



CITY OF MALDEN
Permits, Inspections and Planning
110 Pleasant Street
Malden, MA 02148
781.397.7000 ext. 2024 (P)
Nelson L. Miller Jr. CBO, Building Commissioner

SECTION 3.36

REGULATION/REGISTRATION OF VACANT PROPERTIES

.1 DEFINITIONS

For purposes of this ordinance, a vacant or foreclosing property is:

- .1 A commercial building in which no person or entity conducts a lawful business;
- .2 A residential building in which no person lawfully resides as owner or tenant;
- .3 A mixed use building in which either no person lawfully resides as owner or tenant or in which no person or entity conducts a lawful business;
- .4 A commercial, residential or mixed use building, regardless of occupancy, in which more than half of the total exterior windows are broken, boarded or without a functioning locking mechanism;
- .5 A property on which foreclosure proceedings have begun, either by
 - .1 Taking possession of the property under MGL Chapter 244, Section 1;
 - .2 Delivering the mortgagee's notice of intention to foreclose to the borrower pursuant to MGL Chapter 244 Section 17B.
 - .3 Commencing a foreclosure action on a property in any court of competent jurisdiction;

An owner is defined as the person or entity, alone or severally with others, holding legal or equitable title to property.

.2 REGISTRATION REQUIRED

The owner of any vacant or foreclosing property shall, within thirty days of the initiation of foreclosure procedures or the property becoming vacant or conforming to the definitions above, register the property with the Department of Permits, Inspections, and Planning.

Registration shall be made on a form provided by the Department of Permits, Inspections, and Planning and shall include:

- The street address of the building;
- The name, address, telephone number, and e-mail address, if available, of each owner of the building;
- The name and address of a local agent to accept service of process if none of the registered owners reside within the Commonwealth;
- The name and address (not a post office box) and telephone number of a local property management company responsible for the security and maintenance of the property for notification in the event of an emergency affecting public health or safety.

Upon registration of a property, the Director of Permits, Inspections, and Planning shall require the owner to affix at the property, in a location determined by the Director of Permits, Inspections, and Planning or his designee, a notice containing the name, address and 24-hour contact phone number of the person responsible for maintenance of the property. Said notice shall remain affixed to the property for such time as the property remains vacant.

Subsequent to the initial registration, it shall be the duty of the owner or agent in charge to notify the Department of Permits, Inspections, and Planning of any change in the status of the building or the information provided within 30 days of the occurrence of said change.

Registration shall be accompanied by fees as set forth in Section 3.36.3.

.3 REGISTRATION FEES

At the time of initial registration and annually, on or before the date of initial registration, the owners of a vacant building shall pay to the Department of Permits, Inspections, and Planning a registration fee to cover the administrative cost of monitoring the property in accordance with the following fee schedule:

\$ 500.00 for initial registration.

\$1,000.00 for properties vacant for one year after initial registration.

\$2,000.00 for properties vacant for two years after initial registration.

\$3,000.00 for properties vacant for three years after initial registration, and every year thereafter.

Registration fees collected pursuant to this section shall be deposited to the extent approved annually in a revolving fund to be used at the discretion of the Director of Permits, Inspections, and Planning, subject to approval of the Mayor, for the purpose of maintaining properties in accordance with the minimum standards established in .5 below.

Violation of the provisions of this ordinance may be enforced by the Director of Permits, Inspections, and Planning and his/her designees in the manner provided in Massachusetts General Laws, Chapter 40, Section 21D by imposition of a fine of \$300.00 for every thirty day period during which a violations exists

.4 APPEAL AND WAIVER OF FEES

The Director of Permits, Inspections, and Planning may grant a waiver of registration fees upon application of an owner and upon review and advice of the City Solicitor. Application for waiver shall be made within 30 days of the date on which the registration fee is due and shall be granted only if all other fees, taxes, and charges due to the city are paid and the owner:

.1 demonstrates that the building is scheduled for demolition or rehabilitation; or

.2 provides satisfactory proof that the property was actively marketed for lease or sale during the period of vacancy.

Satisfactory proof that a property is actively marketed shall include, at a minimum, a listing with a licensed real estate broker or with a multiple listing service. Waivers shall be granted for a period of time specified by the Director of Permits, Inspections, and Planning but in no event shall a waiver be granted for more than six months, nor shall a waiver be renewed or extended beyond a one year period.

