


Christine McCall
Assistant City Manager/DPD Director

Yovani Baez-Rose
Deputy Director

MEMORANDUM

TO: Thomas A. Golden, Jr., City Manager 

FROM: Christine McCall, Assistant City Manager/DPD Director

SUBJECT: MOTION RESPONSE: June 14, 2022 – C. Scott – Req. City Manager Provide A Recommendation From the Appropriate Department On Implementing A Vacancy Tax On Both Residential and Commercial Properties

In 2008, the Lowell Council adopted a Vacant and Foreclosing Property ordinance that requires all residential, commercial, and industrial property owners, including lenders, trustees, and services companies, to properly maintain vacant and/or foreclosing properties and ultimately, to prevent blighted and unsecured properties. The registration fee for vacant and foreclosing properties is an annual fee of \$1,000.

The DPD has been coordinating with other cities and towns to find effective ways to implement and enforce on vacant/foreclosing ordinances. There is a heavy administrative burden to proactively survey the community and send out registration notices on an annual basis. We are coordinating with inspectors, as part of their ongoing enforcement and permitting actions, to include this registration requirement for vacant/foreclosing properties, where appropriate.

CMM
ATTACHMENTS



City of Lowell

Division of Development Services

375 Merrimack Street, Room 55

Lowell, MA 01852

P: 978.674.4144

F: 978.446.7103

Vacant & Foreclosing Property Registration

Fee: \$1,000

Type of Registration: New

Renewal

Update Existing

Vacant: Yes No

Property Address: _____ Unit No: _____

Type of Property: Residential

Commercial

Industrial

Owner or Institution in Possession: _____

Contact Name: _____

Address (No P.O. Box): _____

Phone No: (____) _____ Email: _____

Date Vacated: ___/___/___ Date Order of Notice Recorded: ___/___/___

City of Lowell Customer Identification No (if known): _____

Name: _____

Company: _____

Address (No P.O. Box): _____

City: _____ State: _____ Zip Code: _____

Phone No: (____) _____ Email: _____

Office Use
Only

Application #

PM CID#

Permit #

In accordance with the City of Lowell's Code of Ordinances, I acknowledge and certify as Owner or Owner's Agent that the:

- Information provided above is accurate;
- Property has been inspected at the time of filing this Registration for compliance with the City's minimum maintenance requirements and that inspections will be conducted monthly for continued compliance;
- Property is secured from entry, if vacant; and
- City will issue fines for failure to comply with the City's Code of Ordinances.

Signature _____

Date _____

Print Name _____

ARTICLE II
Vacant and Foreclosing Property
[Adopted 7-8-2008 (§§ 5-121 to 5-131 of the 1988 Code)]

§ 227-7. Purpose.

- A. It is the intent of this article to protect and preserve public safety, security, and quiet enjoyment of occupants, abutters, and neighborhoods by:
- (1) Requiring all residential, commercial, and industrial property owners, including lenders, trustees, and service companies, to properly maintain vacant and/or foreclosing properties; and
 - (2) Regulating the maintenance of vacant and/or foreclosing residential, commercial, and industrial properties to prevent blighted and unsecured properties.
- B. The Building Commissioner, pursuant to MGL c. 143, § 3, the State Building Code, and the City of Lowell Zoning Ordinance, is hereby designated as the enforcement authority.

§ 227-8. Definitions.

When used in this article, unless a contrary intention clearly appears, the following terms shall have the following meanings:

CITY — City of Lowell.

COMMISSIONER — Building Commissioner.

DAYS — Consecutive calendar days.

FORECLOSING — 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 — Taking any of the following actions:**[Amended 10-9-2012]**

- A. Taking possession of a residential, commercial, or industrial property pursuant to MGL c. 244, § 1;
- B. Commencing a foreclosure action on a property in either the Land Court or Middlesex Superior Court.

LENDER — Any lender, servicer, mortgagee, foreclosing entity, or creditor, including but not limited to service companies, lenders in a mortgage agreement and any agent, servant, or employee of the mortgagee, or any successor in interest and/or assignee of the mortgagee's rights, interests, or obligations under the mortgage agreement.**[Amended 10-9-2012]**

LOCAL — Within 20 driving miles of the property in question.

OWNER — Every person, entity, service company, property manager or real estate

broker who alone or severally with others has legal or equitable title to any property or has care, charge or control of any property 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 is a mortgagee in possession of any such property; or is an agent, trustee or other person appointed by the courts and vested with possession or control of any such property; or 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/she were the owner. However, this article shall not apply to a condominium association created pursuant to MGL c. 183A to the extent that such association forecloses on or initiates the foreclosure process for unpaid assessments due or owing to the association. "Owner" also means every person who operates a rooming house or is a trustee who holds, owns or controls mortgage loans for mortgage-backed securities transactions and has initiated the foreclosure process.

