buildings and neighborhoods seen as exhibiting some sort of significance to South Euclid; and

WHEREAS, designating buildings as local landmarks can make such buildings eligible for a variety of economic incentives, encouraging preservation and rehabilitation of the city's commercial and residential districts; and

WHEREAS, this Council desires to adopt an Ordinance to create a City of South Euclid Landmark Commission; and

WHEREAS, this legislation amending the zoning code was referred to the Planning Commission for review; and

WHEREAS, notice of a meeting on the aforesaid requested zoning amendment has been duly given, and a full meeting has been held thereon by the Planning Commission, pursuant to such notice and as prescribed by law; and

WHEREAS, the Planning Commission voted 5-0-0 to recommend the legislation, as amended to City Council; and

WHEREAS, upon holding a public hearing, Council deems that the aforesaid zoning amendment should be made and the same is conducive to the public health, safety, convenience and general welfare of the City.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of South Euclid, Ohio:

Section 1: That New Section 761.07 "Landmark Commission" of Chapter 761 "Administration" of Title Six "Administrative Provisions" of Part Seven "Planning and Zoning Code" of the Codified Ordinances of the City of South Euclid, Ohio, be and the same is hereby enacted to read as follows:

"761.07 LANDMARK COMMISSION"

(a) Definitions

- ~~1. "Alteration" means any design, material, or color change to the external architecture features of any landmark structure or any structure located within a landmark district.~~
- ~~2.1. "Building change" means any alteration, **façade change**, demolition, removal, or construction to a **designated** landmark structure including such structures located within a landmark district.~~
- ~~3. "Construction" means the erection of new structures in landmark districts or on the sites of landmark structures and of additions to existing landmark structures.~~

4. ~~“Demolition” means the substantial deterioration or complete or substantial removal or destruction of any landmark structure or any structure which is located within a landmark district.~~

2. **“Façade Change” means any alteration to the aesthetic design, building material, or color change to the external architecture features of any designated landmark structure or any structure located within a landmark district.**

3. **“Environmental change” means any change to the site surrounding a designated landmark structure or within a landmark district, including, but not limited to, fences, signage, parking areas, site lighting, pedestrian access, site access, special site features, and major landscaping.**

4. **“Rehabilitation” means the process of restoring and returning a property to a state of utility, through repair or alteration or construction, which makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its historic, architectural, and cultural values.**

5. **“Construction” means the erection of new structures in landmark districts or on the site of a designated landmark structure or an addition to an existing landmark structure.**

6. **“Demolition” means the partial or complete removal or destruction of any designated landmark structure or any structure which is located within a landmark district.**

7. **“Removal” means the deletion of any exterior architectural feature from a designated landmark structure or from any structure which is located within a Landmark District.**

8. **“Landmark District” means any area that contains structures which:**

- A. Have historic significance;
- B. Represent one or more periods or styles of architecture typical of one or more eras in the City’s history, or represent an assemblage of structures important to the City’s history;
- C. Cause such area, by reason of such factors, to constitute an identifiable area; and
- D. Have been designated as a “Landmark District” pursuant to this section’s provisions.

(b) Establishment; Composition; Term; and Vacancy

There is hereby established the City of South Euclid Landmark Commission which shall consist of seven (7) members. Five (5) members shall be appointed by the Mayor, shall be residents of the City not holding other public office or employment with the City, and have demonstrated an interest, experience, or knowledge in history, architecture, preservation, or related disciplines. Commencing January 1, 2021, two (2) members shall be appointed to a term of two (2) years, two (2) members shall be appointed to a term of four (4) years, and one (1) member shall be appointed to a term of six (6) years. Thereafter, each member appointed shall have a term of six (6) years. The sixth member of the Commission shall be a member of Council appointed by his/her fellow Councilmembers at the organizational meeting of Council for a two (2) year term. The seventh member of the Commission shall be a member of the Planning Commission appointed by his/her fellow Planning Commission Members at the organizational meeting of the Planning Commission for a one (1) year term. Vacancies shall be filled for the remainder of the unexpired terms in the same manner as regular appointments and confirmations. A vacancy shall be filled within sixty (60) days from the date the vacancy occurs, unless a greater period of time is reasonably necessary, as determined by the appointing authority. The Mayor or his/her designee shall serve as an ex officio member of this Landmark Commission.

