

**CITY OF LAWRENCE  
DOC. 32/2013**

Be it ordained by the City Council of the City of Lawrence that the Revised Ordinances of the City of Lawrence are hereby further amended by **DELETING** the current **Chapter 8.28 of the Municipal Code (Regulating the Maintenance of Abandoned and Foreclosing Residential Properties)**

**AND INSERTING IN ITS PLACE AND STEAD**, the following the following new Chapter of the Municipal Code in proper numerical order:

**Chapter 8.28 of the Municipal Code** (Regulating the Maintenance of Abandoned and Foreclosing Residential Properties)

**Section 8.28.010**

*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 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 properties to prevent blighted and unsecured residences.

The Commissioner of the Inspectional Services Department and the Fire Chief have enforcement authority pursuant to *inter alia* M.G.L. c. 143, § 3, the State Building Code, and the Lawrence Revised Zoning Ordinances.

**Section 8.28.020**

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

*Abandoned* means any property that is vacant

*Building* means any combination of materials having a roof and enclosed within exterior walls or firewalls, built to form a structure for the shelter of persons.

*Certificate of compliance with Chapter 8.28* means a certificate issued by the Commissioner to the owner of a vacant and/or foreclosing property upon compliance with the provisions of this article.

*City* means City of Lawrence.

*Commissioner* means Commissioner of the Inspectional Services Department.

*Days* means consecutive calendar days.

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

*Fire Chief* means the person holding or occupying the job position set forth in Section 2.36.010 of the Lawrence Municipal Code.

*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 property pursuant to M.G.L. c.244, §. 1; (ii) publishing the first foreclosure notice of a residential property pursuant to M.G.L. c. 244, §14; or (iii) commencing a foreclosure action on a residential property in either the Land Court or 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 an agent, trustee or other person appointed by the courts and vested with possession or control of any such property; or
- (7) 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, or portion thereof, located in the City of Lawrence including buildings or structures occupied for living purposes, however, "property" shall not include property owned or under the control of the City, the commonwealth or the United States of America.

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

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

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

### **Section 8.28.030** *Registration of Abandoned and/or Foreclosing Residential Properties*

#### *Duty to Provide Written Notice of Abandoned Property and/or Mortgage Foreclosure.*

- A. Any owner of a vacant and/or foreclosing property shall, unless exempt from such actions by Massachusetts General Laws, within 30 days of the property becoming vacant or within 15 days of the initiation of the foreclosure process:

- (1) Provide written registration with the Commissioner and the Fire Chief, on forms provided by the commissioner, of such property, including in such notice the individual owner or agent's name, telephone number, and mailing address located within the commonwealth, as required by M.G.L. c. 59, § 57D, M.G.L. c. 156D, § 5.05, and 950 CMR 113.230. The mailing address may not be a P.O. Box. The registration must also include the location of the property; the length of time the building has been vacant (where applicable); the estimated time the building will remain vacant (where applicable); and the nature of the contents of the building. If the property is vacant, the registration must designate a local individual or local property management company responsible for the securing 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.
- (2) As may be required by the Fire Chief, file one set of space utilization floor plans for any buildings on said property with the Fire Chief and one set of said plans with the Commissioner. The owner shall certify space utilization plans as accurate twice annually, in January and July; and
- (3) Remove from the property, to the satisfaction of the Fire Chief, hazardous material as that term is defined in MGL c. 21K, as that statute may be amended from time to time; and
- (4) At the discretion of the Fire Chief, secure all windows and door openings and ensure that the building is secured from all unauthorized entry continuously in accordance with the United States Fire Administration, National Arson Initiative Board-up Procedures or provide twenty-four-hour on-site security personnel on the property. When a vacant or foreclosing property is located within a complex of buildings owned by a single owner, twenty-four-hour on-site security shall be provided within the building or within the complex wherein the building is located; and
- (5) Where a property is vacant, post "No Trespassing" signs on the property; and
- (6) Maintain the property in accordance with this chapter, free of overgrowth, trash and debris, and pools of stagnant water, and ensure that structures are maintained in a structurally sound condition; and
- (7) If the property is vacant, drain all water from the plumbing and turn off all electricity between September 15 and June 15 of each calendar year to guard against burst pipes and fires; and
- (8) Maintain the property in accordance with the Massachusetts State Sanitary Code, the Massachusetts State Building Code and all specialized codes incorporated therein, and in accordance with the Lawrence Municipal Code; and
- (9) Provide the Fire Chief and Commissioner with the name, local address, and telephone number of a responsible person who can be contacted in case of emergency. The owner shall cause the name and contact number to be marked on the front of the property as may be required by the Fire Chief or Commissioner; and
- (10) Maintain liability insurance on the property and furnish the Commissioner and Fire Chief with a copy of said certificate of insurance; and
- (11) Provide a cash bond acceptable to the Commissioner, in the sum of not less than \$10,000, to secure the continued maintenance of the property throughout its vacancy and remunerate the City for any expenses incurred in inspecting, securing, marking or making such building safe. A portion of said bond shall be retained by the City as an administrative fee to fund an account for expenses incurred in inspecting, securing, and marking said building and other such buildings that are not in compliance with this chapter. Any owner of a vacant or foreclosing property providing a bond

pursuant to this section must also provide bonds for all other vacant or foreclosing properties it owns in the City; and

(12) Once the property is no longer vacant, or is sold, the owner must provide proof of sale or written notice of occupancy to the Commissioner of the Inspectional Services Department.

