

TOWN OF HOPKINTON, RHODE ISLAND

CHAPTER 255

THE TOWN COUNCIL OF THE TOWN OF HOPKINTON HEREBY ORDAINS AND ADOPTS THE FOLLOWING ORDINANCE ENTITLED: REGISTRATION AND MAINTENANCE OF VACANT AND/OR ABANDONED PROPERTY ORDINANCE

PURPOSE:

The purpose of this Ordinance is to protect residential, commercial, manufacturing, industrial and mixed use real property in the Town of Hopkinton from being blighted, as a result of inadequate maintenance and lack of security at vacant and/or abandoned properties and to strengthen the Town's ability to respond to nuisance and/or hazardous properties to protect the health, safety and welfare of residents. In addition, the Town intends that this Ordinance will hold accountable all owners and other individuals and entities with an ownership interest in – and/or with control of -- each such individual parcel of vacant and/or abandoned real property, for failing to comply with its mandates.

DEFINITIONS:

As used in this Ordinance, the following terms shall have the meanings ascribed to them in this section:

- A. **Abandoned Property** - Any residential, commercial, manufacturing, industrial or mixed use real property that has been deserted by its owner/controlling entity, or has not been lawfully occupied and maintained, actively marketed for sale or rental, or under active construction for a continuous period of forty-five (45) days or more, shall be considered abandoned for purposes of this Ordinance. In addition, any residential, commercial, manufacturing, industrial or mixed use real property where "Evidence of Vacancy" (as defined below) is present shall be considered abandoned for purposes of this Ordinance. In addition, any such property which has one or more buildings, where more than two (2) exterior windows are broken, boarded, or without a functioning locking mechanism for the continuous period of forty-five (45) days shall also be deemed abandoned for purposes of this Ordinance.
- B. **Evidence of Vacancy** - Any condition that on its own or combined with other conditions would lead a reasonable person to believe that a property is vacant. Such conditions include, but are not limited to: overgrown and/or dead vegetation, accumulation of newspapers, circulars and/or flyers, disconnected utilities, accumulation of trash, junk and/or debris, broken or boarded up windows and/or doors, the absence of merchandise consistent with retail sales, and statements by neighbors or government employees that the property is vacant.

- C. **Local Agent** - the person, firm or corporation designated by the trustee, beneficiary or owner/controlling entity of a property, who is responsible for security and maintenance. The local agent shall reside or have a place of business within the State of Rhode Island or, if not present within the State of Rhode Island, within thirty (30) miles of the Hopkinton Town limits.
- D. **Owner or Controlling Entity** - Any person, firm or corporation holding either the legal or recorded title to the property shall be considered an "owner" of such property for purposes of this Ordinance, except that holders of tax title shall not be considered an "owner" until the right of redemption has been foreclosed. Notwithstanding this exception, any person or entity with a controlling interest in such property shall be deemed a "controlling entity" for purposes of this Ordinance, and each such controlling entity will have the same duties and responsibilities and liabilities as an "owner" as defined herein. Without beings exhaustive, some examples of a "controlling entity" for purposes of this Ordinance, include, but are not limited to: (a) any holder of a mortgage with respect to the property who has initiated a foreclosure with respect to that property; (b) any holder of a life estate interest in said property; (c) any holder of a beneficiary interest in such real property under a trust or similar instrument entitling said beneficiary to occupy, use or otherwise control of such property; (d) any tenant of such property to whom control of the ongoing maintenance, care, repair has been delegated under a written lease or other legal instrument so specifying; or, (e) any grantee of any deed, including but not limited to deed of transfer in lieu of foreclosure sale, or a deed of trust.
- E. **Securing** - Such measures may be directed by the Building/Zoning Official or designee, who assists in rendering the property inaccessible to unauthorized persons, including but not limited to, the repairing of fences and walls, chaining or padlocking of gates and doors, and the repair and/or securing of windows and other openings.
- F. **Town** - Hopkinton, Rhode Island.
- G. **Vacant Property** - A building or structure that appears to be empty of furnishings and/or merchandise and not otherwise legally occupied, or that otherwise meets of the definition of "Evidence of Vacancy" set forth above.

VACANT & ABANDONED PROPERTY DATABASE:

- A. After 45 days, the Building/Zoning Official or designee may add a property to the *Vacant & Abandoned Property Database* if it is determined that it is a vacant and/or abandoned property.
- B. Once entered into the *Database*, the Building/Zoning Official or designee shall send a written notice to the last known address of the owner of record and/or controlling entity to notify the owner and/or controlling entity of their obligation to register the property, pay registration fees and adequately maintain the property as described in this Ordinance.