(c) Compensation of Members

No compensation shall be paid to any member of the Landmark Commission unless City Council adds such compensation to the City of South Euclid Salary Ordinance for services performed while a member of the Landmark Commission.

(d) Purpose

The purpose of the Landmark Commission is to designate landmarks in the City pursuant to the procedures hereinafter described, in order to preserve, protect, and perpetuate places, buildings, structures, works of art, and other objects having a special historical, community, or aesthetic interest or value, all for the reasons described in the remainder of this section.

1. To safeguard the heritage of the City by preserving sites and structures which reflect elements of the City’s cultural, social, economic, political, or architectural history;
2. To stabilize and improve property values;
3. To protect and enhance the City’s attraction to residents, tourists, and visitors, and serve as a support and stimulus to business;
4. To enhance the visual and aesthetic character, diversity, and interest of the City;
5. To foster civic pride in the beauty and notable accomplishments of the past;

6. To promote the use and preservation of historic sites and structures for the education and general welfare of the people of the City;
7. To strengthen the economy of the City;
8. To take whatever steps as may be necessary to safeguard the property rights of the owners whose property is declared to be a landmark or is located in an area designated as a Landmark District.

(e) Financial Interest of Members

No member of the Landmark Commission shall participate in the review of any item for discussion before such Commission if such member has any direct financial interest in the property involved in such discussion.

(f) Meetings

The Landmark Commission shall hold meetings on a monthly basis or as otherwise needed; provided; however, that the Commission shall meet not less than four (4) times per year.

(g) Organization and Officers

1. The first meeting of the year for the Landmark Commission shall be the organizational meeting. At this meeting, the Commission will elect one of its members to serve as Chair of the Commission for that upcoming year.
2. The Mayor shall appoint a City employee to serve as Secretary of the Commission. The Secretary shall keep, or cause to be kept, a complete record of all meetings of the Commission and a detailed record of transactions dealt with by the Commission. In addition, the Secretary shall perform such other functions as the Commission may direct. Said individual shall be paid the same compensation as the Secretary for the City Planning Commission, as defined in the City of South Euclid Salary Ordinance.

(h) Designation of Landmarks and Landmark Districts

1. The Landmark Commission may designate a place, building, structure, work of art, or similar object in the City as a landmark or Landmark District. The Commission, on its own initiative, or any owner of property, may apply to the Commission, on forms provided by the City, for designation of property owned by him or her as a landmark. In determining whether to designate such place, building, work of art, or object as a landmark, the Commission shall consider the following criteria with respect to such property:
 - A. Its character, interest or value as part of the development, heritage, or cultural characteristics of the City of South Euclid, State of Ohio, or the United States.
 - B. Its location as a site of a significant historic event.
 - C. Its identification with a person or persons who significantly contributed to the culture and development of the City.
 - D. Its exemplification of the cultural, economic, social, or historic heritage of the City.
 - E. Its portrayal of the environment of a group of people in an era of history characterized by a distinctive architectural style.
 - F. Its embodiment of a distinguishing characteristic of an architectural type or specimen.
 - G. Its identification as the work of an architect or master builder whose individual work has influenced the development of the City.
 - H. Its embodiment of elements of architectural design, detail, materials, or craftsmanship which represent a significant architectural innovation.
 - I. Its relationship to other distinctive areas which are eligible for preservation according to a plan based on an historic, cultural, or architectural motif.
 - J. Its unique location or singular physical characteristic representing an established and familiar visual feature of a neighborhood, community, or the City.
 - K. Such other individual characteristics as shall be relevant to its designation as a landmark.
2. The Commission shall propose designations of any area, place, building, structure, work of art, or similar object in the City as a landmark or Landmark District, and thereupon take the following actions:
 - A. The Commission shall notify the owner of such property of the proposed designation. Whenever possible, the Commission shall secure the owner's written consent for submittal of the proposed designation, together with its findings of fact to be shared with the City Planning Commission.

