

ORDINANCE NO. \_\_\_\_\_ OF 2015

**AN ORDINANCE TO PROTECT THE PUBLIC HEALTH, SAFETY AND GENERAL WELFARE BY ESTABLISHING REGULATIONS FOR VACANT RESIDENTIAL, COMMERCIAL AND INDUSTRIAL PROPERTIES WITHIN BEDFORD CHARTER TOWNSHIP; TO PROVIDE PENALTIES FOR THE VIOLATION OF SAID ORDINANCE; AND TO REPEAL ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH..**

**The Charter Township of Bedford, Calhoun County, Michigan, ordains:**

**SECTION 1. Title.** This ordinance shall be known as “The Bedford Charter Township Vacant Property Ordinance”.

**SECTION 2. Purpose.**

The purpose of this ordinance is to help protect the health, safety and welfare of the citizens of Bedford Charter Township by preventing blight, protecting property values and neighborhood integrity, avoiding the creation and maintenance of nuisances, and ensuring the safety and sanitary maintenance of dwellings. Due to economic conditions, mortgage foreclosures, and increased bankruptcies, many homes and commercial properties 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 deterred 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 ordinance is intended to assist the Township 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.

**SECTION 3. Scope.**

The provisions of this ordinance shall apply to all one-family residential structures, multi-family residential structures, commercial, and industrial structures within the Township. This ordinance does not relieve an owner from compliance with all other township ordinances, codes, rules, regulations, and state law.

**SECTION 4. Definitions.**

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

- (a) **Abandoned vacant property** means a vacant property as defined in this section that has been vacant for sixty (60) days or more and meets any of the following criteria:
  - (1) Provides a location for frequent or habitual loitering, vagrancy, unauthorized entry, or other criminal activity;

- (2) Has one or more broken or boarded windows;
  - (3) Has utilities (gas, electric, water) disconnected or not in use;
  - (4) Is not maintained or in compliance with this ordinance, including without limitation, other building safety, fire safety, and code enforcement regulations; or
  - (5) Is only partially completed and is not fit for human occupancy and there are not active building permits on the property that will result in restoration of the premises to a safe and habitable condition;
  - (6) Has taxes in arrears for a period of time exceeding 365 days.
- (b) **AMSA** means the Area Metropolitan Services Agency.
  - (c) **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.
  - (d) **Building** means a structure with a roof supported by columns or walls to serve as a shelter or enclosure.
  - (e) **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.
  - (f) **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.
  - (g) **Lender** means a person, firm or corporation holding a mortgage on a property, who has commenced foreclosure proceedings with regard to the property in question.
  - (h) **Mortgage** means a recorded lien or interest in real property to secure payment of a loan.
  - (i) **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.
  - (j) **Structure** means anything constructed or erected the use of which requires location on or attachment to the ground and includes buildings.
  - (k) **Possessory Lender** means a person, firm, or corporation that has foreclosed a mortgage on a property, but may not have legal or equitable title.
  - (l) **Township** means Bedford Charter Township.
  - (m) **Vacant property** means an improved lot or parcel of real property where the principal building or structure is unoccupied, empty or deserted. A building or structure which remains furnished, has utilities connected or in use, and on property that is maintained while the owner is absent, shall not be considered vacant.

#### **SECTION 5. Registration of vacant and abandoned vacant property.**

An owner of vacant or abandoned vacant property in the Township shall be responsible for registering that property with the Bedford Charter Township Building & Zoning Department by complying with the affidavit and registration and inspection requirements in this ordinance. 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 sixty (60) days of the vacancy.

#### **SECTION 6. Registration affidavit.**

Owners, possessory lenders, and/or lenders who are required to register property pursuant to this ordinance 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 facia proof that the owner has failed to comply with this requirement.

