

**CITY OF AUBURN HILLS**

**COUNTY OF OAKLAND**

**STATE OF MICHIGAN**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE TO AMEND CHAPTER 18, BUILDINGS AND BUILDING REGULATIONS OF THE AUBURN HILLS CITY CODE, AS AMENDED, FOR THE PURPOSE OF ADDING NEW REGULATIONS FOR RESIDENTIAL PROPERTY REGISTRATION AND MAINTENANCE**

**THE CITY OF AUBURN HILLS ORDAINS**

**Section 1.**

Chapter 18, Buildings and Building Regulations, of the Auburn Hills Code of Ordinances, is hereby amended to add Article VI. Vacant Residential Property Registration and Maintenance and shall read as follows:

**ARTICLE VI. VACANT RESIDENTIAL PROPERTY REGISTRATION AND MAINTENANCE**

**Sec. 18-194. Purpose.**

The purpose of this article is to help protect the health, safety and welfare of the citizens of Auburn Hills by preventing blight, protecting property values and neighborhood integrity, avoiding the creation and maintenance of nuisances, and ensuring the safe and sanitary maintenance of dwellings. Due to economic conditions, mortgage foreclosures, and increased bankruptcies, many homes have become vacant and unsupervised. This has caused properties to become attractive nuisances for minors and criminal activity. Vacant properties have a negative impact on surrounding properties and neighborhoods. Potential buyers are deferred by the presence of nearby vacant buildings. Such neglect devalues properties and causes deterioration in the community. There is an increased instance of unsecured or open doors and windows, broken water pipes, flooded basements, theft of metals and other materials, overgrowth of grass, weeds, shrubs, and bushes, illegal dumping, and rat and vermin activity at vacant structures. Such neglect devalues properties and causes deterioration in neighborhoods. This article is intended to assist the city in creating a registry of vacant and abandoned vacant properties along with contacting an owner for utility shutoff, code enforcement, building and fire safety, and police reasons.

**Sec. 18-195. Scope.**

The provisions of this article shall apply to all one-family residential structures and all vacant residential land within the city.

**Sec. 18-196. Definitions.**

For purposes of this article, certain words and phrases are defined as follows:

- (a) *Abandoned vacant property* means a property as defined in this section that has been vacant for thirty (30) days or more and meets any of the following criteria:
- (1) Provides a location for loitering, vagrancy, unauthorized entry, or other criminal activity;
  - (2) Has one or more broken or boarded windows;
  - (3) Has utilities disconnected or not in use;
  - (4) Is not maintained in compliance with this article, including without limitation, other building safety, fire safety, and code enforcement regulations;
  - (5) Is only partially completed and 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.

- (b) *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.
- (c) *Building* means a structure with a roof supported by columns or walls to serve as a shelter or enclosure.
- (d) *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, flyers 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.
- (e) *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.
- (f) *Lender* means a person, firm, or corporation holding a mortgage on a property.
- (g) *Mortgage* means a recorded lien or interest in real property to secure payment of a loan.
- (h) *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.
- (i) *Structure* means anything constructed or erected the use of which requires location on or attachment to the ground and includes buildings.
- (j) *Possessory Lender* means a person, firm, or corporation that has foreclosed a mortgage on a property, but may not have legal or equitable title.
- (k) *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.

Exception: Vacant property shall not mean property that is temporarily unoccupied while the residents are away on vacation or personal business, if such vacancy does not exceed a period of six (6) months. If such vacancy exceeds a period of six (6) months, the property will be considered vacant and the owner shall register the property in accordance with Section 18-197.

Sec. 18-197. Registration of vacant and abandoned vacant property.

An owner of a vacant or abandoned vacant property in the city shall be responsible for registering that property with the Community Development Department by complying with the affidavit and registration and inspection requirements in this article. 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. Vacant property or abandoned vacant property shall be registered within thirty (30) days of the vacancy.

Sec. 18-198. Registration affidavit.

Owners, possessory lenders, and/or lenders who are required to register property pursuant to this article shall do so by submitting an affidavit containing the information specified in this section. The affidavit may be submitted by an agent provided the agent's written authorization from the owner, possessory lender, or lender is provided 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.
- (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.
- (e) If certified mail return receipt requested is sent to an address on the affidavit 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.

Sec. 18-199. Registration, inspection, and other fees.

All fees applicable to this article shall be set by resolution of the City Council. 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 City Council. For properties that are not registered within the required time, an additional fee for the added cost of the city's expenses in having to determine ownership shall be assessed and immediately payable. The payment of all fees required under this article is secured by a lien against the property, which may be placed on the tax roll for collection in the same manner and subject to the same interest and penalties applicable to delinquent special assessments.

