

ARTICLE V, DIVISION 13
Foreclosed, Vacant and Abandoned Property Registration

AN ORDINANCE TO ESTABLISH A REGISTRY OF FORECLOSED, VACANT, AND ABANDONED PROPERTY WITHIN THE CITY OF DURAND; REQUIREMENTS; FEES

§ 14-474. Title.

This article shall be known as the "Foreclosed, Vacant and Abandoned Property Registry Ordinance."

§ 14-475. Findings and purpose.

- (a) The City Council finds that there are foreclosed, vacant, or abandoned properties in the City that are a public nuisance and that foreclosed, vacant, and abandoned properties that are not maintained and secured constitute a hazard to the public health, safety and welfare for the following reasons:
- (1) These properties often become dilapidated because they are not maintained by the owners of the properties;
 - (2) These properties attract children, harbor vermin, and provide shelter for vagrants and criminals;
 - (3) These properties are more likely to be vandalized or be the target of arsonists;
 - (4) These properties provide a dumping ground for garbage, trash, and other debris; and
 - (5) These properties require an increased amount of City resources and staff time to maintain, secure, demolish, or otherwise respond to problems associated with them.
- (b) The City Council finds that owners of foreclosed, vacant, and abandoned properties should be held accountable for the physical condition of their properties. At a minimum, the owners should prevent the properties from creating a blight upon the surrounding neighborhood and decreasing property values. The City Council also finds that a responsible local agent should be required for all properties not owned by persons or entities within a reasonable distance of the City in order to safeguard the properties and structures, assist City personnel with access for inspections, and accept notices concerning the properties.

§ 14-476. Definitions.

Unless the context indicates otherwise, the following words used in this article shall have these meanings:

ABANDONED PROPERTY — A parcel of real property that is unoccupied in any manner for a consecutive period of six or more months. Provided, property will be presumed to be abandoned property when mortgage, land contract, or tax foreclosure

proceedings have been initiated for that property, no mortgage, land contract, or tax

payments have been made by the property owner for at least 90 days, and the property has been unoccupied for at least 90 days. Property under construction is not considered abandoned if all appropriate building permits are issued, in force, and progress on construction is ongoing.

CHIEF BUILDING OFFICIAL — The official designated by the City to enforce building, zoning, or similar laws and this article, or his or her duty authorized representatives.

FORECLOSURE — The process by which a lien, mortgage, or security interest is enforced against a parcel of real property through sale or offering for sale of the real property to satisfy the debt or claim. For the purposes of this article, a parcel of real property for which there is any of the following shall constitute a foreclosed property:

- (1) A notice of mortgage or delinquent tax foreclosure;
- (2) A notice of forfeiture related to delinquent property taxes or a land contract;
- (3) A notice of trustee's sale;
- (4) A foreclosure sale of the real property where the title to the real property will transfer to the mortgage or a third party other than the mortgagor;
- (5) A judgment of foreclosure of mortgage, land contract, or delinquent property taxes;
- (6) A judgment of foreclosure of a claim or lien; or
- (7) A transfer of title under a deed in lieu of foreclosure, deed in lieu of sale, deed in lieu of forfeiture, or any other similar instrument.

OWNER — Any person or entity with a recognized legal or equitable ownership or possessory interest in any real property, with or without accompanying actual possession thereof. The owner shall include, but not be limited to, a bank, a credit union, a trustee or financial institution which is in possession (in whole or in part) of the real property, or that is foreclosing a lien or mortgage interest in the property but may or may not have legal or equitable title. "Owner" also means any person or entity having charge, care or control of any real property as agent of the owner, as executor, administrator, trustee or guardian of the estate of the owner.