B. The Commission shall advise the City Planning Commission of the proposed designation and request from the City Planning Commission its recommendation with respect to the proposed designations, its opinion as to the effect of the proposed designation upon the surrounding neighborhood, and its opinion and recommendations as to any other planning consideration which may be relevant to the proposed designation, together with its recommendation of approval, rejection, or modification of the proposed designation. Such recommendation shall become part of the official record concerning the proposed designation. The Commission may make such modifications, changes, and alterations concerning the proposed designation as it deems necessary in consideration of the recommendation of the Planning Commission.

C. Following review by the City Planning Commission, the Landmarks Commission shall schedule a public hearing on the question of the proposed designation, setting forth a date, time, and place, and causing written notice to be given to the property owner or any person having a legal or equitable interest in such property being proposed for designation. The Commission shall cause a legal notice to be published in a newspaper of general circulation in the City setting forth the nature of the hearing, the property involved, and the date, time, and place of the scheduled public hearing. The Secretary shall cause notice to be sent via US Mail to all property owners within 250 feet of the subject property, setting forth the nature of the hearing, the property involved, and the date, time, and place of the scheduled public hearing. The Secretary shall also notify all members of City Council, the Planning Commission, the Architectural Review Board, and the Board of Zoning Appeals of said hearing through the preferred form of communication of reaching those individuals.

D. The Commission shall conduct the public hearing as provided by subsection 2(B) hereof and shall provide a reasonable opportunity for all interested parties to express their opinions under such rules as the Commission may adopt for the purpose of governing the proceedings of the hearings. Each speaker shall be fully identified as to name, address, and the interests which he/she represents. The Commission shall make a determination with respect to the proposed designation in writing within ~~fifteen (15)~~ **thirty (30)** days of the hearing date and shall notify any owner or any person having a legal or equitable interest in such property, as well as such other interested parties as may request a copy thereof. The Commission shall set forth its findings of fact which constitute the basis for its decision.

E. Should the property owner or any person having a legal or equitable interest in such property refuse to accept the designation, as issued by the Commission, he/she must file an appeal with the Board of Zoning Appeals (BZA) within sixty (60) days of the designation being issued. The appeal shall be heard in accordance with Section 761.04 of the City of South Euclid, Ohio Codified Ordinances.

F. As soon as is reasonably possible, the Commission shall notify the City Building Department of the official designation. The Commission shall also file with the Cuyahoga County Recorder and the Cuyahoga County Fiscal Officer a certified copy of the designation order together with a notice briefly stating the fact of such designation and a summary of the effects the designation shall have. The Commission, further, shall send by registered mail a certified copy of such order and a copy of the notice hereinabove described to the owner and any person having a legal or equitable interest in such property.

3. Removal. The Commission shall reserve the right to use the process described above to remove a landmark or Landmark District from such designated status. This removal process can be undertaken by the Commission, on its own initiative. The process for removal of a landmark designation shall follow the same process as designating a landmark, as described above. Should a landmark be removed of such status, the Commission shall notify the City Building Department. The Commission shall also file with the Cuyahoga County Recorder and the Cuyahoga County Fiscal Officer a certified copy of the order removing such landmark designation. The Commission, further, shall send by registered mail a certified copy of such order and a copy of the notice hereinabove described to the owner and any person having a legal or equitable interest in such property.

(i) Record of Landmarks

1. The Landmark Commission shall maintain complete records of all properties designated as landmarks in a book kept for records in the office of the Building Department.
2. The Commission may place or cause to be placed on such landmark properties a designation that such property or part thereof has been designated a landmark in the City.

(j) Regulation of Building or Environmental Change or Rehabilitation

No person owning, renting, or occupying property which has been designated a landmark or which is situated in a designated Landmark District shall make any **environmental building change, façade change, environmental change** or rehabilitation on/in such property without consent of the Landmark Commission with respect to such building or environmental change or rehabilitation. The following procedures shall apply to all building, façade or environmental changes, demolitions, removals, or constructions of such property in the City:

1. Any application to the Building Department for a building permit for a **building change, façade change, environmental change** or rehabilitation shall be forwarded to the Commission, together with copies of all detailed plans, designs, elevations, specifications and documents relating thereto, within seven (7) days after receipt thereof. An application may be filed by the applicant directly with the Commission at the same time an application for a building permit is filed or in lieu of filing for a building permit, if no building permit is required for the proposed building or environmental change or rehabilitation.
2. If the Commission finds that the building, **facade** or environmental change or rehabilitation proposed by the applicant:
 - A. Shall not adversely affect any significant historical or aesthetic feature of the property and is appropriate and consistent with the spirit and purposes of this section and the "Standards for Rehabilitation" adopted by the U.S. Secretary of the Interior, as found in Title 36 of the Code of Federal Regulations, Part 1208; or
 - B. Shall remedy conditions imminently dangerous to life, health, or property, as determined in writing by the Building Commissioner, or the Fire Inspector, then the Commission shall grant permission.
3. If the Commission finds that the building, **facade** or environmental change or rehabilitation proposed by the applicant shall adversely affect any significant historical or aesthetic feature of the property or is inappropriate or inconsistent with the spirit and purposes of this section, the Commission shall disapprove the application and so advise the applicant and the Building Department in writing within sixty (60) days after receiving the application.
4. If it disapproves the application, the Commission shall have the power to impose and enforce a waiting period of six (6) months from the date of its notice of disapproval, during which period the Commission shall conduct negotiations with the applicant and any other party in an effort to find a means of preserving the property as follows:
 - A. With respect to an application involving ~~an alteration~~ the proposed **building, façade or environmental change or rehabilitation**, the Commission and the applicant shall work together during such period to find a mutually agreeable method of completing the proposed ~~building or environmental change or rehabilitation~~ **mentioned project**.
 - B. With respect to an application involving a demolition, removal, or construction, the Commission may in its discretion extend the original waiting period of six (6) months to one (1) year. During such period and any extension thereof, the Commission and the applicant shall undertake meaningful and continuing discussions for the purpose of finding a method of saving such landmark. The Commission shall also investigate the feasibility of all available ways and means of preserving the landmark, including without limitation, inducing by contract or other consideration the creation of covenants restricting the use of the property, leasing and subleasing the property for the purposes of preservation, and acquiring by eminent domain or contract or conveyance all or any part of or interest in the property. If the Commission and the applicant do not agree on a means of preserving the landmark within the waiting period or any extensions thereof, the Commission upon expiration of such period or extension thereof shall grant permission with respect to the proposed environmental or building change or rehabilitation.
5. Upon granting permission, the Commission shall give written notice to the applicant and the Building Department.
6. If no action has been taken by the Commission on an application within sixty (60) days after such application has been received by the Commission, application shall be deemed granted.
7. Nothing herein contained shall obviate compliance by the owner of such property with all other applicable ordinances, rules, and regulations of the City, particularly Chapter 1333 and 1334 pertaining to the demolition or removal of residential and commercial structures.

(k) Additional Powers and Duties of Commission

The Landmark Commission shall have the following powers and duties in addition to those otherwise specified in this section:

1. The Commission shall conduct a continuing survey of all areas, places, buildings, structures, works of art, or similar objects in the City which the Commission, on the information available or presented to it, has reason to believe are or will be eligible for designation as landmarks.

- 2. The Commission shall work for the continuing education of the residents of the City with respect to the historical and architectural heritage of the City and the landmarks designated under the provisions of this section. It shall keep current and public a register of landmarks.
- 3. The Commission shall have authority to establish rules and regulations consistent with the provisions of this section and the spirit of its purpose to assist the Commission in evaluating applications for landmark designations submitted to it, the manner in which such applications are processed, and the proper and orderly conduct of its business.
- 4. The Commission shall act as a liaison on behalf of the City to individuals and organizations concerned with historic preservation.
- 5. The Commission may accept the services on a permanent or part-time basis of technical experts and such other persons as may be required to perform its duties; provided that no General Fund moneys are used for such services, except as may be appropriated by Council.

(l) Changes Not Prohibited

Nothing in this section shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature of any property which has been designated a landmark or which is situated in a designated Landmark District that does not involve a change in design, material, color or outer appearance thereof, nor to prevent any environmental or building change that the Building or Fire Department shall certify in writing is required by the public safety because of an unsafe or dangerous condition.

