

AN ORDINANCE TO AMEND BYLAW 1.12.030

**Bylaw 1.12.030 amend by adding Chapter 8.17 Vacant and/or Foreclosed Properties
Enforcing Officer – Building Commissioner Fines \$300.00**

8.17 AN ORDINANCE REGULATING THE MAINTENANCE OF VACANT AND/OR FORECLOSING PROPERTIES

8.17.010 Purpose

A. 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 property owners, including lenders, trustees, and service companies, to properly maintain vacant and/or foreclosing properties, (ii) regulating the maintenance of vacant and/or foreclosing properties to prevent blighted and unsecured residences, and (iii) provide for a local individual or entity to contact in case of an emergency situation at the property.

B. The Building Commissioner, or his designee, has enforcement authority pursuant to, inter alia, General Laws, chapter 143, section 3, the State Building Code, and the Zoning Ordinances of the Town of Winthrop.

8.17.020 Definitions

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

A. "Commissioner" means the Building Commissioner.

B. "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.

C. "Initiation of the foreclosure process" means taking any of the following actions: (i) taking possession of a property pursuant to General Laws, chapter 244, section 1; (ii) delivering the mortgagee's notice of intention to foreclose to the borrower pursuant to General Laws, chapter 244, section 17B; or (iii) commencing a foreclosure action on a property in either the Land Court or Superior Court.

D. "Local" means within thirty (30) driving miles distance of the property in question.

E. "Maintained" means maintained in accordance with the relevant Sanitary Codes, Building Codes, and local ordinances and regulations concerning external and/or visible maintenance. The owner, local individual or local property management company must inspect and maintain the property on a weekly basis for the duration of the vacancy. The property must contain a posting with the name and twenty-four (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.

F. "Mortgagee" means the creditor, including but not limited to, service companies, lenders of 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.

G. "Owner" means every person, entity, service company, property manager or real estate broker, 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. However, this ordinance shall not apply to a condominium association created pursuant to General Laws, chapter 183A to the extent that such association forecloses on or initiates the foreclosure process for unpaid assessments due or owing to the association.
6. Any and every person who operates a rooming house; or
7. Is a trustee who holds, owns or controls mortgage loans for mortgage backed securities transactions and has initiated the foreclosure process.

H. "Property" means any real, residential or commercial property, or portion thereof, located in the Town of Winthrop, including buildings or structures situated on the property. For purposes of this section only, property does not include property owned or subject to the control of the Town or any of its governmental bodies.

- I. "Securing" means conforming with the state building code, which requires owners to:
1. Remove all materials determined by the head of the fire department or building official to be dangerous in case of fire.
 2. Secure properties subject to this section to prevent unauthorized entry and exposure to the elements.
 3. Maintain any existing fire alarms or sprinkler systems unless written permission is obtained from the head of the fire department in accordance with General Laws, chapter 148, section 27A to shut off or disconnect said alarms or systems.
 4. Maintain utilities unless written permission is obtained from the building official to disconnect said utilities. Permission to disconnect utilities shall not be granted if it will result in inadequate heat to prevent freezing of an automatic sprinkler system or inadequate utilities to maintain any other protection systems.

L. "Vacant" means any property that has not been legally occupied for sixty (60) days or more, and/or not properly maintained or secured.

8.17.030 Registration of vacant and/or foreclosing properties--Duty to provide written notice of vacant, property and/or mortgage foreclosure.

A. All owners must register vacant and/or foreclosing properties with the Building Commissioner on forms provided by the Commissioner. All registrations must state the individual owner's or agent's phone number and mailing address located within the Commonwealth as required by General Laws chapter 59, section 57D, General Laws chapter 156D, section 5.02, and 950 C.M.R. 113.20. The mailing address must be an actual property address and may not be a P.O. Box.

B. The registration must also certify that the property was inspected by the owner, and identify whether the property is vacant at the time of filing. If the property is vacant, the owner and/or registrant must designate and retain 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 must be an actual property and may not be a P.O.

Box. If the property is in the process of foreclosure, then the registration must be received within seven (7) days of the initiation of the foreclosure process as defined in subsection (b).

C. If the commissioner determines that the property is vacant and that foreclosure proceedings have not been initiated, the registration must be received within fourteen (14) days of the commissioner's first citation for improper maintenance.

D. All property registrations are valid for one (1) calendar year. An annual registration fee of one-hundred dollars (\$100) must accompany the registration form. Subsequent annual registrations and fees are due within thirty (30) days of the expiration of the previous registration and must certify whether the foreclosing and/or foreclosed property remains vacant or not.

E. Once the property is no longer vacant or is sold, the owner must provide proof of sale or written notice and proof of occupancy to the Building Commissioner. Such notice must contain the name and legal address for service of the new owner(s) or the new occupant(s).

8.17.040 Maintenance requirements

A. Properties subject to this section must be maintained in accordance with the relevant Sanitary Codes, Building Codes, and local ordinances and regulations concerning external and/or visible maintenance. The owner, local individual or local property management company must inspect and maintain the property on a weekly basis for the duration of the vacancy.

B. The property must contain a posting with the name and twenty-four (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. Such posting must be constructed of durable, weather resistant material, provided by the Building Commissioner and affixed to the building in a secure manner designed to withstand normal weather conditions.

C. Adherence to this section does not relieve the owner of any applicable obligations set forth in code regulations, covenant conditions and restrictions and/or home owners association rules and regulations.

8.17.050 Inspections

Upon registration, the Building Commissioner and the Fire Chief shall inspect the subject property to ensure that it has been secured, and further, shall have the authority and the duty to inspect properties subject to this section for compliance and to issue citations for any violations as they see fit. The owner shall have the duty to provide the Building Commissioner, Fire Chief, Health inspector and Police Chief with access to inspect the property, upon reasonable notice to the owner.

8.17.060 Enforcement and penalties

A. The Building Commissioner shall enforce all provisions of this section and shall institute all necessary administrative or legal action to assure compliance.

B. Failure to initially register with the commissioner is punishable by a fine of three hundred dollars (\$300), and shall be further subject to a three hundred dollars (\$300) fine for each day the property remains unregistered.

- B. If applicable, failure to properly identify the name of the local individual or local property management company is punishable by a fine of three hundred dollars (\$300)
- C. Failure to maintain the property is punishable by a fine up to three hundred dollars (\$300) for each day the property is not maintained.

8.17.070 Severability

If any provision of this section is held to be invalid by a court of competent jurisdiction then such provision shall be enforced separately and apart from the remaining provisions, which shall remain in full force and effect.

8.17.080 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.