RESPONSIBLE LOCAL AGENT — An authorized representative of a person, corporation, partnership, firm, joint venture, trust, association, organization, or other entity who is an owner of property. "Responsible local agent" also includes a person or entity who is compensated by the owner to manage a property if that person or entity is properly licensed accordingly to manage property pursuant to Michigan law. The responsible local agent must have, and will be deemed to have, if designated by the owner of the property as the responsible local agent, the authority to do the following:

- (1) Receive all official notices concerning housing, zoning, blight, dangerous buildings, and/or other matters concerning the property on behalf of the owner of a property. Any notice received by the responsible local agent shall be deemed to have been received by the property owner; and

- (2) Provide access to the property for any inspection necessary to ensure compliance with the terms of this chapter.

SECURING — Taking such measures as may be directed by the City that render the property inaccessible to unauthorized persons, including, but not limited to, the repairing of fences and walls, chaining or padlocking of gates, and repair of doors, windows and other openings.

VACANT PROPERTY — A parcel of real property that has been unoccupied for a period of 30 or more consecutive days or more, and is either:

- (1) Subject to foreclosure as defined in this article;
- (2) Has been abandoned by the owner;
- (3) Is under a condemnation notice or order to vacate;
- (4) Is not in compliance with applicable housing, electrical, mechanical, plumbing, or building codes;
- (5) Has one or more broken or boarded windows;
- (6) Is open to casual entry or trespass;
- (7) Is deteriorating due to a lack of maintenance or neglect;
- (8) Has a building or structure for which a building permit has expired that is partially completed and is not fit for human occupancy;
- (9) Contains a building or structure that is structurally unsound;
- (10) Has utilities disconnected or not in use;
- (11) Has taxes in arrears for more than one year;
- (12) Is a potential hazard or danger to the safety of persons;
- (13) Has any element that is considered a nuisance as defined by the City of Durand Code of Ordinances.

§ 14-477. Property registration required.

- (a) An owner of a foreclosed, vacant, or abandoned property within the City shall register the structure with the Building Department within 15 days of the earlier of:
- (1) The property becoming subject to foreclosure;
 - (2) The property becoming a vacant property;
 - (3) The property becoming an abandoned property; or
 - (4) Notice being sent to the owner of the structure by the Building Department that the structure has been declared a foreclosed, vacant, or abandoned

property.

- (b) An owner of a foreclosed, vacant or abandoned property may apply for registration on forms provided by the Building Department. The owner must pay the required registration fees. No registration is valid unless filled out accurately and completely, signed by the owner, and the proper fees have been paid. A registration fee once tendered may not be refunded or transferred. It is a violation of this article for an owner to provide inaccurate information on an application for a registration.
- (c) The registration must contain the following information:
- (1) The address of the foreclosed, vacant, or abandoned property;
 - (2) The date on which the property became foreclosed, vacant, or abandoned;
 - (3) The legal name, address, telephone number, and date of birth of the owner;
 - (4) The names, addresses, and telephone numbers of the members of any owner that is a limited liability company, and the dates of birth of the members if individuals;
 - (5) The names, addresses, and telephone numbers of the majority shareholders of any owner that is a corporation, and the dates of births of the majority shareholders if individuals;
 - (6) An acknowledgment of local responsible agent form signed by the local responsible agent, if required;
 - (7) Any additional information required by the Building Department; and
 - (8) A statement allowing authorized staff of the City to enter the premises for purposes of inspection.
- (d) Payment in full of all the following fines, fees, and debts relating to the property being registered that are owed to the City and are currently due or past due must be paid prior to obtaining a foreclosed, vacant, or abandoned property registration:
- (1) Outstanding water or sewer bills;
 - (2) All charges for mowing, cleanup, weed, or debris removal; and
 - (3) Any fines, penalties, or debts of any sort arising from provisions of the housing code, including any blight violations.
- (e) Registration under Section 14-477 shall not be required for the following:
- (a) Temporary Absence. A dwelling that is unoccupied for a period of 180 days or less each year if the owner submits a request for exemption in writing to the Inspections Division that the dwelling will remain unoccupied for a period of 180 consecutive days or less each year. An owner who has given the notice prescribed by this division shall notify the Inspections Division not more than 30 days after the dwelling no longer qualifies for this exception. As used in this division, “dwelling” means a dwelling such as a vacation or seasonal home that is occupied by the owner or a member of the owner’s family during part of a year.
 - (b) A building under active construction or renovation and having a valid trade permit(s) at the time of initial inspection shall be exempt from registration until the

expiration of the most recent permit, or in the event of an extension.