(m) Architectural Review Board

Notwithstanding any other provisions of this section, only architectural design compatible with other historical buildings in approved Landmark Districts in the City shall be approved for any new construction by the Architectural Review Board in the Landmark Districts.

Section 2: That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees on or after November 25, 1975, that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 3: This Ordinance shall take effect and be enforced from and after the earliest period allowed by law and upon signature of the Mayor.

Passed this _____ day of _____, 2020.

Joseph Frank, President of Council

Attest:

Approved:

Keith A. Benjamin, Clerk of Council

Georgine Welo, Mayor

Approved as to form:

Michael P. Lograsso, Director of Law

CITY OF SOUTH EUCLID, OHIO

ORDINANCE NO.: 13-19
INTRODUCED BY: Fiorelli
REQUESTED BY: Planning Commission

July 8, 2019

AN ORDINANCE

CREATING NEW CHAPTER 1336 "REGISTRATION AND MAINTENANCE OF VACANT NONRESIDENTIAL PROPERTIES AND ESTABLISHMENTS" OF TITLE FIVE "OTHER BUILDING PROVISIONS" OF PART THIRTEEN "BUILDING CODE" OF THE CODIFIED ORDINANCES OF THE CITY OF SOUTH EUCLID, OHIO.

WHEREAS, in order to encourage vibrant commercial districts and reduce vacancy rates, the Planning Commission and City Council desire to implement a vacant nonresidential building registration and maintenance program; and

WHEREAS, in light of the harm to neighborhood safety, security and welfare caused by prolonged neglect and abandonment of vacant nonresidential buildings, there is a need for a program to identify and make swift contact with all persons with a legal interest in a vacant property to ensure that vacant buildings are maintained free of nuisance conditions; and

WHEREAS, it is critical to use all available tools to ensure nonresidential property owners are diligently working to ensure their properties are reoccupied or repurposed; and

WHEREAS, the Planning Commission, by a vote of 5-0-0 on June 27, 2019, has recommended to City Council this Ordinance be adopted and Council deems that this Ordinance is necessary for the public health, safety, and welfare of the City.

NOW THEREFORE BE IT ORDAINED by the Council of the City of South Euclid, Ohio:

Section 1: That new Chapter 1336 "Registration and Maintenance of Vacant Nonresidential Properties and Establishments" of Title Five "Other Building Provisions" of Part Thirteen "Building Code" of the Codified Ordinances of the City of South Euclid, Ohio be hereby created and read as follows:

CHAPTER 1336 REGISTRATION AND MAINTENANCE OF VACANT NONRESIDENTIAL PROPERTIES AND ESTABLISHMENTS.

1336.01 PURPOSE

(a) This chapter shall apply to any nonresidential property, as defined below, or unit of nonresidential property in the city which meets the definition of vacant and unoccupied.

1336.02 DEFINITIONS

(a) "Nonresidential Property" shall be defined as a property with an assigned use classification of commercial, institutional, industrial, or office.

(b) "Vacant, Vacant Building, Vacancy, and Vacant Unit of a Building" shall be defined for the purposes of this chapter, as a building, or unit of a building, which is not occupied by its owner, lessee or other person in lawful possession, or at which substantially all lawful business operations have ceased.

(c) "Unoccupied" shall be defined for the purposes of this chapter as a building or unit of a building in which all lawful business operations have ceased.

1336.03 DUTIES OF OWNER

(a) The owner, lessee, or party in control of any vacant building and/or vacant unit of a building, or a party that has filed and is currently maintaining an open foreclosure action regarding a vacant building shall maintain the vacant building and/or vacant unit of a

building in compliance with city codes with particular attention to the following:

1. Grass and weeds shall be kept at a maximum height of 6 inches. Shrubbery must be kept trimmed and neat and kept from encroaching on or touching the building.
2. All building exteriors shall have adequate weather-tight protection, including paint, siding, and or similar finishes maintained in good condition.
3. All buildings and grounds must be secured against trespassers and rodents. This includes maintaining all exterior doors, windows and yard fencing in a good and secured condition. No boards, plywood or similar means or materials may be used to secure windows and doors. Doors, and/or windows that are found to be defective shall be replaced with similar, new doors or window units equipped with locking hardware. Property must be properly winterized.
4. Roofs on all buildings shall be in good, weather tight condition with no leakage.
5. Any accumulated trash or debris must be removed from the property immediately.
6. Graffiti, tagging or similar markings must be immediately removed or painted over with an exterior grade paint that matches the exterior color of the structure.
7. Property shall be maintained free of nuisance conditions.
8. Compliance with this section does not relieve the owner or agent in control of the property of any obligations set forth in any covenants, conditions, restrictions, homeowners' association rules and regulations and/or codified ordinances or building codes which may apply to the property.

