

**TOWNSHIP OF MACOMB
MACOMB COUNTY, MICHIGAN**

ORDINANCE NO. 245

**ABANDONED OR FORECLOSED PROPERTY
REGISTRATION AND MAINTENANCE ORDINANCE**

AN ORDINANCE to insure the health, safety and welfare of the residents of the Township of Macomb, by preventing blight, protecting property values and neighborhood integrity, avoiding the creation and maintenance of nuisances and insuring safe and sanitary maintenance of structures, and repealing all ordinances and/or resolutions in conflict therewith.

**THE TOWNSHIP BOARD OF THE TOWNSHIP OF MACOMB, COUNTY
OF MACOMB, MICHIGAN, ORDAINS:**

SECTION 1. SHORT TITLE.

This Ordinance shall be known and cited as the Township of Macomb Abandoned or Foreclosed Property Registration and Maintenance Ordinance.

SECTION 2. PURPOSE.

Due in large part to current economic conditions, mortgage fraud, foreclosures and increased bankruptcies, many properties have become vacant and unsupervised. There is an increased instance of unsecured or open windows and doors, broken water pipes, theft of metals and other materials, overgrowth of grass, weeds, shrubs and bushes, illegal dumping and vermin activity at such abandoned and/or foreclosed structures. In many cases, the interiors of structures have been intentionally or

negligently damaged by the former occupants or trespassers. Unsupervised vacant properties have a negative impact on surrounding properties and neighborhoods. Owners of such structures should be held accountable for the physical condition of the structures. The blighting influence of abandoned structures adversely affects the tax revenues of the local municipality. Vacant, abandoned structures that are not maintained constitute a hazard to the public health, safety and welfare.

This Ordinance establishes responsibilities of owners of the abandoned, vacant and/or foreclosed structures and provides for administration and enforcement of standards related to such structures. This Ordinance incorporates the International Property Maintenance Code and all applicable Michigan building and fire codes. This Ordinance shall apply to all foreclosed upon and/or abandoned structures within the Township.

SECTION 3. ENABLING AUTHORITY

This Ordinance is adopted in accordance with and pursuant to the provisions of Act 246 of the Public Acts of 1945, as amended and Act No. 344 of the Public Acts of 1945, as amended, and the International Property Maintenance Code, 2006 Edition.

SECTION 4. DEFINITIONS.

For the purposes of this Ordinance, the following words and phrases are defined as follows:

Abandoned vacant property means vacant property as defined in this Ordinance that has been vacant for thirty (30) days or more and meets any of the following criteria:

- a Provides a location for loitering, vagrancy, unauthorized entry or other criminal activity;

- b. Has one or more broken windows, or two or more windows boarded up, for more than 30 days;
- c. Has utilities disconnected or not in use;
- d. Is not maintained in compliance with Township Codes and Ordinances, including without limitation, Michigan Residential and Building Codes, International Property Maintenance Code and the Fire Prevention Code.
- e. Has taxes in arrears for a period of time exceeding 365 days;
- f. Is only partially completed, is not fit for human occupancy and there are no active building permits on the property that will result in restoration of the premises to a safe and habitable condition.

Borrower means a borrower under a mortgage, who grants a lien or interest in property to a trustee as security for the payment of a debt.

Building means a structure with a roof supported by columns or walls to serve as a shelter or enclosure.

Evidence of vacancy means any condition that on its own or combined with other conditions present would lead a reasonable person to believe the property is vacant. Such conditions include, but are not limited to, overgrown and/or dead vegetation, accumulation of newspapers, circulars, flyer and/or mail, past due utility notices and/or disconnected utilities, accumulation of trash, junk and/or debris, broken or boarded up windows, abandoned vehicles, auto parts or materials, the absence of window coverings, such as curtains, blinds and/or shutters, the absence of furnishings and/or personal items consistent with habitation or occupation, statements by neighbors, passersby, delivery agents, or government employees that the property is vacant.

Foreclosure means the process by which a mortgage is enforced against a parcel of real property through sale or offering for sale to satisfy the debt of the borrower.

Lender means a person, firm, or corporation holding a mortgage on a property.

Mortgage means a recorded lien or interest in real property to secure payment of a loan.

Owner means an individual, co-partnership, association, corporation, company, fiduciary, or other person or legal entity having a legal or equitable title or any interest in any real property.

Possessory Lender means a person, firm, or corporation that has foreclosed a

mortgage on a property but may not have legal or equitable title.

Safety and Maintenance Inspection means a visual inspection to check the minimum requirements as set forth in the International Property Maintenance Code, 2006 or its successor Code, for sanitary maintenance, life safety, other obvious hazards and code violations. Such inspections will be done in accordance with a checklist maintained by the Township Building Department, which check list shall be approved by the Township Board of Trustees.

Structure means anything constructed or erected the use of which requires location on or attachment to the ground and includes buildings.