- B. Upon satisfactory compliance with the above provisions, the Commissioner shall issue a certificate of compliance with Chapter 8.28. Said certificate shall be valid for one year, or remaining portion of the calendar year, in which the certificate was initially required; provided, however, the certificate shall be subject to continued compliance with the provisions of this article. An annual registration fee of one-hundred dollars and no cents (\$100.00) must accompany the registration form. Subsequent registrations and fees are due January 1<sup>st</sup> of each year and must certify whether the foreclosing and/or foreclosed property remains vacant or not.

#### **Section 8.28.040** *Maintenance Requirements*

- A. Properties subject to this section must be maintained in accordance with all the applicable sanitary codes, building codes, and local regulations. No owner of a vacant or foreclosing property shall allow said property to become or remain unsecured, or to contain an accumulation of rubbish, or to contain overgrowth, or to have a stagnant pool of water. 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.
- B. 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
- C. If it appears that any vacant or foreclosing property is unsecured, contains rubbish, overgrowth, or a stagnant pool of water, the Commissioner shall send written notification to the owner, requiring that the owner promptly secure the property, remove the rubbish or overgrowth, or abate the stagnant pool of water.
- D. If the owner fails to comply with any notice issued pursuant to this provision, the Commissioner may immediately seek to obtain the proceeds secured by the bond filed pursuant to Section 8.28.030 herein and shall enter upon the premises and cause the property to be inspected, and further may seek court orders to enter upon the premises to secure, clean, and remove any pools of stagnant water.
- E. 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.
- F. Failure to initially register with the Commissioner and Fire Chief is punishable by a fine of three hundred dollars and no cents (\$300.00) pursuant to M.G.L. c. 40 Section 21D, with each day of violation constituting a spate offense.

- G. 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 pursuant to M.G.L. c. 40 Section 21D, with each day of violation constituting a spate offense.
- H. Failure to maintain the property is punishable by a fine of three hundred dollars and no cents (\$300.00) for each month the property is not maintained.
- I. This Chapter may also be enforced by civil, criminal, or non-criminal process, including injunctive relief. The Commissioner or Fire Chief may be enforcing persons for purposes of this section.
- J. Violations of this chapter shall be treated as a strict liability offense regardless of intent.
- K. Any person aggrieved by the requirements of this section or by a decision issued under this section by the Inspectional Service Department, may seek relief in any court of competent jurisdiction as provided by the laws of the Commonwealth.
- L. If any provision of this chapter 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.
- M. The Commissioner of Inspectional Services Department has the authority to promulgate rules and regulations necessary to implement and enforce this section, in accordance with Section 10.4 of the Lawrence City Charter.
- N. 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.
- O. Violations of Chapter 8.28 may be enforced in the manner provided by M.G.L. chapter 40, Section 21D.
- P. All Inspectional Services personnel, commissioners, assistant commissioners, enforcement prosecutors, and inspectors shall be deemed to be enforcing persons for this chapter.

**Section 8.28.050 Signs and markings.**

When required pursuant to this article, signs or markings shall be applied on the front of the property, and elsewhere as the Fire Chief or Commissioner may require, at or above the second floor level, and shall not be placed over doors, windows or other openings. All signs/markings shall be visible from the street and, when requested by the Fire Commissioner or Commissioner, shall be placed on the sides and rear of the property. Signs/Markings shall be a minimum of 24 inches by 24 inches, with lines of two-inch width, and shall have a reflective background, or be painted with reflective paint in contrasting colors. Signs/Markings shall be applied directly on the surface of the property and shall state the date of posting and the most recent date of inspection by the Fire Chief and Commissioner.

**Section 8.28.060 Properties without certificate of compliance.**

The Commissioner, upon being informed of the existence of a vacant or foreclosing property without a certificate of compliance with Chapter 8.28, shall cause notice to issue to the owner of the status of said property and shall order said person to immediately obtain a certificate of compliance with Chapter 8.28. If any person fails to comply with said order, the Commissioner and agents thereof may enter the premises to

inspect, and further may seek court orders to enter upon the premises to secure, clean, and remove any pools of stagnant water.

**Section 8.28.070 Expenses.**

The owner of a vacant or foreclosing property who fails to obtain a certificate of compliance as required herein, shall be liable to the City for expenses incurred by the City in securing such property, for removing rubbish and overgrowth and/or for abating stagnant pools of water. The Commissioner shall provide the owner with a written statement of all costs associated with inspecting, securing, and marking the property, and removing rubbish or overgrowth, or abating stagnant pools of water. If the owner fails to pay or reimburse the City within seven days of notice of expenses, the City shall draw down upon the bond paid by the owner as required in Section 8.28.030. If there is no bond available, the Commissioner shall record the notice of claim in the Essex County, North District, Registry of Deeds (or the Land Court Department) forthwith, and shall have the right to file a civil action in the Northeast Housing Court to establish a lien on the property for the balance due.

**Section 8.28.080 Nuisance referral.**

All unsecured, vacant, or foreclosing properties shall be immediately referred to the Commissioner for a determination relative to whether the property is a nuisance or dangerous pursuant to MGL c. 139 and procedures promulgated thereunder.

**Section 8.28.090 Notice.**

Notices required pursuant to this article shall be served in the following manner:

- A. Personally on any owner as defined in this chapter or on the contact person specified pursuant to Section 8.28.030; or
- B. Left at the last and usual place of abode of any owner, or contact person as specified pursuant to Section 8.28.030, if such place of abode is known and is within or without the commonwealth; or
- C. By certified or registered mail, return receipt requested, to any owner, or the contact person specified pursuant to Section 8.28.030.

Attest: William J. Maloney, City Clerk

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