#### **SECTION 7. Registration, inspection, and other fees.**

All fees applicable to this ordinance shall be set by resolution of the Bedford Charter Township Board. Registration and inspection fees shall be paid at the time of submitting the registration affidavit. There shall also be a fee for 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 shall be assessed for the added cost of the Township's expenses in having to determine ownership. Such additional fee shall be immediately payable. The payment of all fees required under this ordinance 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 8. Requirements 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 9. 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) scheduling with the Township and paying for the Township's safety and maintenance inspection of the building and property within

thirty (30) days of vacancy; 2) obtaining necessary permits; and 3) making such repairs as required under this ordinance and other applicable codes and statutes and obtaining inspections from the Township annually thereafter until 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, draining systems, gutters, doors, windows, parking areas, signage, driveway aprons, service walks, sidewalks and other public areas are sound, operational or properly disconnected. A vacant or abandoned property shall not be reoccupied until inspected and found to be in full compliance with all applicable Township codes and a Certificate of Occupancy is issued by the Township.

- (b) If, at the time of the Township'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 township, 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).

#### **SECTION 10. 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 which 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, such as a lender or possessory lender, and if the lender or possessory lender is located more than thirty (30) miles away, then a local property maintenance company shall be contracted to perform weekly inspections to verify the requirements of this section and any other applicable laws. The Township shall be notified of the name and contact information for the local property management company as called for by Section 6. 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 11. 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 Township 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 ordinance.

#### **SECTION 12. Re-occupancy, certificate of occupancy required.**

A vacant or unoccupied building or structure on vacant property shall not be occupied until 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 Township, and all other applicable ordinances; unless said conditions are deemed to be legally non-conforming and/or overruled or reversed by the AMSA 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 Township have been paid in full.

### **SECTION 13. Notice to abate.**

Upon observing a violation of the provisions of this ordinance, an enforcement officer may issue a notice to abate to the owner, lender, and/or possessory lender as shown on the records maintained by the Township. 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 Township 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 Township 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 Township, 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.

### **SECTION 14. Securing open property.**

Property subject to this ordinance that is left open and/or accessible shall be subject to entry by the Township 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 ordinance which is found open or unsecured shall be responsible for all Township 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 Township observation. If the owner, possessory lender, and/or 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 upon the authorization of the Township Supervisor 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.

### **SECTION 15. Emergency abatement by Township.**

When, in the opinion of the Township Supervisor 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 Township Supervisor may, without any notice of hearing, order and require any reasonable action to abate the violation.

**SECTION 16. Penalty for violation.**

A person who violates the provisions of this ordinance, 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 municipal civil infraction. Fines shall be Two Hundred and Fifty (\$250.00) Dollars for first offense and Five Hundred (\$500.00) Dollars for second and subsequent offenses, plus costs and other sanctions as permitted by law.
- (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 ordinance, 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 a Bedford Charter Township Code or other Township ordinance violation which is not a civil infraction.

**SECTION 17. Abatement by Township; lien.**

If the notice to abate is not complied with in the in the allotted time, then an agent authorized by the Township Supervisor or by an order the 10<sup>th</sup> 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 Township 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 be 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 Township 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 Township does not preclude the right of the Township to initiate a municipal civil infraction citation and request for formal hearing at 10<sup>th</sup> District Court.

**SECTION 18. Repeal.** All ordinances or parts of law in effect that are in conflict herewith are hereby repealed only to the extent necessary to give this ordinance full force and effect.

**SECTION 19. Severability.** That if any section, subsection, sentence, clause or phrase of this legislation is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Bedford Charter Township hereby

declares that it would have passed this law, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

**SECTION 20. Savings.** That nothing in this legislation shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any act or ordinance hereby repealed as cited in Section 2 of this law; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this legislation.

**SECTION 21. Effective date.** This Ordinance shall take effect immediately upon its publication, or publication of a summary, which publication shall occur in a newspaper of general circulation in the Township within thirty (30) days after adoption.

This Ordinance is hereby declared to have been passed and adopted by the Charter Township of Bedford, County of Calhoun, State of Michigan, at a regularly scheduled meeting thereof duly called and held on this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Tom Sprau, Supervisor

ATTEST:

\_\_\_\_\_  
Joyce Feraco, Clerk

Prepared by:  
John H. Macfarlane (P29075)  
Mumford, Schubel, Norlander,  
Macfarlane & Barnett, PLLC

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