Vacant property means an unimproved lot or parcel of real property that is not currently used or occupied and an improved lot or parcel of real property with at least one building or structure that is not currently used or occupied.

SECTION 5. REGISTRATION OF FORECLOSED OR ABANDONED VACANT PROPERTY.

(a) An owner of abandoned vacant or foreclosed vacant property in the Township shall be responsible for registering that property with the Building Department by complying with the affidavit and registration and inspection fee requirements in this Ordinance. In the event the owner shall fail or refuse to register the property, the lender or possessory lender shall be responsible for compliance with this provision.

(b) Abandoned vacant or foreclosed vacant property shall be registered within 30 days of the vacancy or 10 days of the inspection described in Section 9.

SECTION 6. REGISTRATION AFFIDAVIT.

Owners, lenders and/or possessory lenders who are required to register property pursuant to this Ordinance shall do so by submitting a copy of a driver's license and an affidavit containing the information specified in this Section. The affidavit may be provided by an agent provided the agent's written authorization from the owner, lender, or possessory lender is submitted with the affidavit.

(a) The name of the owner of the property.

- (b) A mailing address where mail may be sent that will be acknowledged as received by the owner. If certified mail/return receipt requested is sent to the address and the mail is returned marked “refused” or “unclaimed” or if ordinary mail sent to the address is returned for whatever reason, then such occurrence shall be prima facie proof that the owner has failed to comply with this requirement.
- (c) The name of an individual or legal entity responsible for the care and control of the property. Such individual may be the owner, if the owner is an individual, or may be someone other than the owner with whom he/she has contracted.
- (d) A current address, telephone number, facsimile number and email address where communications may be sent that will be acknowledged as received by the individual responsible for the care and control of the property. If certified mail return receipt requested is sent to the address and the mail is returned marked refused or unclaimed, or if ordinary mail sent to the address is returned for whatever reason, then such occurrence shall be prima facie proof that the owner has failed to comply with this requirement.

SECTION 7. REGISTRATION, INSPECTION AND OTHER FEES.

All fees applicable to this Ordinance shall be set by resolution of the Township Board. Registration and inspection fees shall be paid at the time of submitting the registration affidavit. There shall also be a fee for the filing of any additional or new owner’s affidavit, with such fee being set by resolution of the Township Board. For properties that are not registered within the required time, an additional fee for the added cost of the Township’s expenses in having to determine ownership, which may include, but is not limited to, title searches, shall be assessed and immediately payable. All unpaid fees shall be charged against the real property upon which the structure is located and shall be a lien upon such property in accordance with Section 106.3 of the 2006 International Property Maintenance Code, or any successor code.

SECTION 8. REQUIREMENT TO KEEP INFORMATION CURRENT.

If at any time the information contained in the affidavit is no longer valid, the property owner, lender or possessory lender has ten (10) days to file a new affidavit containing current information. There shall be no fee to update a registered owner's current information.

SECTION 9. SAFETY AND MAINTENANCE INSPECTIONS.

(a) If the foreclosed upon vacant or abandoned vacant property includes vacant or unoccupied buildings, the owner of that property is responsible for immediately obtaining and paying for the Township's "Safety and Maintenance Inspection" (as defined herein) of the building and property, obtaining necessary permits, making required repairs and obtaining inspections from the Township annually thereafter until the building is lawfully occupied, to ensure the buildings are safe, secured and well maintained. The owner shall demonstrate that all water, sewer, electrical, gas, HVAC and plumbing systems, exterior finishes and walls, concrete surfaces, accessory buildings and structures, swimming pools and spas, roofing, structural systems, foundation, drainage systems, gutters, doors, windows, driveways, sidewalks are sound, operational or properly disconnected.

(b) If, at the time of the Safety and Maintenance Inspection, the inspector deems that the electrical, plumbing or mechanical systems pose health or safety hazards and require additional inspection by the registered code official in that discipline, the owner shall be responsible to obtain and pay for that required inspection.

(c) If an owner fails or refuses to complete the inspections required by subsection (a) of this Section, the possessory lender shall be obligated to complete the inspection upon foreclosure of the property. Additionally, any lender who holds a mortgage on a property located within the Township shall obtain and pay for the inspection pursuant to subsection (a) of this Section to the extent permitted by law or under the mortgage, of the property that is the security for the mortgage, upon default by the borrower, within five (5) days after either the filing of a complaint for foreclosure (if foreclosure is by judicial action) or publishing a notice of foreclosure (if foreclosure is by advertisement).

SECTION 10. MAINTENANCE AND SECURITY REQUIREMENTS.

All owners, possessory lenders, and lenders (to the extent permitted by law or the terms of a mortgage), are responsible for compliance with the requirements of this Section which apply to all vacant property from the time of vacancy, including the time between vacancy and when registration is required.

