Moved by Council Member Tibbs, seconded by Council Member Boensh that an ordinance introduced on April 6, 2015, be taken up and enacted, entitled and reading as follows:

O-160


The City of Saginaw Ordains:

§ 151.095 FINDINGS AND PURPOSE.

Unsupervised properties have a negative impact on surrounding properties and neighborhoods. Owners of such properties should be held accountable for the condition of same, because properties which are not maintained constitute a hazard to the public health, safety, and welfare, create blight and nuisances, and lower property values and neighborhood integrity.

It is the purpose and intent of the City, through the adoption of this article, to establish a non-owner occupied property registry and unoccupied property registry as a mechanism to protect residential neighborhoods from becoming blighted through the lack of adequate maintenance and security of such properties.

§ 151.096 DEFINITIONS.

(A) City shall mean the City of Saginaw.

(B) Controller shall mean the person under contract with the owner for the management and/or maintenance of the property or who is otherwise authorized by the owner to exercise any physical control over the property, including but not limited to any property management or property preservation company responsible for the maintenance and security of the property.

(C) Drug related activity shall mean the illegal manufacture, sale, distribution, possession, or use of a controlled substance (as defined by the Controlled Substance Act and/or Michigan’s Public Health Code).

(D) Local agent shall mean a Michigan-based person or business entity appointed in writing by the owner to be the contact person on behalf of the owner and/or controller with the City.
(E) **Non-owner occupied property** shall mean any dwelling, dormitory, dwelling unit, apartment house, or guest room in a lodging house, rooming house, bed and breakfast establishment, hotel or motel within the City which is occupied by someone other than the owner.

(F) **Nuisance** shall mean a nuisance as defined by §94.01 of the Saginaw Code of Ordinances.

(G) **Owner** shall mean the person noted as the last owner of record (i.e. person holding legal title to the property) in the records of the City Assessor.

(H) **Person** shall mean an individual, firm, corporation, trust, estate, partnership, incorporated or unincorporated association, limited partnership, limited liability company, or any other legal entity.

(I) **Quality of Life Violation** occurs when the resident, any members of the resident’s household or a guest or other person under the resident's control has been issued one or more court appearance tickets, complaints, or citation for violation of any state law or local ordinance on the non-owner occupied property that involves (a) drug related activity, (b) prostitution, (c) criminal gang activity, (d) assaultive, threatening, or intimidating behavior (including but not limited to unlawful discharge of firearms), (e) malicious destruction of property, or (f) conduct that jeopardizes the health, safety, and/or welfare of others. “Conduct that jeopardizes the health, safety, and/or welfare of others” could include, but is not limited to, the following: (1) Dangerous Dog Violation contrary to City Ordinance 94.17, (2) Unlawful Discharge of a Firearm violation contrary to City Ordinance 130.03(D), (3) Illegal Business or Occupation violation contrary to City Ordinance 130.33, (4) Noise violation contrary to City Ordinance 94.22, and (5) Violation of the maximum occupancy overcrowding, illegal use of space provisions of the City Ordinance contrary to Chapter 153.

Unless otherwise provided by law, proof of a violation shall not require a criminal conviction but shall require only a preponderance of the evidence. A violation shall be deemed to have occurred in the vicinity of non-owner occupied property if it occurs in an adjacent common area or in the adjacent public right of way in front of the non-owner occupied property.

(J) **Repeated Quality of Life Violations** will be considered to be three (3) quality of life violations by one or more tenants or their guests, with respect to any dwelling unit within any 12-month period.

(K) **Unoccupied property** shall mean any property or lot that is vacant, regardless of whether such property contains a vacant dwelling or other structure.

§ 151.097 NON-OWNER OCCUPIED PROPERTY – PROHIBITED CONDUCT.
(A) No owner or controller of non-owner occupied property shall allow it to be occupied by someone other than the owner without first registering the property with the Office of the City Clerk.

(B) No owner or controller of non-owner occupied property shall allow occupancy of the property without first being in compliance with this ordinance.

(C) No owner or controller of non-owner occupied property shall allow occupancy of the property without first paying any property taxes due and owing on the property.

(D) No owner or controller shall allow a non-owner occupied property to fall into a state of disrepair, to become in violation of applicable Michigan statutes or City of Saginaw codes, or to otherwise become a nuisance or create a nuisance condition.