(b) REGISTRATION REQUIRED

1. The owner, agent, lessee, or party in control of any vacant building and/or vacant unit of a building, or a party that has filed a foreclosure action that is currently pending regarding any vacant building, shall register the building, property and/or vacant unit of a building with the Building Commissioner, and maintain the registration up to date.
2. An application for registration of a vacant building and/or vacant unit of a building shall include all of the following information on forms provided by the City:
 - a. The name of the owner, agent lessee or party in control of the property and/or foreclosing entity submitting the registration application;
 - b. The direct mailing address of the applicant; P.O. Boxes are not an acceptable address;
 - c. A contact name, telephone number and e-mail address for the applicant;
 - d. In the case of an applicant whose home or business address is located outside Cuyahoga County, the applicant shall provide the name and mailing address as well as the contact name, telephone number and e-mail address of the person responsible for the security, maintenance, and marketing of the property.
 - e. The fee required by Section 1336.03(b)(5).
3. Registration shall remain valid for twelve months from the date of issuance. The owner, agent, lessee or party in control, or party mortgagee in a foreclosure action, shall renew the registration upon expiration for as long as the building, property, and/or unit of a building remains vacant.
4. The owner, agent, lessee, party in control, or party in a foreclosure action of any vacant building property, and/or vacant unit of a building, shall inspect the building, property and/or unit at least one time each month on the interior and exterior of the to verify that the requirements of this Chapter, the Codified Ordinances of the City, and any other applicable laws are being met. A written report of such inspections shall be provided to the City upon request.
5. Fees: The annual fee for registering a vacant building, property and/or vacant unit of a building shall be \$0.15 per square foot of vacant space.

(c) EXEMPTIONS:

Waivers exempting compliance with the provisions of this Chapter shall be obtained in writing on a form provided by the City under the following circumstances as long as the property is kept in safe, secure, and habitable condition, including continual compliance with Section 1336.03, "Duties of Owner":

1. Fire damaged buildings: so long as clean up, repair or demolition is initiated within 90 days from the date of the fire.

2. The owner, lessee, or party in control of any vacant building and/or vacant unit of a building can produce evidence the vacant building or vacant unit will be reoccupied within 90 days of becoming vacant. Such evidence shall include an application for occupancy filed with the South Euclid Building Department by the new user intending to occupy the space.

1336.04 VACANT BUILDING INSPECTION REQUIRED

(a) The owner, agent, or party in control of any vacant building, or unit of a building, shall apply for and obtain a vacant building inspection from the Building Commissioner prior to selling, transferring, or conveying any interest in or entering into an agreement to sell, transfer or otherwise convey an interest in such property, this includes entering into a lease with an entity to occupy the building or unit of a building. A copy of such completed inspection report shall be provided to the prospective purchaser, transferee, or lessee prior to sale or commencement of a lease.

(b) An agreement to sell, transfer or otherwise convey an interest in a Vacant Building, or a lease agreement for a tenant to occupy a vacant unit of a building, shall include a copy of the vacant building inspection report from the Building Commissioner, in order for the prospective purchaser, transferee, or lessee to be aware of all known violations of the City Building, Housing and/or Zoning Codes found as a result of an exterior and interior inspection.

(c) The owner shall submit to the City of South Euclid Building Department a statement signed by the purchaser or transferee, or lessee, acknowledging receipt of the vacant building inspection report, and such statement shall list thereon the date the report was given to the purchaser or transferee, or lessee.

1336.05 VACANT BUILDING INSPECTION

An application for a vacant building inspection required by this chapter shall be made upon forms supplied by the Building Commissioner.