(a) Property shall be kept free from weeds, grass, dry brush and dead vegetation in accordance with the Township of Macomb Blight Ordinance, as well as trash, junk, debris, building materials, any accumulation of newspapers, circulars, flyers, notices, except those required by federal, state or local law, discarded items, including, but not limited to, furniture, clothing, large and small appliances, printed material, signage, containers, equipment, construction materials or any other items that give the appearance that the property is abandoned.

(b) Property shall be maintained free of graffiti, tagging or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior of the structure.

(c) All visible front and side yards shall be landscaped and properly maintained. Landscaping includes, but is not limited to, grass, ground covers, bushes, trees, shrubs, hedges or similar plantings. Maintenance includes, but is not limited to, regular watering, irrigation, cutting, pruning and mowing of required landscaping and removal of all trimming.

(d) Pools, spas and other water features shall be kept drained and kept dry and free of debris. In either case, properties with pools and/or spas must comply with the minimum security fencing and barrier requirements of applicable construction, building and property maintenance codes and ordinances.

(e) Property shall be maintained in a secure manner so as not to be accessible to unauthorized persons. Secure manner includes, but is not limited to, the closure and locking of windows, doors, gates, and any other opening of such size that may allow a child to access the interior of the property and/or structures. Broken windows must be repaired or replaced within thirty (30) days. Boarding up of open or broken windows is prohibited except as a temporary measure.

(f) Owners shall inspect or cause the inspection of vacant property on a regular basis to verify compliance with this Section and other applicable laws.

SECTION 11. FIRE DAMAGED PROPERTY.

If a building is fire damaged, the owner or possessory lender has ninety (90) days from the date of the fire to apply for a permit to start construction or demolition. Additional ninety (90) day extensions may be granted by the Township provided the owner or possessory lender can demonstrate substantial progress towards completing repairs. Failure to do so will result in the property being deemed vacant and/or abandoned and subject to the requirements of this Ordinance.

SECTION 12. RIGHT OF ENTRY.

If the owner, lender or possessory lender has failed to secure the property, the Township may seek an administrative search warrant in order to permit entry upon the property to secure the property. This will necessarily include the authority to conduct inspections to insure the absence of emergency or hazardous health and safety conditions within the structure. All administrative expenses associated with the issuance of the search warrant shall be recoverable and assessed against any owner, lender or possessory lender of the property jointly and severally.

SECTION 13. RE-OCCUPANCY AND/OR SALE OF PROPERTY.

A vacant building or structure on abandoned or foreclosed property shall not be occupied and/or sold until all violations have been corrected in accordance with the violation or correction notices issued and a certificate of re-occupancy has been issued by the Township Building Official. All mechanical, electrical, plumbing and structural systems shall be certified by a licensed contractor as being in good repair, the provisions of the 2006 International Property Maintenance Code, or its successor,

complied with and all blight removed.

SECTION 14. APPEALS.

Any person aggrieved by any of the requirements of this Ordinance may appeal to the Building Board of Appeals, provided that a written application for appeal is filed with the Township Clerk within 20 days after the day of the decision, notice, or order was served. (a) An application for appeal shall be based on a claim that the true intent of this Ordinance has been incorrectly interpreted; the provisions of this Ordinance do not fully apply; the requirements of this Ordinance are satisfied by other means, or the strict application of any requirement of this Ordinance would cause an undue hardship.

- (b) The Board shall meet upon notice from the Township Clerk within 20 days of the filing of an appeal, or at stated periodic meetings.
- (c) All hearings before the Board shall be open to the public. The appellant, the appellant's representative, the code official and any person whose interests are affected shall be given an opportunity to be heard. A quorum shall consist of not less than two-thirds of the Board membership.
- (d) When the full Board is not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request an adjournment of the hearing.
- (e) The Board shall modify or reverse the decision of the code official only by a concurring vote of a majority of the total number of appointed Board members.
- (f) The decision of the Board shall be recorded. Copies shall be furnished to the appellant and to the code official.

SECTION 15. PENALTY.

Any person who violates the provisions of this Ordinance shall upon conviction thereof, be guilty of a misdemeanor and subject to a penalty not to exceed \$500.00 or imprisonment in the county jail for a period not to exceed ninety (90) days, or both such fines and imprisonment.

SECTION 16. REPEALING OF CONFLICTING PROVISIONS.

All resolutions, ordinances or parts thereof in conflict with the provisions of this Ordinance are to the extent of such conflict hereby repealed.

SECTION 17. SEVERABILITY.

If any section, paragraph, clause or provision of this Ordinance is for any reason held to be invalid or unconstitutional, the invalidity or unconstitutionality of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

SECTION 18. PUBLICATION.

A true copy of this Ordinance or a summary thereof shall be published twice in a newspaper of general circulation in the Township of Macomb.

SECTION 19. EFFECTIVE DATE.

This Ordinance shall take effect thirty (30) days after the publication of a true copy or summary thereof as provided in Section 17.