(E) Once registered, no owner or controller shall allow non-owner occupied property to remain occupied if it is in a state of disrepair, in violation of applicable Michigan statutes or City of Saginaw codes, or otherwise has become a nuisance condition or created a nuisance condition.

(F) No owner or controller shall knowingly permit a resident to remain in occupancy of non-owner occupied property if that resident, members of the resident’s household, or guests or other person’s under the resident’s control commit repeated quality of life violations.

(G) No owner or controller of non-owner occupied property shall transfer title, possession, or occupancy of the property without first being in compliance with this ordinance.

§ 151.098 NON-OWNER OCCUPIED PROPERTY – REGISTRY.

(A) To register non-owner occupied property, the owner or controller shall:

(1) Complete and file with the City Clerk, online or in-person, a registration application for each non-owner occupied property, which shall state or have attached, as applicable:

(a) The name, date of birth, driver’s license number, mailing address, telephone number, email address, and webpage address of the owner and of any controller of the property. If the owner of the property resides out-of-state, the applicant shall designate a local agent by name, mailing address, telephone number, email address, and webpage address.

(b) A copy of the written agreement appointing a local agent for the owner or controller.

(2) Pay in full the registration fees, as well as any applicable late fees, owed to the City for each non-owner occupied property.
(3) Provide verification to the City Clerk that the property is not condemned nor under an order to vacate.

(4) Pay in full any property taxes due and owing on the property.

(5) Pay in full any fines that may be owed due to a violation of this Ordinance.

(6) Agree to provide all residents a lease disclosure letter which provides information regarding frequently violated City regulations, including:

(a) The City's Noise Ordinance (Sec 94.20, et seq.);

(b) The City’s Curb for Minors Ordinance (Sec 130.50, et seq);

(c) The City's Disturb the Peace of Neighborhoods Ordinance (Sec 130.32);

(d) The City’s Housing Regulations (including Sec 151.082 and 151.083); and

(e) The City’s Parking Regulations (including Sec 72.28);

(7) Agree that each lease or rental agreement entered into for non-owner occupied property shall include the following addendum:

CRIME FREE LEASE ADDENDUM

In consideration of the execution or renewal of a lease of the dwelling unit identified in the lease, Owner and Resident agree as follows:

1. Resident, members of the resident's household, and a guest or other person under the resident's control shall not engage in criminal activity, or any act intended to facilitate criminal activity, including drug-related criminal activity, on or near said premises.

2. Resident and members of resident’s household will not permit the dwelling unit to be used for, or facilitate criminal activity, including drug-related criminal activity, regardless of whether the individual engaging in such activity is a member of the household or a guest.

VIOLATION OF THE ABOVE PROVISIONS SHALL CONSTITUTE A QUALITY OF LIFE VIOLATION AND BE A MATERIAL AND IRREPARABLE VIOLATION OF THE LEASE AND GOOD CAUSE FOR IMMEDIATE TERMINATION OF THE TENANCY. A single violation of any of the provisions of this addendum shall be deemed a serious violation and material and irreparable noncompliance with your lease. Unless otherwise provided by law, proof of violation shall not require criminal conviction, but shall be by substantial evidence of the type reasonably relied upon by property managers in the usual and regular course of business.

In case of conflict between the provisions of this addendum and any other provisions of the lease, the provisions of this addendum shall govern.

This LEASE ADDENDUM is incorporated into the lease executed or renewed this day between Owner and Resident.
This LEASE ADDENDUM is not intended to diminish Resident’s or broaden Owner’s rights with regard to Michigan’s laws pertaining to the recovery of possession of property.

(B) Upon the City Clerk’s receipt of the completed registration application and applicable fees, the City Clerk shall verify whether the property is eligible for registration and, if so, shall register the property.

(1) If the property is not eligible for registration, the City Clerk shall inform the owner or controller of the deficiencies preventing registration, including what additional information, documentation, and/or fees are required.

(C) After a non-owner occupied property has been registered, the owner or controller shall:

(1) Notify the City Clerk of any change in the information provided in the original registration application, including but not limited to a change in occupancy status or a change in contact information for the owner, controller, or local agent, within thirty (30) days of the date of the change.

