

**AN ORDINANCE AMENDING CHAPTER NINE OF THE REVISED ORDINANCES
RELATIVE TO VACANT AND FORECLOSING PROPERTIES**

Be it ordained by the city council of the city of Worcester, as follows:

Section Fourteen of Chapter Nine of the Revised Ordinances of 2008 is hereby amended by deleting said section 14 in its entirety and inserting in lieu thereof the following new section 14.

§ 14. Securing and Maintaining Vacant Properties and Foreclosing Properties

(a) Certain unsecured or unmaintained vacant properties, foreclosing properties, and foreclosed properties present a danger to the safety and welfare of public safety officers, the public, occupants, abutters and neighborhoods, and as such, constitute a public nuisance. This section is enacted to promote the health, safety and welfare of the public, to protect and preserve the quiet enjoyment of occupants, abutters and neighborhoods, and to minimize hazards to public safety personnel inspecting or entering such properties. This section shall apply to:

- (1) Unsecured or unmaintained vacant properties;
- (2) Unsecured or unmaintained occupied properties that are foreclosing.
- (3) Unsecured or unmaintained vacant or occupied properties that have foreclosed and a deed is recorded in the name of a bank, credit union, mortgage servicer, financial institution, REO, government corporation such as Government National Mortgage Association (“Ginnie Mae”), government-sponsored enterprise such as the Federal National Mortgage Association (Fannie Mae) or the Federal Home Loan Mortgage Corporation (Freddie Mac), the Secretary of Housing and Urban Development, the Veterans Administration, or other such entity.

(b) The following words and phrases, when used in this section, shall have the following meanings:

building – any combination of materials having a roof and enclosed within exterior walls or firewalls, built to form a structure for the shelter of persons or property.

certificate of closure – certificate issued by the director to the owner of a vacant or foreclosing property upon compliance with the provisions of paragraph (c) herein.

director – the director of health and housing inspection.

days – consecutive calendar days.

fire chief – the chief of the Worcester Fire Department or his or her designee.

foreclosed – when a new deed is recorded with the registry of deeds following the foreclosure process and is recorded in the name of a bank, credit union, mortgage servicer, financial institution, REO, government corporation such as Government National Mortgage Association (“Ginnie Mae”), government-sponsored enterprise

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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:

- (1) taking possession of a residential property pursuant to General Laws chapter 244 § 1;
- (2) delivering the mortgagee's notice of intention to foreclose to borrower pursuant to General Laws chapter 244 § 17B;
- (3) commencing a foreclosure action on a property in any court of competent jurisdiction; or
- (4) recording a complaint to foreclose with the registry of deeds.

local – within twenty miles of the property in question

mortgagee – the 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.

owner – every person, entity, service company or property manager who alone or severally with others:

- (1) has legal or equitable title to any real property, including, but not limited to a 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 real property, including but not limited to any dwelling, dwelling unit, mobile dwelling unit or parcel of land, vacant or otherwise, including a mobile home park, or any administratrix, trustee, or guardian of the estate of the holder of legal title; or
- (3) is a mortgagee of any such property;
- (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. However, "owner" shall not mean 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 assessment due or owing to the association; or
- (6) 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; or
- (8) has recorded a complaint to foreclose with the registry of deeds.

property – any real property, or portion thereof, located in the city, including buildings or structures situated on the property; provided, however, that “property” shall not include property owned or under the control of the city, the commonwealth or the United States of America.

secured, securing – making the property inaccessible to unauthorized persons.

vacant – any property not currently legally occupied and not properly maintained or secured.

(c) Any owner of a vacant and/or foreclosing property shall forthwith:

1. Provide written notification to the director and the fire chief of the status of such property, including in such notice, the name, address and telephone number of the owner; the location of the property; the length of time the building has been vacant; the estimated time the building will remain vacant; and the nature of the contents of the building.

2. As may be required by the fire chief, file one set of space utilization floor plans for any buildings on said property with the fire chief and one set of said plans with the director. The owner shall certify space utilization plans as accurate twice annually, in January and July; and

3. Remove from the property to the satisfaction of the fire chief, conditions likely to cause a fire or explosion or conditions that create imminent danger.