Sec. 18-200. 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.

Sec. 18-201. Safety and maintenance inspections

- (a) If the vacant or abandoned vacant property includes vacant or unoccupied buildings, the owner of that property is responsible for 1) immediately obtaining and paying for the city's safety and maintenance inspection of the building and property; 2) obtaining necessary permits; and 3) making required repairs and obtaining inspections from the city annually thereafter until a certificate of occupancy has been issued and 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, parking areas, signage, driveway aprons, service walks, sidewalks and other public areas are sound, operational or property disconnected. No certificate of occupancy will be issued until all code requirements are met.
- (b) If, at the time of the city's safety and maintenance inspection, the inspector(s) deem that the electrical, plumbing, or mechanical systems may pose health or safety hazards and require additional inspection by the licensed 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 city, shall perform 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 foreclosure (if foreclosure is by judicial action) or publishing a notice of foreclosure (if foreclosure is by advertisement).

Sec. 18-202. Maintenance and security requirements.

All 1) owners, 2) possessory lenders, and 3) 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; 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) 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 in working order so that the water remains clear and free of pollutants and debris or 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 fourteen (14) 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. If the property is owned by a person other than an individual and/or the lender or possessory lender is located more than thirty (30) miles away, a local property management company shall be contracted to perform weekly inspections to verify that the requirements of this section and any other applicable laws are being met. The property shall be posted with name and twenty-four (24) hour contact telephone number of a property management company located within thirty (30) miles of the subject property. The posting shall be no less than 18" x 24" and shall be of a 72-point Arial font and shall contain, along with the name and twenty-four hour contact number, the words: "THIS PROPERTY MANAGED BY AND TO REPORT PROBLEMS OR CONCERNS CALL." The posting shall be placed on the interior of a window facing the street to the front of the property so it is visible from the street or secured to the exterior of the building structure facing the street to the front of the property so that it is visible from the street, or, if no such area exists, on a stake of sufficient size to support the posting in a location that is visible from the street to the front of the property but not readily accessible to vandals. The local property management company shall inspect the property on a regular basis to determine if the property is in compliance with the requirements of this section.
- (g) Adherence to this section does not relieve the owner of any obligations set forth in any covenants, conditions, and restrictions and/or homeowners' association rules and regulations which may apply to the property.

#### Section 18-203. Fire damaged property.

If a building is fire damaged, the owner, possessory lender, and/or lender has ninety (90) days from the date of the fire to apply for a permit to start construction or demolition. Extensions may be granted by the city provided the owner, lender, 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 article.

#### Sec. 18-204. Re-occupancy, certificate of occupancy required

A vacant or unoccupied building or structure on vacant property shall not be occupied until a certificate of occupancy has been issued by the Building Official, and all violations have been corrected in accordance with the applicable requirements of the state construction code, the International Property Maintenance Code and building, residential, electrical, mechanical, plumbing and other codes that are part of the state construction code administered and enforced by the city, and all other applicable provisions of this Code; unless said conditions are deemed to be legally non-conforming and/or approved by the city Construction Board of Appeals. All mechanical, electrical, plumbing, and structural systems shall be certified by a licensed contractor as being in good repair. In addition, a certificate of occupancy shall not be issued until all outstanding costs, assessments and/or liens owed to the city have been paid in full.

#### Sec. 18-205. Notice to abate.

Upon observing a violation of the provisions of this article, an enforcement officer may issue a notice to abate to the owner, lender, and/or possessory lender as shown on the records maintained by Oakland County. The notice to abate shall be served by first class mail and posted in a conspicuous location, where possible, upon the property at issue. Failure to receive such notice is not a defense to any action by the city to abate the violation, collect abatement costs, collect administrative costs, or impose penalties authorized by this Code.

The notice to abate shall inform the owner, possessory lender, and/or lender of the following:

- (a) The nature of the violation;

- (b) The time frame within which the owner, possessory lender, and/or lender shall abate the violation, being not more than ten (10) days from the date of the notice. The enforcement officer may grant additional time where bona fide efforts to abate the violation are in progress.
- (c) If the owner, possessory lender, and/or lender fail to abate the violation, the enforcement officer may issue a municipal civil infraction citation.
- (d) The city may act to abate the violation, if it is not abated by the owner, possessory lender, and/or lender.
- (e) The cost of abatement by the city, plus an administrative fee, shall be a personal debt of the owner, possessory lender, and/or lender which may be assessed as a tax lien against the property until paid.