.5 MINIMUM STANDARDS FOR MAINTENANCE OF VACANT PROPERTIES

Registration requirements contained herein shall be in addition to all other duties and obligations imposed upon the owner of a building by law, ordinance or regulation and compliance with these requirements shall not relieve the owner of liability for failure to comply with any other applicable laws, ordinances or regulations All property on the vacant and foreclosure property registry must be maintained in accordance with state and local ordinance and regulations and with the following standards:

.1 structures shall be secured so as to reasonably prevent unauthorized entry;

.2 structures shall be maintained in conformance with the state building code, the state sanitary code, and local regulations;

.3 pools shall be drained or covered and fenced with a securely locked gate;

.4 the exterior of the property shall be cleared of hazardous materials, including but not limited to propane tanks, chemicals, tires, oil and gasoline;

.5 the exterior of the property shall be cleared of debris, trash, and pools of stagnant water. For purposes of this section, debris shall include items exposed to the elements that are not intended for exterior use and items intended for exterior use that have been allowed to deteriorate to such an extent that they are no longer usable;

.6 Vegetation must be contained and extermination performed to prevent infestation by rodents, wasps, hornets or fleas;

.7 Water shall be drained from the system and water service terminated;

.8 Gas and electricity shall be terminated, unless otherwise determined by the Director of Permits, Inspections, and Planning.

.9 Snow and ice shall be removed from sidewalks and walkways in compliance with Section 11.35 of city ordinance;

.10 "No Trespassing" signs, visible from any point of entry, shall be posted at the property boundary and on entrances to all structures on the property;

.11 The owner shall maintain liability insurance in the amount of \$500,000.

.6 INSPECTION/MAINTENANCE OF VACANT PROPERTIES; ABATEMENT OF VIOLATIONS AT EXPENSE OF OWNER

The Director of Permits, Inspections, and Planning or his/her designee shall cause all vacant properties to be inspected semi-annually and shall make note of any condition that violates local, state or federal regulation, or materially impairs the health safety or well-being of an occupant or the public.

A notice of violations and an Order to Correct shall be issued by the Director of Permits, Inspections, and Planning or his/her designee to the owner or agent provided upon registration of any property found in violation of the requirements set forth above. An Order to Correct shall list specific violations, shall set forth a time frame for correction of violations and re-inspection, and shall provide notice of fines to be assessed for failure to comply. An Order to Correct shall also provide the date, time and location of a hearing to be conducted by the Municipal Hearings Officer in the event that the record owner fails to correct violations within the time allowed.

For properties contained on the Vacant Property Registry, notice of violation and Order to Correct shall be sent via first class and registered/certified mail return receipt requested to the address provided upon registration.

For all other properties, notice shall be made by first class and registered/ certified mail return receipt requested to the record owner, as established by records of the Assessor of Taxes and by posting a copy in a conspicuous place on the property.

If, after a hearing, the Municipal Hearings Officer determines that the condition cited constitutes a violation of this ordinance and has not been corrected in accordance with the Order to Correct, the Director of Permits, Inspections, and Planning or his/her designee may, from funds allocated specifically therefor, abate such conditions. The Municipal Hearing Officer shall determine the fines to be assessed.

The cost of abatement, together with any fines assessed, shall be paid by the record owner within 30 days of said abatement. Failure to pay any charges assessed shall result in a Municipal Charges Lien imposed against the property in the manner provided by ordinance and by MGL Chapter 40, Section 58.

.7 VIOLATION AND ENFORCEMENT

The Treasurer shall impose a Municipal Charges Lien for all registration fees remaining unpaid for a period of 30 days after the due date in accordance with the provisions of Section 1.14 of these ordinances and Massachusetts General Laws Chapter 40, Section 58.

Violation of the provisions of this ordinance, except as provided in .3 above, may be enforced by the Director of Permits, Inspections, and Planning and his designees in the manner provided in Massachusetts General Laws, Chapter 40, Section 21D by imposition of a fine of \$300.00 for every period equal to the time imposed in an Order to Correct during which the violation continues to exist.

Submitted December 9, 2018

Nelson L. Miller, Jr. CBO
Building Commissioner / Zoning Officer
Director – Permits, Inspections, and Planning Services Department