(a) The Building Commissioner shall cause a general exterior and interior inspection for the vacant building or unit of a building and premises to be made.

(b) The vacant building inspection report shall contain the following information:

1. The street address or other identifying characteristics of the vacant building or unit of a building;
2. The name and address of the owner(s); lessee or party in control;
3. The authorized use and occupancy of the building or vacant unit of a building;
4. The listing of all known violations of the building code existing at the time of such inspection.

(c) Should the building or unit of a building remain vacant for a period longer than one year from the date of the inspection, a new inspection of the property shall be conducted as outlined above. There shall be a fee of \$25.00 per year for each inspection, after the first year.

1336.06 FEES

(a) In order to legally occupy a space, a user must file for business occupancy with the Building Department and pay the business occupancy application fee. In addition, a Certificate of Compliance will be issued once violations have been corrected and a user is legally occupying the space. The fee for a Certificate of Compliance shall be \$200.00.

(b) There shall be no fee for one (1) re-inspection requested by the same owner within twelve months from the date of the initial inspection to verify correction of violations stated within the vacant building inspection report. All subsequent re-inspections may be billed at \$50.00 per inspection.

(c) In the event of resale within the one-year period, if violations have not been corrected, the vacant building inspection report shall be transferred to any subsequent bona fide purchaser and shall be valid for the remainder of that period.

1336.07 CORRECTION OF VIOLATIONS

Any violations found upon inspection of the premises shall be corrected prior to issuance of the Certificate of Compliance. A property owner shall have six (6) months from the date of the inspection to correct all violations. Violations that cannot be corrected due to seasonal conditions shall not preclude the issuance of a Certificate of Compliance; provided that, issuance of such certificate shall be upon written acknowledgement of all violations and agreement to correct all violations within nine (9) months of the inspection date.

1336.07 (a) APPEALS

1. The Board of Zoning Appeals and Building Standards (BZA) as established by ordinance, shall be the Board of Appeals for this Chapter and its powers and duties and the procedures for appeal shall be as provided in such ordinance establishing the Board.
2. The owner of a vacant building, or vacant unit of a building, shall have the right to appeal from any order of, or written notice issued by, the Building Commissioner within thirty days from the date such notice was given, mailed or issued, and to appear before the Board within sixty (60) days of receipt of the notice appealed from, to show cause why he/she should not comply with such notice. Such appeal must be in writing. Failure to file a written appeal with the Board within the time prescribed herein shall constitute a waiver of the right to appeal. However, filing of an appeal from any such notice shall suspend action on enforcement of such notice until the appeal is acted upon by the Board.

1336.08 CERTIFICATE OF COMPLIANCE

(a) At the request of the owner of property or his/her agent, the City shall issue a letter or other written document signed and dated by the Building Commissioner stating that all violations listed on the vacant building inspection report have been completed to the City's satisfaction, and the property is eligible for occupancy. No previously vacant building, or vacant unit of a building, can be occupied until this Certificate of Compliance is obtained. This Certificate of Compliance is not in lieu of a business occupancy application. Upon issuance of a Certificate of Compliance, a user of a building or unit of a building, must still file for and obtain business occupancy from the Building Department prior to having operations open to the public.

(b) At the request of the owner of the property or his/her agent, the City may issue a letter or other written document signed and dated by the Building Commissioner stating that specific violations listed on the vacant building inspection report have been completed to the City's satisfaction. If the Building Commissioner issues such a letter or written document, it shall contain the specific violation(s) that remain outstanding.

1336.09 LIABILITY

The issuance of a Certificate of Compliance does not guarantee compliance with the Building, Housing and/or Zoning Codes, nor does the Building Commissioner nor his or her duly authorized designee(s) accept any liability for non-compliance with same. Such certificate shall be considered by all parties as the City's best effort to make known to the owner, a potential purchaser, or potential tenant, of any violations on a given property at the time the inspection is made.

(a) The City assumes no liability or responsibility for the failure to report violations that may exist and makes no guarantee whatsoever, since there may be further violations which were not detected, which may arise in the future, or which may only be determined by a licensed electrician, plumber or other specialist at the expense of the person desiring such an inspection.