REGISTRATION OF PROPERTIES:

- A. Any owner or controlling entity of a vacant and/or abandoned property, as defined herein, shall annually register the property with the Town's Building/Zoning Department.
- B. Failure to annually register a vacant and/or abandoned property as described in this Ordinance within thirty (30) days after receipt of the written notice and entry into the *Database* shall result in the issuance of a Notice of Violation by the Building/Zoning Official to the owner and/or controlling entity. The owner and/or controlling entity shall have an additional thirty (30) days from the date of the Notice of Violation to register the property in accordance with this Ordinance, or the matter shall be referred to the Hopkinton Municipal Court for a hearing to show cause why the owner and/or controlling entity should not be fined five hundred dollars (\$500) for failure to register the property as required by this Ordinance.
- C. The Building/Zoning Official or designee shall inspect the property to assess its condition and ensure that it has been properly secured. Thereafter, the Building/Zoning Official or designee may inspect vacant and/or abandoned properties for compliance and issue citations for any violations seen fit, but not less than four (4) times annually. The owner, controlling entity and/or local agent shall have a duty to provide access to the exterior and interior of the property, as required for inspection purposes, upon reasonable notice. The Building/Zoning Official or designee shall have the discretion to determine when and how such inspections shall be conducted.
- D. Registration shall consist of the following information:
 - 1. Name of property owner or controlling entity;
 - 2. Street and mailing address of property owner or controlling entity;
 - a. The mailing address shall not be a post office box. If the owner or controlling entity resides outside of the State of Rhode Island, they shall also provide contact information, including street address, telephone number, and email address of an individual or company within the State of Rhode Island, herein referred to as a "local agent", who will be responsible for security and maintenance of the property in question. Any change to information contained in such registration shall be reported to the Building/Zoning Department within ten (10) days.
 - 3. Telephone number of property owner or controlling entity;
 - 4. E-mail address of property owner or controlling entity.
- E. The owner or controlling entity is not obligated to register the property as abandoned if:
 - 1. The building is unoccupied less than forty-five (45) days; or

2. The building is occupied on a seasonal basis, but is otherwise secure and meets maintenance standards described herein; or
3. A building permit has been issued for the purpose of substantial construction, renovation or rehabilitation of the property.

REGISTRATION FEES:

- A. Upon registration, the owner or controlling entity of any property in the *Database* shall immediately forego any and all property tax exemptions, waivers or abatements for that property, unless the owner or controlling entity is a tax exempt entity under Rhode Island law.
- B. A registration fee of one hundred dollars (\$100), per property, shall be charged to the owner, controlling entity, and/or local agent upon initial registration.
- C. A fee of two hundred dollars (\$200) shall be charged to the owner or controlling entity and/or local agent upon the first annual renewal of registration.
- D. A fee of three hundred dollars (\$300) shall be charged to the owner, controlling entity, and/or local agent upon the second annual renewal of registration and each annual renewal of registration thereafter.

MAINTENANCE REQUIREMENTS

- A. Vacant and/or abandoned properties shall be maintained in accordance with the following exterior maintenance standards:
 1. Landscaping - The property's yard shall be maintained by watering, cutting, pruning, and mowing all lawns and vegetation, including but not limited to, grass ground covers, bushes, shrubs, hedges or similar plantings, decorative rock or bark. Grass shall be kept below eight (8) inches in height, and all dead or broken tree limbs or shrubbery shall be cut and removed from the premises.
 2. Trash, Debris and Graffiti - The property shall be kept free of trash and debris. Mail or flyers that have been delivered to the building shall not be permitted to accumulate on any portion of the exterior lot of the building. Graffiti shall be removed within forty-eight (48) hours of discovery.
 3. Vermin - No portion of the lot nor any structure, vehicle, receptacle or object thereon shall be maintained or operated in any manner that causes or produces any health or safety hazard or permits the premises to become a rodent harborage or is conducive to rodent harborage.

4. Snow and Ice - The property shall be kept free of snow and ice.
5. Lighting - Entrances to the property shall maintain exterior, motion activated lighting from dusk to dawn.

