

**CITY OF LYNN**

**Notice is hereby given that the Lynn City Council Ordinance Committee will hold a public hearing on Tuesday, October 9, 2018 at 6:30 PM in Room 402, to Amend the Ordinance Regulating the Maintenance of Abandoned, Foreclosed Residential and Commercial Properties.**

10/23/18

In City Council \_\_\_\_\_ 1 of 4

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**IN THE YEAR TWO THOUSAND EIGHTEEN AN ORDINANCE AMENDING THE ORDINANCE REGULATING THE MAINTENANCE OF ABANDONED, FORECLOSED RESIDENTIAL AND COMMERCIAL PROPERTIES**

*WHEREAS*, Recent events in the housing market have led to a drastic rise in the number of foreclosed houses. In cities all over the nation, homes are being left empty as families are forced to move out. These homes are frequently retaken by banks, financial institutions and large real estate conglomerates that have little to no connection with the municipality in which they own property; *and*,

*WHEREAS*, Many of these houses are essentially abandoned. Homes sit empty for months or years at a time; often creating an attractive public nuisance. Some homes are in violation of multiple aspects of state and local building codes and sanitary codes. The owner of record is often a large financial institution located out of state, making enforcement of the code very difficult; *and*,

*WHEREAS*, this problem exists from California to Ohio to Massachusetts. Banks and other financial institutions are refusing to maintain properties, and municipal building inspectors have turned into investigators as they try to find out who the owners are and how to contact them to correct code violations; *and*,

*WHEREAS*, Many other cities around the nation are facing similar problems and searching for solutions in order to keep up the quality of life for the residents. Escondido, CA gave its code enforcement department an extra one million dollars to ensure compliance. Chula Vista, CA has passed an ordinance requiring all financial institutions that foreclose on a property to register, to pay an administrative fee of \$70 and to appoint a local property maintenance company to maintain the property once a week. Although only in effect since early October, the program looks promising as it has over thirty voluntarily registered properties and is in the process of collecting Over \$18,000 in fees. Many other municipalities are considering similar laws or regulations to address this issue; *and*,

*WHEREAS*, These code violations include, among multiple other violations, unoccupied buildings susceptible to vandalism and/or open structures rendering them unsafe and dangerous, yards full of litter and trash, unlocked houses, unshoveled snow that renders sidewalks impassable, overgrown grass and bushes, and unsecured swimming pools that are not only a threat to children but become breeding grounds for infectious insects such as mosquitoes; *NOW*,

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## **Regulating the Maintenance of Abandoned and Foreclosing Residential and Commercial Properties.**

SECTION 1: PURPOSE. It is the intent of this section to protect and preserve public safety, security, and quiet enjoyment of occupants, abutters, and neighborhoods by (i) requiring all residential and commercial property owners, including lenders, trustees, and service companies, to properly maintain abandoned and/or foreclosing properties (ii) regulating the maintenance of abandoned and/or foreclosing, residential and commercial properties to prevent blighted and unsecure residences.

The Director of the Inspectional Services Department has enforcement authority pursuant to, *Inter alia*, M.G.L. c. 143, s. 3, the State Building Code, and the City of Lynn Zone Ordinance.

SECTION 2: DEFINITIONS. When used in this section, unless a contrary intention clearly appears, the following terms shall have the following meanings:

*Abandoned* means any residential and commercial property property, residential and commercial that is vacant.

*City* means City of Lynn.

*Commercial Property* means any property that contains one or more buildings, Structures, improvements and/or fixtures used, intended or designed for commercial use.

*Day* means consecutive calendar days.

*Director* means Director of the inspectional Services Department

*"Evidence of vacancy"* means any condition that would lead a reasonable person to believe that the property is vacant.

*Foreclosing* means the process by which a property, placed as security for a real estate loan, is prepared for sale to satisfy the debt if the borrower defaults.

*"Initiation of the foreclosure process"* means taking any of the following actions: (i) taking possession of a residential or commercial property pursuant to M.G.L. c.244, s. 1; (ii) publishing the first foreclosure notice of a residential property pursuant to M.G.L. c. 244, s. 14; or (m) commencing a foreclosure action **on** a residential property in either the Land Court or Essex Superior Court

*Local* means within twenty (20) driving miles distance of the property in question.

*Mortgagee* means the creditor, including but not limited to, service companies and lenders, in a mortgage agreement.

*Mortgagee in possession* means a mortgagee that has taken over control and/or occupancy of a property upon default of the borrower to collect income from the property and/or prepare for foreclosure.