(2) Cause the dwelling to be inspected by designated employees or other representatives of the owner or controller or by appropriate representatives of the City for compliance with this ordinance at least once annually. Proof of such inspections must be provided to the City Clerk upon renewal of registration to document that the property remains in compliance with this ordinance.

(3) If the non-owner occupied property has become ineligible for this registry, the City Clerk shall remove the property from the registry and shall provide the owner or controller with written notification of this action, the reason therefore, and shall inform the owner or controller of the deficiencies preventing continued registration, including what additional information, documentation, and/or fees are required.

(D) Exceptions:

(1) Owners or purchasers of structures which contain only one (1) dwelling unit, with or without an accessory garage, carport or shed, and which contain no other occupancy, may occupy that dwelling unit themselves without registering the unit or paying a fee. The owner's immediate family, defined as the owner's spouse or significant other, children, and up to two (2) grandparents, may also occupy that dwelling with the owner. All other requirements of this chapter shall apply in such instances.

(2) Owners and controllers of property properly registered under this section who are actively advertising and holding the property out for rental and/or sale shall not be required to register the property as unoccupied property under
§ 151.099 of this ordinance. Evidence of same, such as a copy of any advertisement or listing, shall be provided to the City Clerk.

§ 151.099 UNOCCUPIED PROPERTY REGISTRY.

(A) The Office of the City Clerk shall maintain a registry of all unoccupied properties within the City of Saginaw.

(B) An owner or controller of unoccupied property shall register the property with the City Clerk within sixty (60) days of transfer of title to the property to the name of the new owner. If the title was transferred prior to the effective date of this ordinance, the owner or controller of the property shall register the property with the City Clerk no later than sixty (60) days after the effective date of this ordinance.

(C) To register unoccupied property, the owner or controller shall:

(1) Complete and file with the City Clerk, online or in-person, a registration application for each unoccupied property, which shall state or have attached, as applicable:

(a) The name, date of birth, driver’s license number, mailing address, telephone number, email address, and webpage address of the owner and of any controller of the property. If the owner of the property resides out-of-state, the applicant shall designate a local agent by name, mailing address, telephone number, email address, and webpage address.

(b) A copy of the written agreement appointing a local agent for the owner or controller.

(c) A statement describing the expected period of vacancy, a detailed plan for the regular maintenance of the property during the period of vacancy (for example, lawn maintenance and securing of any structures), and a timeline for the lawful re-occupancy of the property, the rehabilitation of the property, or the demolition of the dwelling and/or structure(s) on the property.

(2) Pay in full the registration fees, as well as any applicable late fees, owed to the City for each unoccupied property.

(3) Pay in full any property taxes due and owing on the property.

(D) Any change in the information provided in the registry, including but not limited to a change in ownership, change in vacancy status, or a change in contact information for the owner, controller, and/or local agent shall be provided to the City Clerk within thirty (30) days of the date of the change.
(E) Unoccupied property may not be occupied until all outstanding taxes, costs, assessments, and/or liens owed to the City of Saginaw have been paid in full and a certificate of occupancy has been issued by the City of Saginaw.

(F) Exceptions:

   (1) Unoccupied properties owned by governmental subdivisions/agencies need not be registered in accordance with this Chapter.

§ 151.100 VIOLATION/ABATEMENT.

(A) Except as otherwise stated, violations of this Chapter shall be treated as strict liability offenses regardless of intent.

(B) An owner or controller of non-owner occupied property or unoccupied property that is found to be in violation of any article of this Chapter shall be responsible for a municipal civil infraction as set forth in Chapter 37 of this Ordinance.

(C) Properties subject to this ordinance shall at all times be kept free of weeds, dry brush, dead vegetation, trash, junk, building materials, and the accumulation of other debris and shall otherwise comply with the Saginaw Housing Code. Additionally, the property shall be maintained free of graffiti, tagging, and similar markings. Yards shall be landscaped and maintained pursuant to this Ordinance.

   (1) If the property has not been maintained, the City may maintain the property and assess costs to the owner or controller. Such assessments may become a lien against the property.

(D) Properties subject to this ordinance shall at all times be maintained in a secure manner so as not to be accessible by unauthorized persons. The City shall have the authority to require the owner or controller to implement additional maintenance and/or security measures as deemed necessary.