SECURITY REQUIREMENTS:

A. Vacant and/or abandoned properties shall be maintained in accordance with the following security requirements:

1. The property shall be secured against unauthorized entry. Every exit door, including but not limited to, walk-through, sliding and garage, shall be secured with an internal deadbolt lock, or with a locking mechanism deemed equivalent or better by the Building/Zoning Official or designee and every such exit door shall be capable of being opened from the inside easily, without the use of a key or special knowledge. All windows and any other entry points that would allow access to the interior of the structure shall be secured. Boarding of doors and windows shall be permissible, only if they are unable to be secured by other means.
2. Foundations, roofs, walls, ceilings and other structural supports shall be safe and capable of supporting the loads that normal use may cause to be placed thereon and shall be kept in sound condition and in good repair; floors and stairs shall be free of holes, grooves and cracks that could be potentially dangerous.
3. During winter months, plumbing fixtures shall be winterized by completely draining all plumbing and heating systems or be heated to prevent them from freezing.
4. The property shall be kept free of insects, rodents or other vermin.
5. The interior of property shall be kept free of trash and debris, boxes, lumber, scrap metal, junk, vehicles or any other materials in such a manner that may produce any health, fire, or safety hazard or provide harborage for rodents or other animals on the premises.
6. Vacant and/or abandoned properties shall adhere to all relevant sanitary codes, building codes, and other applicable regulations concerning maintenance, security, and upkeep of dwellings.
7. If the owner or controlling entity of the property is not present within the State of Rhode Island, a local property manager or management company shall be contracted to perform monthly inspections to verify that all requirements of this Ordinance and any other applicable laws are being met.

8. The property shall be posted with the name and 24-hour contact phone number of the local property management company. The posting shall be no less than 18 by 24 inches and shall be of a font that is legible from a distance of 45 feet and shall contain the words "THIS PROPERTY IS MANAGED BY" and "TO REPORT PROBLEMS OR CONCERNS CALL". The posting shall be secured to the exterior of the structure or placed in a location so it is visible from the street.

ENFORCEMENT ACTIONS:

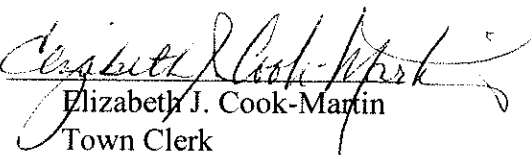
- A. The property owner, controlling entity or designated local agent shall:
 1. Upon request of local law enforcement authorities, provide a trespass authorization if the property is unlawfully occupied.
 2. Conduct quarterly inspections of the property to ensure it is properly secured and maintained in accordance with all the requirements of this Ordinance after which the person conducting the inspection shall electronically submit a report of said inspection to the Building/Zoning Official.
- B. If the Building/Zoning Official or designee determines that a property is not in compliance with the requirements of this Ordinance, the Building/Zoning Official or designee will notify the owner, controlling entity, and/or local agent of the violation(s), including potential penalties associated with non-compliance, in writing. It shall be the burden of the owner, controlling entity, and/or local agent to bring the property into compliance and inform the Building/Zoning Department that the required changes and/or repairs were made no more than thirty (30) days after notification. If the specific violation is determined not to have been brought into timely compliance at this re-inspection, the owner, controlling entity, and/or local agent shall be summoned to the Hopkinton Municipal Court for adjudication and subject to a fine of up to five hundred dollars (\$500) for each violation, as determined by the Hopkinton Municipal Court following a hearing.
- C. Reasonable written notice of the date, time and place for such a hearing shall be given by first class mail to the owner or controlling entity, and/or to the local agent for said property. Any party aggrieved by the adjudication of the Hopkinton Municipal Court may appeal that adjudication to the Hopkinton Zoning Board of Review by filing a notice of appeal with the Building/Zoning Official within thirty (30) days of the final adjudication. The Zoning Board of Review shall conduct a hearing upon any appeal so filed within forty-five (45) days of the filing of said appeal. The standard of review on appeal to be employed by the Hopkinton Zoning Board of Review on such an appeal shall be whether or not the Hopkinton Municipal Court abused its discretion.

REMOVAL FROM THE VACANT & ABANDONED PROPERTY DATABASE:

- A. The property owner, controlling entity, and/or local agent may request removal of vacant and/or abandoned property from the *Database* by providing documentation to the Building/Zoning Official or designee showing that the property is neither vacant nor abandoned. Acceptable documentation shall include, but not be limited to, the following:
 - 1. A signed affidavit affirming owner occupancy;
 - 2. A deed showing that the property has transferred ownership to a new owner or controlling entity, or;
 - 3. A copy of a signed lease, showing that a new permanent tenant is moving into the property.
- B. The Building/Zoning Official or designee shall inspect the property and assess its condition prior to, and as a condition of, removal from the *Database*.
- C. Properties shall not be removed from the *Database* until the Building/Zoning Official or designee has verified that the property is in compliance with the maintenance and security requirements of this Ordinance and meets all relevant town and state building codes and regulations.

Adopted: December 18, 2017

ATTEST:


Elizabeth J. Cook-Martin
Town Clerk