*Owner* means every person, entity, service company, property manager or realtor, who alone or severally with others:

- (1) has legal or equitable title to any dwelling, dwelling unit, mobile dwelling unit, or parcel of land, vacant or otherwise, including a mobile home park; or
- (2) has care, charge or control of any dwelling, dwelling unit, mobile dwelling unit or parcel of land, vacant or otherwise, including a mobile home park, in any capacity including but not limited to agent, executor; executrix, administrator, administratrix,

- trustee or guardian of the estate of the holder of legal title; or
- (3) is a mortgagee in possession of any such property; or
  - (4) is an agent, trustee or other person appointed by the courts and vested with possession or control of any such property; or
  - (5) is an officer or trustee of the association of unit owners of a condominium. Each such person is bound to comply with the provisions of these minimum standards as if he were the owner. Owner also means every person who operates a rooming house; or
  - (6) is a trustee who holds, owns or controls mortgage loans for mortgage backed securities transactions and has initiated the foreclosure process.

*Property means* any real property, residential or commercial, or portion thereof, located in the City of Lynn, including building or structures situated on the property.

*Residential Property means* any property that contains one or more dwelling units used, intended, or designed to be occupied for living purposes.

*Securing means* measures that assist in making the property inaccessible to unauthorized persons.

*Vacant means* a structure or building not legally occupied.

**Section 3: REGISTRATION:** All owners including banks and mortgage companies must register abandoned and/or foreclosing residential and commercial properties with the Director of the Inspectional Services Department on forms provided by the Director. All registrations must state the individual owner's or agent's phone number and mailing address located within the Commonwealth as required by M.G.L. c.59, s57D, M.G.L. c. 156D, s. 5.02, and 950 CMR 113.20. The mailing address may not be a P.O. Box. This registration must also certify that the property was inspected and identify whether the property is abandoned. If the property is abandoned, the registration must designate a local individual or local property management company responsible for the security and maintenance of the property. This designation must state the individual or company's name, phone number, and local mailing address. The mailing address may not be a P.O. Box. This registration must be received within seven days of abandonment or within seven days of the initiation of the foreclosure process as defined in Section 2.

All property registrations are valid for one year. An annual registration fee of five-hundred dollars and no cents (\$500.00) must accompany the registration form. The fee and registration are valid for the calendar year, or remaining portion of the calendar year, in which the registration was initially required. Subsequent registrations and fees are due January 1st of each year and must certify whether the foreclosing and/or foreclosed property remains abandoned or not.

Once the property is no longer abandoned or is sold, the owner must provide proof of sale or written notice of occupancy to the Director of the Inspectional Services Department.

**SECTION 4: MAINTENANCE REQUIREMENTS.** Properties subject to this section must be maintained in accordance with all applicable Sanitary Codes, Building Codes, and local regulations. The local owner or local property Management Company must inspect and maintain the property on a monthly basis for the duration of the abandonment.

The property must contain a posting with the name and 24-hour contact phone number of the local individual or property Management Company responsible for the maintenance. This sign must be posted on the front of the property so it is clearly visible from the street.

Adherence to this section does not relieve the property owner of any applicable obligations set forth in Code regulations, Covenant Conditions and Restrictions and/or Home Owners Association rules and regulations.

SECTION 5: INSPECTIONS. The Inspectional Services Department shall have the authority and the duty to inspect properties subject to this section for compliance and to issue citations for any violations. The Inspectional Services Department shall have the discretion to determine when and how such inspections are to be made, provided that their policies are reasonably calculated to ensure that this section is enforced.

The Owner, or the Owner's agent or designee, shall cooperate with city code inspection and/or enforcement personnel and shall permit access to the property to such personnel upon reasonable notice to the Owner or the Owner's agent.

SECTION 6: ENFORCEMENT AND PENALTIES. Failure to initially register with the Director is punishable by a fine of three hundred dollars and no cents (\$300.00) each day being a separate offense.

If applicable, failure to properly identify the name of the local individual or property Management Company is punishable by a fine of three hundred dollars and no cents (\$300.00).

Failure to maintain the property is punishable by a fine up to three hundred dollars and no cents (\$300.00) for each month the property is not maintained.

Violations of this chapter shall be treated as a strict liability offense regardless of intent

SECTION 7: APPEAL Any person aggrieved by the requirements of this section or by a decision issued under this section by the Inspectional Services Department, may seek relief pursuant to M.G.L. c. 40, S. 21D.

SECTION 8: APPLICABILITY. If any provision of this section imposes greater restrictions, or obligations than those imposed by any other general law, special law, regulation, rule, ordinance, by-law, order, or policy then the provisions of this section control.

SECTION 9: REGULATORY AUTHORITY. The Director of the Inspectional Services Department has the authority to promulgate rules and regulations necessary to implement and enforce this section.

SECTION 10: SEVERABILITY if any provision of this section is held to be invalid by a court of competent jurisdiction then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect

SECTION 11: REVOLVING ACCOUNT. Pursuant to MGL, Chapter 44 § 53 E the Lynn City Council will establish a revolving account to utilize the registration funds for the securing and monitoring of vacant properties in disrepair.

The Inspectional Services Department will be trustee of said revolving account.