Sec. 18-206. Securing open property.

Property subject to this article that is left open and/or accessible shall be subject to entry by the city in order to ensure that the property has not become an attractive nuisance and to ensure that the property is locked and/or secured. The owner, possessory lender, and/or lender of property subject to this article which is found open or unsecured shall be responsible for all city costs associated with securing the property, if the owner, lender or possessory lender of property cannot be contacted or does not secure the property within twenty-four (24) hours of city observation. If the owner, possessory lender, and/or lender has failed to secure a property and it has been secured by the city, the city and/or its contracted agent, may enter or re-enter the structure upon the authorization of the city manager or his/her designee to conduct necessary inspections to assure compliance with the requirements of this code and to determine if there are emergency or hazardous health and safety conditions in existence.

Sec. 18-207. Emergency abatement by city.

When, in the opinion of the city manager or his/her designee, there is actual and immediate danger to the public or occupants of a premises caused by a violation on the premises, the city manager may, without any notice or hearing, order and require any reasonable action to abate the violation.

Sec 18-208. Penalty for violation

A person who violates the provisions of this article, as amended, may be fined for a municipal civil infraction, subject to the following penalties:

- (a) Civil fines shall apply in the event of a determination of responsibility for a municipal civil infraction. Fines shall be in an amount set forth for the offense in the Schedule of Fines adopted by the 52-3 District Court, plus costs and other sanctions, for each offense.
- (b) In addition to ordering the defendant determined to be responsible for a municipal civil infraction to pay a civil fine, costs, damages and expenses, the judge or magistrate may issue any judgment, writ or order necessary to enforce, or enjoin said violation.
- (c) Each act of violation, and on each day upon which any such violation shall occur, shall constitute a separate offense.
- (d) In addition to any remedies provided for by this article, any equitable or other remedies available and/or permitted by law may be sought.
- (e) The judge or magistrate may impose costs, damages, and expenses as provided by law.
- (f) A municipal civil infraction shall not be a lesser included offense of a criminal offense or of an Auburn Hills City Code or other city ordinance violation which is not a civil infraction.

Sec. 18-209. Abatement by city; lien.

If the notice to abate is not complied with in the allotted time period, then an agent authorized by the city manager or by an order of the 52-3 District Court may enter the property as many times as necessary to remove or eliminate the violation.

- (a) The owner, possessory lender, and/or lender shall be liable for all costs incurred by the city to remove or eliminate the violation. In addition, an administrative fee in the amount of twenty-five (25%) percent of the cost of the removal or elimination may included in total costs.
- (b) Billing of costs will be mailed to the owner by regular mail to the last known address. If the charges involved are not paid by the owner within thirty (30) days from the date of billing, the payment shall be delinquent. In the event of delinquent charges, the city shall have a lien upon such property for the charges, and the lien is enforceable as a tax lien in the manner prescribed by

the general laws of the state against the property and collected as in the case of general property tax.

- (c) An action for abatement by the city does not preclude the right of the city to initiate a municipal civil infraction citation and request for formal hearing at 52-3 District Court.

**Section 2. Repealer.**

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

**Section 3. Severability.**

If any section, clause, or provision of this Ordinance shall be declared to be unconstitutional, void, illegal, or ineffective by any Court of competent jurisdiction, such section, clause, or provision declared to be unconstitutional, void, or illegal shall thereby cease to be a part of this Ordinance, but the remainder of this Ordinance shall stand and be in full force and effect.

**Section 4. Savings.**

The proceedings pending and all rights and liabilities existing, acquired, or incurred at the time this Ordinance takes effect are saved and may be consummated according to the law when they were commenced

**Section 5. Effective Date.**

The provisions of this Ordinance are hereby ordered to take effect upon publication in the manner prescribed by the Charter of the City of Auburn Hills.

**Section 6. Adoption.**

This Ordinance is hereby declared to have been adopted by the City Council of the City of Auburn Hills at a meeting thereof duly called and held on the \_\_\_\_\_ day of \_\_\_\_\_, 2010, and ordered to be given publication in a manner prescribed by the Charter of the City of Auburn Hills.

**AYES:**

**NAYES:**

**ABSTENTIONS:**

STATE OF MICHIGAN )

) ss.

COUNTY OF OAKLAND )

I, the undersigned, the duly qualified Clerk of the City of Auburn Hills, Oakland County, Michigan, do hereby certify that the foregoing is a true and complete copy of Ordinance No. \_\_\_\_\_ adopted by the Auburn Hills City Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2010, the original of which is in my office.

\_\_\_\_\_  
LINDA F. SHANNON, City Clerk