4. At the discretion of the fire chief or director, secure all windows and door openings and ensure that the building is secured from all unauthorized entry continuously in accordance with the United States Fire Administration, National Arson Initiative Board up Procedures or provide twenty-four (24) hour on-site security personnel on the property. When a vacant, foreclosed, or foreclosing property is located within a complex of buildings owned by a single owner, twenty-four (24) hour on-site security shall be provided within the building or within the complex wherein the building is located; and

5. Post “No Trespassing” signs on the property. Said signs shall be no smaller than 8 inches by 11 inches with lettering no smaller than 2 inches high, and shall be visible from the street. However, this requirement may be waived upon written request from the owner or designee; and

6. Maintain the property in accordance with Chapter 8, § 42 of these Ordinances, free of overgrowth, trash and debris, and pools of stagnant water, and ensure that structures are maintained in a structurally sound condition; and

7. If the property is vacant, drain all water from the plumbing and turn off all electricity between September 15 and June 15 of each calendar year to guard against burst pipes and fires; however this requirement may be waived by the director upon written request from the owner or designee; and

8. Maintain the property in accordance with all other relevant state codes and local regulations concerning the maintenance of property; and,

9. Provide the fire chief and director with the name, local address and telephone number of a responsible person who can be contacted in case of emergency. The owner shall cause the name and contact number to be marked on the front of the property as may be required by the fire chief or director; and

10. Maintain liability insurance on the property and furnish the director with a copy of said certificate of insurance; and,

11. Pay a registration fee in the amount of three thousand dollars (\$3,000) to defray the City's enforcement-related expenses.

12. Notify the director and fire chief in writing when the property is sold or transferred.

Upon satisfactory compliance with the above provisions, the director shall issue a certificate of building closure. Said certificate shall be valid for the length of time prescribed by the director and noted thereon; provided however, the certificate shall be subject to continued compliance with the provisions of this section.

(d) Signs/Markings – When required pursuant to this section, signs or markings on buildings determined to be especially unsafe in case of fire shall be applied on the front of the property, and elsewhere as the fire chief may require, at or above the second floor level and shall not be placed over doors, windows or other openings. All signs/markings shall be visible from the street and, when requested by the fire chief, shall be placed on the sides and rear of the property. Signs/markings shall be a minimum of 24 inches by 24 inches, with lines of 2-inch width, and shall have a reflective background, or be painted with reflective paint, in contrasting colors. Signs/markings shall be applied directly on the surface of the property and shall state the date of posting and the most recent date of inspection by the fire chief and director.

(e) Enforcement – Failure to comply with any provisions of paragraph (c) above shall be punished by a fine of three hundred (\$300.00) dollars with each day of violation constituting a separate offense. This section may be enforced by civil, criminal process or non-criminal process, including injunctive relief. The director and/or the fire chief shall be enforcing persons for the purposes of this section.

(f) The director or fire chief, upon being informed of the existence of a vacant, foreclosed, or foreclosing property without a certificate of building closure, shall cause notice to issue to the owner of the status of said property and shall order said person to immediately

obtain a certificate of building closure. If any person fails to comply with said order, the fire chief or director may enter the premises to inspect, secure, maintain and mark the property. The fire chief or director may also seek enforcement pursuant to paragraph (e).

(g) Expenses – The owner of a vacant, foreclosed, or foreclosing property who fails to obtain a certificate of building closure as required herein, shall be liable to the city for expenses incurred by the city in inspecting, securing, maintaining, and marking such property., The director shall record the notice of claim in the Worcester District Registry of Deeds (or the Land Court Department) forthwith, establishing a lien on the property for the balance due.

(h) No owner of a vacant, foreclosed, or foreclosing property shall allow said property to become or remain unsecured, unmaintained, or unmarked. If it appears that any vacant, foreclosed, or foreclosing property is unsecured, unmaintained or unmarked, the director shall send written notification to the owner, requiring that the owner promptly secure, maintain or mark the property. If the owner fails to comply with any order issued pursuant to this provision (h), the fire chief or director may immediately enter upon the premises and cause the property to be inspected, secured, maintained and marked.

(i) All unsecured vacant, foreclosed, or foreclosing properties shall be immediately referred to the director for a determination relative to whether the property is a nuisance or dangerous pursuant to G.L. Chapter 139 and procedures promulgated thereunder.

(j) Notices required pursuant to this section shall be served in the following manner:

1. Personally on any owner as defined in this section, or on the contact person specified pursuant to paragraph (c)(9); or
2. Left at the last and usual place of abode of any owner, or contact person as specified pursuant to paragraph (c)(9), if such place of abode is known and is within or without the commonwealth; or,
3. By certified or registered mail, return receipt requested, to any owner, or the contact person specified pursuant to paragraph (c)(9).