(b) In issuing a vacant building inspection report, the City does not thereby insure, warrant or guarantee to the holder thereof, to his assignees, or any other interested party that such report contains all of the violations of the South Euclid Codified Ordinances, state or federal law.

(c) In issuing a Certificate of Compliance document under the provisions of this chapter, the City does not thereby insure, warrant or guarantee the quality of repair or standard of work completed in the correction of violations listed on a vacant building inspection report. Such document should be construed only as a statement by the City that some or all of the violations listed on the vacant building inspection report have been corrected to the City's satisfaction.

1336.10 NEW CONSTRUCTION OR EXPANSION

The following provisions shall apply to any "vacant or unoccupied non-residential property," as defined in Section 1336.02 Definitions, constructed in the City of South Euclid after the effective date of this Chapter.

Unless otherwise specifically provided in a developer's agreement approved by the City, all non-residential properties, constructed or expanded, as defined in Section 1336.02 Definitions, after the effective date of this Chapter, shall be subject to the following provisions:

(a) The owner and tenant(s) shall maintain the non-residential property in compliance with all provisions of the Codified Ordinances of the City of South Euclid and/or a plan approved as part of a developer's agreement approved by the City. If the non-residential property or any part thereof is found not to be in compliance with Codified Ordinances of the City of South Euclid and/or a plan approved as part of a developer's agreement approved by the City, the City may take action to correct the situation pursuant to South Euclid Codified Ordinance Chapter 531.

(b) If the non-residential property has any vacancy, the owner or operator of the non-residential property shall fully comply with this Chapter.

(c) Prior to issuance of a building permit for any non-residential property, the owner and/or tenant(s), as may be required by the City, shall pay a fee equal to 1% of the total estimated cost of construction. The City shall hold all funds collected to be used towards the cost of nuisance abatement of any non-residential buildings or buildings the City may undertake according to the South Euclid Codified Ordinances.

(d) Prior to issuance of a building permit for any non-residential property, the owner and/or tenant(s), as may be required by the City, shall provide the Building Commissioner and Director of Law a document stating that no lease that refers, relates or is in any way connected to that non-residential property contains a provision prohibiting the owner, agent, property manager, successor or assign of a non-residential from re-leasing all or any portion of a non-residential property when a tenant has either involuntarily or voluntarily vacated all or any portion of a non-residential property.

1336.11 PENALTY

Any person who violates any provision of this Chapter or of the rules and regulations issued hereunder shall be fined not less than \$200 and not more than \$1,000 for each offense. Every day that a violation continues shall constitute a separate and distinct offense. Unpaid registration fees and fines shall be an assessment on the property enforceable in the same manner as assessments for delinquent property taxes.

Section 2: That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees on or after November 25, 1975, that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 3: That this Ordinance is deemed to be an emergency measure necessary for the immediate preservation of the public peace, health and safety and for further reason that it is important to protect and enhance the safety and aesthetic quality of the non-residential building stock within the City at the earliest possible time. Wherefore, this Ordinance shall take effect and be in force upon passage by City Council and signature of the Mayor.

Passed this _____ day of _____, 2019.

Dennis Fiorelli, President of Council

Approved:

Georgine Welo, Mayor

Attest:

Keith A. Benjamin, Clerk of Council

Approved as to form:

Michael P. Lograsso, Director of Law

From: Chanell Elston <celston@seuclid.com>

Date: October 20, 2020 at 10:01:47 AM EDT

To: Ruth Gray <RUTHIGRAY50@gmail.com>, Ruth Gray <rgray@seuclid.com>, Jane <jg@janegoodman.com>

Subject: Dark Store Ordinance ORD. 13-19

Good morning,

I drafted some language as a starting point regarding the usage of fees towards economic development for the city.

Let me know your thoughts.

Thank you

Chanell

1336.10 (c) Prior to the issuance of a building permit for any nonresidential property, the owner and or tenant(s) as may be required by the City, shall pay 1% of the total estimated cost of construction. The City shall hold all funds collected to be used towards the cost of redevelopment efforts for nonresidential buildings within the City. Such efforts include but are not limited to, tax incentives and or rebates, grants to assist with improvement projects and educational support.