

Chapter 304 – Vacant Property Maintenance

Section 304.1 – Purpose

The purpose of this Ordinance is to help protect the health, safety, and welfare of the citizens by preventing blight, protecting property values and neighborhood integrity, avoiding the creation and maintenance of nuisances, and ensuring safe and sanitary maintenance of residential structures.

- A. Due to economic conditions, mortgage fraud, foreclosures, and increased bankruptcies many homes have become vacant and unsupervised. There is an increased instance of unsecured or open doors and windows, broken water pipes, theft of metals and other materials, overgrowth of grass, weeds, shrubs and bushes, illegal dumping, and vermin activity at vacant structures. In many cases, the interiors of the structures have been intentionally or negligently damaged by the former occupants or trespassers.
- B. Vacant properties have a negative impact on surrounding properties and neighborhoods. Potential buyers are deterred by the presence of nearby vacant abandoned buildings. Such neglect devalues properties and causes deterioration in the community.
- C. Further, it is important for the Township to be able to contact the owners of vacant properties for fire safety and police purposes.
- D. Insomuch as many of the vacated structures fail to meet even minimum safety requirements this Article shall require the dwellings to meet the standards of the current International Property Maintenance Code.

Section 304.2 – Scope

The provisions of this Ordinance shall apply to all residential structures and all vacant land within the Township.

Section 304.3 – Definitions

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

Abandoned Vacant Property – A vacant 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 the current International Property Maintenance Code, as adopted by Lenox Township.
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.

Borrower – A borrower under a mortgage, who grants a lien or interest in property to a trustee as security for the payment of a debt.

Building – A structure with a roof supported by columns or walls to serve as a shelter or enclosure.

Evidence of vacancy – 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. 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.

Lender – A person, firm, or corporation holding a mortgage on a property.

Mortgage – A recorded lien or interest in real property to secure payment of a Loan.

Owner – 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.

Structure – Anything constructed or erected the use of which requires location on or attachment to the ground and includes buildings.

Possessory Lender – A person, firm, or corporation that has foreclosed a mortgage on a property, but many do not have legal and equitable title.

Vacant property – 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.

Section 304.4 – Registration of Vacant and Abandoned Vacant Property

- A. An owner of a vacant property in the Township shall be responsible for registering that property with the building department by complying with the affidavit and registration and inspection fee requirements in this article within the times in this section. 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.
- B. A vacant property shall be registered within thirty (30) days of the vacancy.
- C. An abandoned vacant property shall be registered within thirty (30) days of the vacancy or ten (10) days of the inspection described in Section 304.8.

Section 304.5 – Registration Affidavit

Owners, lenders, and/or possessory lenders who are required to register property pursuant to this ordinance shall do so by submitting a copy of a driver's license and an affidavit containing the information specified in this Section. The affidavit may be provided by an agent provided the agent's written authorization from the owner, lender, or possessory 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. If certified mail/return receipt requested is sent to the address 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 owner has failed to comply with this requirement.
- 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. If certified mail return-receipt requested is sent to the address and the 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 his requirement.

Section 304.6 – Registration, Inspection and Other Fees

All fees applicable to this Ordinance shall be set by resolution of the Township Board. 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 Township Board. For properties that are not registered within the required time, an additional fee for the added cost of the Township's expenses in having to determine ownership, which may include, but is not limited to, title searches, shall be assessed and immediately payable.

The payment of all fees required under the 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.

Section 304.7 – 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.

Section 304.8 – Safety & Maintenance Inspections

- A. If the vacant or abandoned vacant property includes vacant or unoccupied buildings, the owner of that property is responsible for immediately obtaining and paying for the Township's "Safety and Maintenance Inspection" of the building and property, obtaining necessary permits, making required repairs, and obtaining inspections from the Township 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 properly disconnected. No certificate of occupancy will be issued until all code requirements are met.

- B. If, at the time of the Safety & Maintenance Inspection, the inspector deems 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 Section (A) of 304.8, 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 Township, shall perform the inspection pursuant to Section (A) of 304.8 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 for foreclosure (if foreclosure is by judicial action) or publishing a notice of foreclosure (if foreclosure is by advertisement).

Section 304.9 – Maintenance and Security Requirements

All owners, possessory lenders, and 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 in accordance with Lenox Township Blight Ordinance, as well as 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. All visible front and side 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 thirty (30) 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 the name and twenty-four-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, if no such area exists, on a stake of sufficient size to support the posting in a location that 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 so 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 following the requirements of this Section.

Section 304.10 – Fire Damaged Property

If a building is fire damaged, the owner or possessory lender has ninety (90) days from the date of the fire to apply for a permit to start construction or demolition. Additional ninety (90) day extensions may be granted by the Township provided the Township provided the owner or possessory lender can demonstrate substantial progress towards completing repairs. Failure to do so will result in the property being vacant and/or abandoned and subject to the requirements of this Article.

Section 304.11 – Right of Entry

If the owner, lender, or possessory lender has failed to secure a property and it has been secured by the Township, the Township and/or its contracted agent, may enter or re-enter the structure 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.

Section 304.12 – Re-Occupancy

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 adopted International Property Maintenance Code and the building, residential, electrical, mechanical, plumbing, and other codes that are part of the state construction code administered and enforced by the Township, and all other applicable provisions of this Code. A licensed contractor shall certify all mechanical, electrical, plumbing, and structural systems 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 Township have been paid in full.

Section 304.13 – Violation and Penalty

- A. Violations of this Article are municipal civil infractions, subjecting persons found responsible for violations to the fines in 304.13 B plus costs, and to the sanctions, remedies, and procedures, with the provision that each day is a separate offense specifically applicable to all violations of this Article.
- B. The fine for a first offense of failure to obtain an annual inspection, failure to file the required affidavit or failure to maintain the affidavit containing current information shall be two hundred dollars (\$200.00). The fine for all other violations shall be in an amount not to exceed five hundred dollars (\$500.00).

