

## **PROPOSED ADDITION TO ARTICLE 17--TOWN BETTERMENT BY-LAWS:**

### **SECTION 22 - VACANT PROPERTIES**

#### **Registration and Maintenance**

##### **1. Purpose.**

The purpose of this bylaw is to protect the health, safety and welfare of the Town and its residents by preventing blight, protecting property values and neighborhood integrity, protecting the Town's resources, avoiding the creation and maintenance of nuisances and ensuring the safe and sanitary maintenance of all properties. Inadequately maintained vacant buildings are at an increased risk for fire, unlawful entry, and other public health and safety hazards. This bylaw will help secure the welfare of the Town's residents and neighborhoods by requiring all property owners, as well as lenders, trustees, service companies and management entities, to properly maintain vacant properties..

##### **2. Definitions.**

COMMISSIONER - The Building Inspector of the Town of Becket or his designee.

DAYS - Consecutive calendar days.

FORECLOSED - A property, placed as security for a real estate loan, as to which all rights of the mortgagor or his grantee in the property have been terminated as a result of a default of the loan.

LOCAL - Within 20 miles of the property in question.

MORTGAGEE - The creditor, including but not limited to service companies and lenders under a mortgage agreement, or any successor in interest of the mortgagee's rights, interests or obligations under the mortgage agreement.

OWNER - Every person, entity, service company, property manager or real estate broker, who alone or severally with others:

a. has legal or equitable title to any dwelling, dwelling unit, or parcel of land, vacant or otherwise; or

b. has care, charge or control of any dwelling, dwelling unit, parcel of land, vacant or otherwise, in any capacity, including but not limited to agent, executor, executrix, administrator, administratrix, trustee or guardian of the estate or the holder of legal title; or

c. is a mortgagee in possession of any such property; or

d. is an agent, trustee or other person appointed by the courts and vested with possession or control; or

e. is an officer or trustee of the association of unit owners of a private community or condominium; each such person is bound to comply with the provisions of these minimum standards as if he were the owner; or

f. Is a trustee who holds, owns or controls mortgage loans for mortgage backed securities transactions and has initiated a foreclosure process.

PROPERTY - Any real property or portion thereof, located in the Town of Becket, which contains a building, structure, or other improvement.

TOWN - The Town of Becket.

VACANT - A property which is not being actively used or occupied and which has not been actively used or occupied within the preceding 90 days. This definition shall not apply to property which is undergoing renovations or repairs due to fire or other casualty. For purposes of this bylaw, "vacant" also includes abandoned and/or foreclosed property(ies). Excepted from this definition is residential property that is temporarily vacant due to the owner(s)' seasonal absences.

Properties already vacant prior to this bylaw will be deemed in violation if owner does not bring property into compliance within 90 days. The commissioner shall notify the last known owner per Tax Collector records.

### **3. Registration.**

A. All owners of vacant and/or foreclosed properties shall register such properties with the Commissioner on a form provided by the Commissioner. An owner shall file said registration with the Commissioner within 14 days following the occurrence of a vacancy or foreclosure, whichever first occurs. If the owner is an out-of-state corporation, person, or other entity, the owner shall appoint an in-state agent authorized to accept service of process and other documents under this article.

- (1) Each registration must state the owners or agent's name, telephone number and mailing address located within the Commonwealth of Massachusetts, including the name of the owner, street number, street name, city or town, and zip code; the mailing address shall not be a post office box.
- (2) Each registration must also certify that the property has been inspected by the owner and must identify whether the property is vacant. Each registration must designate a local individual or local property management company responsible for the maintenance and security of this property. This designation must state the individual or company's name, direct telephone number, and local mailing address; the mailing addresses shall not be a post office box.

B. All property registrations pursuant to this section are valid for one calendar year from the date when the registration is received by the Commissioner. An annual registration fee must accompany the registration form. Subsequent registrations and fees are due no later than the date of the expiration of the previous registration. Subsequent registrations must certify whether the property remains vacant and/or remains in foreclosure, as the case may be.

(1) The fee for the registration of ownership of a vacant property shall be \$25.00 per property. Any request by the Commissioner for a change in the registration fee shall require approval by the Board of Selectmen.

(2) The Commissioner shall submit a copy of each completed registration or renewal form to the Police Department, Fire Department and Board of Health.

C. Any owner that has registered a property pursuant to this section shall report in writing to the Commissioner any change in information contained in the registration within 10 days of the change.

D. Once the property is no longer vacant or is sold, the owner shall provide the Commissioner with written notice of legal occupancy or proof of sale, as the case may be.

#### **4. Maintenance and security requirements.**

A. Owners of vacant properties must fulfill the following minimum adequate maintenance and security requirements for any such property they own:

(1) Maintain vacant properties subject to this section in accordance with the relevant sanitary, building, and fire codes.

(2) Secure vacant properties subject to this section to prevent unauthorized entry and exposure to the elements.

(3) Maintain vacant properties subject to this section, including but not limited to maintaining and keeping in good repair any building(s), structure(s) and improvements, the removal of trash and debris, and the regular mowing of lawns, pruning and/or trimming of trees and shrubbery, and upkeep of other landscape features.

(4) Repair or replace broken windows or doors within 30 days. Boarding up any doors or windows is prohibited except as a temporary measure for no longer than 30 days.

B. Properties vacant for six months or more shall have utilities shut off, removed, or cut and capped to prevent accidents.

C. Compliance with this section shall not relieve the owner of any applicable obligations set forth in any other codes, regulations, covenants, conditions, or restrictions, and/or homeowner or condominium association rules and regulations.

#### **5. Inspections.**

The Commissioner or his designee shall have the authority and the duty to periodically inspect visually (per Building Code regulations) properties subject to this article for compliance with this article and to issue citations for any violations. The Commissioner or his designee shall have the discretion to determine when and how such inspections are to be made, provided that such determination is reasonably calculated to ensure that this article is enforced.

**6. Enforcement and penalties.**

A. In addition to any other means of enforcement available to the Commissioner, the Commissioner may enforce this article by means of noncriminal enforcement pursuant to M.G.L. c. Chapter 40, § 21D. In addition to the Commissioner, the Police and Fire Chiefs and their respective designees, and the Health Agent shall each have authority to enforce this article. The following penalties are established for purposes of said noncriminal disposition:

(1) A failure to initially register or to reregister with the Commissioner: \$300.

(2) A failure to properly designate the name of the local individual or local property management company responsible for the maintenance and the security of the property: \$300 for each violation.

(3) A failure to maintain and/or to secure the property: \$300 for each week or portion thereof during which the property is not maintained and/or not secured in compliance with said section.

B. The penalties provided in this section shall not be construed to restrict the Town from pursuing other legal remedies available to the Town. Violation of any other provision of this article shall be subject to a fine of \$300 for each violation; each day shall be considered a separate violation.

C. All fees collected shall be designated to the town demolition fund.

**7. Appeals; applicability; severability.**

A. Appeals. Any persons aggrieved by the requirements of this article or by a decision issued hereunder may, within twenty-one days after the date of receipt of written notice, seek relief in district court by requesting a hearing in writing. Such hearing shall be held before a district court judge, clerk, or assistant clerk, as the court shall direct as provided by M.G.L. c. Chapter 40, § 21D.

B. Applicability. If any provisions of this article impose greater restrictions or obligations than those imposed by any general law, special law, regulation, rule, ordinance, order or policy, then the provisions of this article shall control.

C. Severability. If any provision of this article is held to be invalid by a court of competent jurisdiction, then such provisions shall be considered separately and apart from this article's remaining provisions, which shall remain in full force and effect.