   (1) If a property has not been secured, the City may secure the property and assess costs to the owner or controller. Such assessments may become a lien against the property.

(E) Failure to properly maintain or secure either non-owner occupied property or unoccupied property will be deemed a nuisance for which the City may issue a written notice to correct. The City may abate any such nuisance upon the failure of the owner or controller of the property to take abatement action within ten (10) days of the written notice to correct. When the City has abated such a nuisance, the cost of the abatement, including any applicable administrative charges, will be billed to the owner of the property. Such billing shall be a personal debt of the owner to the City, which may be collected as other personal debts, as enforcement costs or by restitution orders as allowed by law, or which may be assessed as a lien against the property, including interest thereon, until paid.
(1) The owner of the property where such a nuisance exists is also responsible for a Class D municipal civil infraction as set forth in §94.02 of this Ordinance.

(F) On each occasion that a resident in a non-owner occupied property or such resident’s guest commits a quality of life violation, the City Manager or designee shall send notice of such violation to the owner or controller. Upon the occurrence and notice of three (3) quality of life violations by one or more resident or their guests, with respect to any non-owner occupied property within any 12-month period, the non-owner occupied property will be deemed a nuisance. An unsuccessful good faith attempt to evict the offending resident, after commission of two quality of life violations, shall constitute an absolute defense. It is not a violation if the owner or controller reported the violation.

(1) The owner of the property where such nuisance exists is responsible for a Class F municipal civil infraction, subject to payment of a civil fine as set forth in § 37.07, plus costs and other sanctions for each infraction. Repeat offenses shall be subject to increased fines as provided by § 37.07.

§ 151.101 FEES.

(A) Fees for each registry shall be established by City Council and posted in the Office of the City Clerk.

(B) All registration/license cycles for non-owner occupied property shall start on March 15 of each year.

(1) For the period from the effective date of this section to March 15, 2014 all properties with a valid registration shall continue to be registered until March 15, 2014. Registrations shall all expire on March 15 of each year regardless of application date. If March 15 should fall on a holiday or weekend the fee shall be due on the next regular business day.

(C) All registration/license cycles for unoccupied property shall start on December 30 of each year.

(1) All unoccupied properties must be registered within sixty (60) days of the enactment of this ordinance. For the period from the effective date of this section to December 30, 2013, the annual registration fee shall be reduced by fifty (50%) percent.

(2) Registrations shall expire on December 30 of each year regardless of application date. If December 30 should fall on a holiday or weekend the fee shall be due on the next regular business day.

(D) An additional late charge of one hundred (100%) percent of the base fee shall apply and be assessed in the event of any of the following:
(1) Failure to register unoccupied property within sixty (60) days of the enactment of this ordinance.

(2) Failure to register a non-owner occupied or unoccupied property within fifteen (15) days of date of written notice from the City that the property is in violation of this ordinance.

(3) Failure to pay the registration renewal fee by the required date each year.

(4) Failure to register a non-owner occupied or unoccupied property within sixty (60) days of transfer of title in the property.

(5) Failure to provide the City Clerk the required notice of any change in the information provided in the registry, including but not limited to a change in vacancy status or a change in contact information for the owner and/or controller within thirty (30) days of the date of the change.

(E) Failure to pay any applicable fees or late fees shall be deemed a personal debt of the owner to the City, which may be collected as other personal debts, as enforcement costs or by restitution orders as allowed by law, or assessed as a lien against the property, including interest thereon, until paid.

This ordinance shall become effective April 30, 2015.


Yeas: Six
Nays: None
Absent: Three
Abstain: None

ORDINANCE DECLARED ADOPTED

Dennis D. Browning                   Janet Santos, CMMC/CMC/MMC
Mayor                                City Clerk

I, Janet Santos, City Clerk of the City of Saginaw, Michigan, do hereby certify that the foregoing is a true and complete copy of the ordinance adopted by the City of Saginaw, Saginaw County, State of Michigan, at a public meeting held on April 20, 2015; the original thereof is on file in the records of my office; the meeting was conducted and public notice of said meeting was given pursuant to Act No. 267, Public Acts of Michigan, 1976, as amended, and minutes of this meeting were kept and will be made available as required.

Janet Santos, CMMC/CMC/MMC
City Clerk