

CITY OF METHUEN

AN ORDINANCE
REGULATING THE MAINTENANCE OF
ABANDONED, FORECLOSING RESIDENTIAL
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 institution 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. Bank 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, 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, un-shoveled 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,

Be in ordained by the City Council of Methuen, as follows that the City of Methuen Code be amended by adding the following ordinance:

Regulating the Maintenance of Abandoned and Foreclosing Residential Properties.

- a) *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 Service Department has enforcement authority pursuant to, *inter alia*, M.G.L. c. 143, s. 3, the State Building Code, and the Zoning Code of the City of Methuen.

- b) *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.

City means City of Methuen.

Commissioner means Commissioner of the Inspectional Services Department.

Days mean consecutive calendar days.

“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 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 (iii) commencing a foreclosure action on a residential property in either the Land Court or Suffolk 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, 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, or portion thereof, located in the City of Methuen, including building or structures situated on the property.

Residential Property means that assist in making the property inaccessible to unauthorized persons.

Vacant means a structure or building not legally occupied.

- c) *Registration of Abandoned and/or Foreclosing Residential Properties*
Duty to Provide Written Notice of Abandoned Property and/or Mortgage Foreclosure.
All owners must register abandoned and/or foreclosing residential properties with the Commissioner of the Inspectional Services Department on forms provided by the Commissioner. All registration 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, s. 57D, 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 subsection (b).

All property registrations are valid for one year. An annual registration fee of one hundred dollars and no cents (\$100.00) 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 Commissioner of the Inspectional Services Department.

d) *Maintenance Requirements*

Properties subject to this section must be maintained in accordance with all applicable Sanitary Codes, Building Codes, and local regulation. 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.

e) *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.

f) *Enforcement and Penalties.*

Failure to initially register with the Commissioner is punishable by a fine of three hundred dollars and no cents (\$300.00).

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.

g) *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 in any court of competent jurisdiction as provided by the laws of the Commonwealth.

h) *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.

- i) *Regulatory Authority.* The Commissioner of the Inspectional Services Department has the authority to promulgate rules and regulations necessary to implement and enforce this section.
- j) *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.
- k) *Implementation.* The provisions of this section are effective immediately upon passage and all provisions shall be enforced immediately but no monetary fine shall be imposed pursuant hereto until ninety (90) days after passage.
- l) *Notice.* A copy of this ordinance is to be mailed to all loan institutions, banks, real estate offices, and management companies located in and/or having legal or equitable interest in residential property located in the City of Methuen.