PROPERTY — Any real residential, commercial, or industrial property, or portion thereof, located in the City of Lowell, including buildings or structures situated on the property. For purposes of this article, "property" does not include property owned or subject to the control of the City or any of its governmental bodies.

SECURING — Measures that assist in making the property inaccessible to unauthorized persons.

VACANT — Any property not legally occupied in the preceding 90 days and not the subject of an active valid building permit. **[Amended 10-9-2012]**

§ 227-9. Registration of property; notice of foreclosure. [Amended 12-23-2008; 10-9-2012]

- A. In the case of foreclosing or vacancy resulting from foreclosure, the foreclosing lender shall register, and in the case of vacancy not resulting from foreclosure, the owner shall register, residential, commercial, or industrial properties with the Division of Development Services, on forms provided by the Division of Development Services. All registrations must state the owner's or foreclosing lender's phone number and mailing address. The mailing address may not be a post office box. This registration must also certify that the property was inspected by the owner or foreclosing lender or his/her agent and identify whether the property is vacant at the time of filing. If the property is vacant, the owner or foreclosing lender shall provide with the registration a property contact, being either a phone number, staffed 24 hours per day with persons authorized and capable of immediately dispatching local response to inspect, secure, maintain, and/or repair the property, or a phone number for a designated local individual or property management company responsible for securing and maintaining the property. If the property is in the process of foreclosure, then the registration shall be filed within 30 days following the initiation of the foreclosure process as defined in § 227-8 above; if the property is vacant not resulting from foreclosure, then registration shall be filed within 90 days of the last day of legal occupancy unless the property is the subject of an active and valid building permit.
- B. All property registrations are valid for one calendar year starting the date the

registration permit is issued. An annual registration fee as provided in Chapter 150, Fees, shall accompany the registration form. Subsequent annual registrations and fees are due at least 30 days prior to the expiration of the previous registration and must certify whether the property is or remains vacant.

- C. Once the property is no longer vacant, sold to a new owner, or is no longer in foreclosure, the entity that registered the property must notify the Division of Development Services and provide proof that the property is no longer required to be registered.

§ 227-10. Maintenance requirements. [Amended 12-15-2009; 10-9-2012]

- A. Properties subject to this article shall be maintained in accordance with all relevant sanitary codes, building codes, and local ordinances and regulations relative to minimum maintenance, snow removal, health nuisances, and securing properties. The entity that registered the property shall have the property inspected and maintained on a regular basis for the duration of the vacancy.
- B. If the property is vacant, the registering entity shall affix to the building, in a location clearly visible from the public way, the name and twenty-four-hour contact phone number of the individual or property management company responsible for maintenance of the property. The property contact must respond to communications from the City within 24 hours if contacted by phone, or within seven days if contacted by writing, unless otherwise required by local or state laws, regulations or rules.
- C. Adherence to this article does not relieve the owner or foreclosing lender of any applicable obligations set forth in City ordinances or regulations, covenant conditions and restrictions, and/or homeowners' association rules and regulations.

§ 227-11. Inspections.

The Commissioner or designee shall have the authority and the duty to inspect properties subject to this article for compliance and to issue citations for any violations. The Commissioner or designee shall have the discretion to determine when and how such inspections are to be made, provided that such policies are reasonably calculated to ensure that this article is enforced.

§ 227-12. Violations and penalties.

- A. Failure to register with the Commissioner shall be considered a violation of this article and is punishable by a fine of up to \$300. Each week that such violation continues shall be considered a separate offense.
- B. Failure of the identified property contact to respond to City communications within the required time frame shall be considered a violation of this article and is punishable by a fine of up to \$300. Each such violation shall be considered a separate offense. **[Amended 10-9-2012]**

- C. Failure to maintain the property shall be considered a violation of this article and is punishable by a fine of up to \$300. Each week that such violation continues shall be considered a separate offense. Any expenses incurred by the City of Lowell relative to securing or maintaining property shall be recoverable by placing a lien on the property.

§ 227-13. Appeal.

Any person aggrieved by the requirements of this article may seek an administrative appeal by making written application to the City Manager. The City Manager may designate a hearing officer to hear appeals pursuant to this article. Any person aggrieved by a final decision issued under this article by the City Manager may seek relief in any court of competent jurisdiction as provided by the laws of the commonwealth.

§ 227-14. Applicability.

If any provision of this article imposes greater restrictions or obligations than those imposed by any other general law, special law, regulation, rule, ordinance, bylaw, order, or policy then the provisions of this article control.

§ 227-15. Regulatory authority.

The Building Commissioner has the authority to promulgate rules and regulations necessary to implement and enforce this article.

§ 227-16. Implementation.

The provisions of this article are effective immediately upon passage and all provisions shall be enforced immediately, but no monetary fine shall be imposed pursuant hereto until 90 days after passage.