(c) A building which has suffered fire damage or damage caused by extreme weather conditions shall be exempt from the registration requirement for a period of 90 days after the date of the damage if the property owner submits a request for exemption in writing to the Inspection Division.

(d) A building that is for sale and listed with a licensed State of Michigan Realtor shall be exempted for a period of 12 months from the start of vacancy, provided that the owner or agent submits a request for exemption in writing to the Inspection Division with proof of such listing and for sale status. Proof may include a realtor contract or multiple listing service listing number with summary sheet.

§ 14-478. Amendment of registration information.

If any information submitted upon the application for issuance of a foreclosed, vacant or abandoned property registration changes, including a change in ownership, a majority change of members of an owner that is a limited liability company or a majority change of shareholders in an owner that is a corporation, the owner must notify the Building Department within 10 days and submit an amended application. There shall be no fee to update information if done within 10 days; however, failure to update information within 10 days shall result in a late charge and is a violation of this article.

§ 14-479. Transfer of ownership.

The seller of a foreclosed, vacant or abandoned property must notify the Building Department within 45 days of the sale or transfer and provide the name and address of the purchaser or transferee. The purchaser or transferee must apply for a property registration within 45 days of the sale or transfer, unless it is intended to be occupied as a single-family owner-occupied structure and has filed a principal residence exemption. No refunds or credits of fees will be given when there is a transfer of ownership. If a foreclosed, vacant or abandoned structure will be non-owner-occupied after a sale or transfer of the ownership, a certificate of compliance must first be obtained and all required fees must be paid.

§ 14-480. Responsible local agent.

For a foreclosed, vacant or abandoned property owned by a person or entity that resides more than 45 miles outside of the City, the property owner must designate a responsible local agent who resides within 45 miles of the City. If the responsible local agent is a corporation, limited liability company, partnership or other entity, the address of the registered office of the entity must be within 45 miles of the City.

§ 14-481. Duty to maintain and secure.

- (a) An owner of a foreclosed, vacant, or abandoned property shall comply with all of the following maintenance and security requirements:
 - (1) The property and structure shall be maintained in a secure manner so as not to be accessible to unauthorized person, including, but not limited to, the closure and locking of windows, doors, gates, and any other openings of such a size that could allow a child or other person to access the interior of the property

and/or structure.

- (2) The structure shall be maintained in accordance with applicable sections of the International Property Maintenance Code.
- (3) All structures on the property shall be properly winterized so to prevent bursting of pipes; and
- (4) Pools, spas, and other water features shall be covered by a safety cover approved by the State Construction Code and shall comply with the minimum security fencing and barrier requirements.

§ 14-482. Monitoring.

Periodic monitoring, not less than bi-annually, shall be conducted by the Chief Building Official or his or her authorized representatives to assure continuing compliance with the International Property Maintenance Code and the duties set forth in this article. A fee determined by resolution of the City Council shall be established to offset the cost of monitoring the foreclosed, vacant, or abandoned property. The monitoring fee will be billed bi-annually in advance and is the responsibility of the owner. No refunds or credits of the monitoring fee will be given.

§ 14-483. Abatement.

If the owner fails to secure or maintain property as required under this section, such failure shall constitute a hazardous condition and is considered a nuisance. Within three business days after a notice to abate has been provided, the Chief Building Official or his or her authorized representative may abate the nuisance without giving further notice. The Chief Building Official or his or her authorized representative may abate the offending condition by arranging for City employees or private contractors to secure and board the structure, remove rubbish and debris from the premises, or make repairs to maintain the buildings and premises to conform to this section. The cost of abating the nuisance condition(s) is the responsibility of the owner and may be charged to the owner and against the property. The Chief Building Official or his or her authorized representative may abate a public nuisance without giving notice if the public health or safety requires immediate abatement.

§ 14-484. Appeal of abatement costs.

An owner assessed for abatement costs may appeal the assessment to the City Council. On appeal, the City Council shall determine whether the property was in violation of this article, whether the owner was provided with notice as required by this article prior to abatement of the nuisance (except for in the case of emergency abatement), and whether the costs charged to the owner and assessed against the property were properly calculated. An appeal shall be filed within 20 days after the City serves notice on the owner of the property that the costs will be charged to the owner and assessed against the property.

§ 14-485. Display of property contact information.

Properties that are foreclosed, vacant or abandoned shall be posted with a contact number that individuals can call to report problems or concerns to City Hall. The posting shall be no

less than 18 inches by 24 inches, shall be in a font legible from a distance of 45 feet, and shall contain, along with the contact number of City Hall, the words "TO REPORT PROBLEMS OR CONCERNS CALL." The posting shall also contain the name and contact information of the owner of the property or the responsible local agent, if any, along with the words "IS RESPONSIBLE FOR THE MAINTENANCE OF THIS PROPERTY." 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 or structure facing the street to the front of the property. Exterior postings must be constructed of and printed with weather-resistant materials.

§ 14-486. Fees and charges. All fees applicable to this article shall be set from time to time by resolution of the City Council and shall include at a minimum:

- (1) The registration fee charged to the owner at the time of registration of the foreclosed, vacant, or abandoned property;
- (2) A failure to register fee charged to the owner for failing to register the foreclosed abandoned property as required by this article;
- (3) A bi-annual monitoring fee charged to the owner for periodic inspections by the Building Department to assure continuing compliance with this article. A nonrefundable payment of the first year of monitoring fees shall be prepaid by the owner at the time of registration;
- (4) An inspection fee charged to the owner for any inspection caused by the owner's failure to comply with the maintenance and security duties set forth in this article; and
- (5) Administrative charges may also be charged to the owner for search warrants, title searches, boarding and securing, removal of rubbish and debris, and preparation for prosecution.
- (6) All fees collected from the foreclosed, vacant, or abandoned property registry shall be placed in a code enforcement fund. No part of the funds held in the code enforcement fund may be transferred into the general operating fund for any reason.

§ 14-487. Exception to requirement to pay registration fee.

Any property that has a current, valid foreclosed, vacant or abandoned property registration shall not be required to pay the registration fee required by the non-owner-occupied structure or unit registry ordinance.

§ 14-488. Failure to pay fees and charges.

If an owner fails to pay fees or charges due under the terms of this article, an invoice for the fees or charges will be submitted to the owner. If the owner fails to pay the invoiced charges within 30 days of mailing of the invoice, the City may cause the cost reflected in the invoice to be assessed against the property as a special assessment. The City may also institute an action against the owner for the collection of the costs in any court of competent jurisdiction. However, the City's attempt to collect such costs shall not invalidate or waive any lien filed against the property.

§ 14-489. Notice.

All notices required by Chapter 1 of this Code, including notice of any violations of this article or demand for abatement concerning a foreclosed, vacant or abandoned property, may be served upon the registered owner of record or upon the responsible local agent by either first-class mail, certified mail, or personal service and by posting a copy thereof in a conspicuous place on or about the structure affected by the notice.

§ 14-490. Disclaimer of liability.

The City shall not be liable to any person or entity by reason of this article or the issuance of a foreclosed, vacant or abandoned property registration. A property registration is not a warranty or guarantee that there are no defects in or on any foreclosed, vacant or abandoned property.

§ 14-491. Nuisance per se.

Vacant property and abandoned property which are in violation of this article are considered to be a nuisance per se and are subject to abatement in any manner prescribed by law.

§ 14-492. Penalties.

A violation of any provision of this article is a misdemeanor and is subject to enforcement by the procedures and penalties as provided in this Code. Each day that a provision of this article continues to exist is a separate offense.

§ 14-493. Severability.

If any provision of this article is determined to be unenforceable by a court, the remainder of this article shall be deemed severable and is to remain in full force and effect.

