

City of North Muskegon
Muskegon County, Michigan

ORDINANCE NO. 561

THE CITY OF NORTH MUSKEGON HEREBY ORDAINS:

The City of North Muskegon Code of Ordinances concerning Building and Building Regulations is amended to add the following:

1. Chapter 10, Article VII, Sections 10-211 through 10-224 is hereby added to read as follows:

ARTICLE VII. - VACANT PROPERTY REGISTRATION AND MAINTENANCE

Sec. 10-211. - Purpose.

The purpose of this article 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 dwellings, commercial and industrial buildings. Due to economic conditions, mortgage fraud, foreclosures, and increased bankruptcies, many homes and buildings 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 abandoned buildings. 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 rat and vermin activity at vacant structures. Such neglect devalues properties and causes deterioration in neighborhoods and commercial areas. Further, it is important for the city to be able to contact owners of vacant properties for fire safety and police purposes.

Sec. 10-212. - Scope.

The provisions of this article shall apply to all residential, commercial, and industrial structures and all vacant land.

Sec. 10-213. - Definitions.

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

Abandoned vacant property means 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 (1) or more broken or boarded windows;

- (3) Has taxes in arrears for a period of time exceeding three hundred sixty-five (365) days;
- (4) Has utilities disconnected or not in use for a period of time exceeding three hundred sixty-five (365) days;
- (5) Is not maintained in compliance with this Code, including without limitation, other building and building regulations in this chapter 10, the property maintenance code in article IV of chapter 10, the fire prevention code in article II of chapter 26, and the solid waste regulations in chapter 50;
- (6) Is only partially completed and is not fit for human occupancy.

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

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.

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 trustor (borrower).

Mortgage means a recorded lien or interest in real property to secure payment of a loan.

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.

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

Trustee means a person, firm or corporation holding a mortgage on a property.

Trustor 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.

Vacant property means 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 (1) building or structure that is not currently used or occupied.

Sec. 10-214. - Registration of vacant and abandoned vacant property.

- (a) An owner of a vacant property in the city shall be responsible for registering that property with the by complying with the affidavit and registration and inspection fee requirements in this article within the times in this section.
- (b) A vacant property shall be registered within sixty (60) 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 10-218.
- (d) Commercial structures that are vacant at the time this article takes effect shall be registered within thirty (30) days of that date.

Sec. 10-215. - Registration affidavit.

Owners who are required to register their properties pursuant to this article 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 for an owner provided the agent's written authorization from the owner is provided with the affidavit.

- (1) The name of the owner of the property.
- (2) 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 the owner has failed to comply with this requirement.
- (3) 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.
- (4) 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 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 the owner has failed to comply with this requirement.

Sec. 10-216. - Registration, inspection and other fees.

All fees applicable to this article shall be set by resolution of the city council. 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 city council. For properties that are not registered within the required time, an additional fee for the added cost of the city'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 this 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.

Sec. 10-217. - Requirement to keep information current.

If at any time the information contained in the affidavit is no longer valid, the property owner 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.

Sec. 10-218. - Annual inspections.

- (a) If the vacant property includes vacant or unoccupied buildings, the owners of that property are also responsible for immediately obtaining and paying for the city's safety and maintenance inspection of the building and property, obtaining necessary permits, making required repairs and obtaining inspections from the city 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 or the owner's agent shall demonstrate that all water, sewer, electrical, gas, HVAC and plumbing systems, exterior finishes and walls, concrete surfaces, accessory buildings and structures, 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) Any trustee who holds a mortgage on a property located within the city, shall perform an inspection, to the extent permitted by law or under the mortgage of the property that is the security for the mortgage, upon default by the trustor, 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). If the property is found to be vacant or shows evidence of vacancy, it is, by this article, deemed abandoned and the trustee shall, within ten (10) days of the inspection, register the property in accordance with this article and be subject to the provisions of this article.

Sec. 10-219. - Maintenance and security requirements.

All owners 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.

- (1) Property shall be kept free from weeds, grass more than eight (8) inches high, dry brush, 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 that give the appearance that the property is abandoned.
- (2) 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.
- (3) All visible front and side yards shall be landscaped and properly maintained. Landscaping includes, but is not limited to, grass, groundcovers, 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.
- (4) 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.
- (5) 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.

- (6) Owners shall inspect or cause the inspection of vacant property on a bi-weekly 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 trustee owner is located more than thirty (30) miles away, a local property management company shall be contracted to perform bi-weekly inspections to verify that the requirements of this section and any other applicable laws are being met. The property shall be posted with name and a 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 eighteen (18) inches x twenty-four (24) inches 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 secured to the exterior of the building structure facing the street to the front of the property so that 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 at least on a bi-weekly basis to determine if the property is in compliance with the requirements of this section, shall create and maintain a written record of the inspections and provide written notice to the owner, any person registered as responsible for the care and control of the property and city of any areas of noncompliance.

Sec. 10-220. - Fire damaged property.

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

Sec. 10-221. - Right of entry.

If the owner has failed to secure a property and it has been secured by the city, the city 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.

Sec. 10-222. - 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 city, and all violations have been corrected in accordance with the applicable requirements of the state construction code and act and building, residential, electrical, mechanical, plumbing, and other codes that are part of the state construction code administered and enforced by the city, the city's property maintenance ordinance and code and other applicable provisions of this Code. 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 city have been paid in full.

Sec. 10-223. - Violation and penalty.

- (a) Violations of this article are municipal civil infractions, subjecting persons found responsible for violations to the fines in subsection (b), plus costs, and to the sanctions, remedies and procedures as set forth in chapter 2, article V of this Code, 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 one hundred dollars (\$100.00). The fine for all other violations shall be in an amount not to exceed five hundred dollars (\$500.00).

Secs. 10-224—10-230. - Reserved.

This ordinance adopted:

Ayes: McKibben, Closz, Mogren, Schultz, Seyferth, Wilson, Freeman

Nays: None

Adoption Date: April 18, 2022

Effective Date: May 20, 2022

Publish: May 10, 2022

CITY OF NORTH MUSKEGON

By _____
Maria Boersma, City Clerk

CERTIFICATE

The undersigned, being duly qualified clerk of the City of North Muskegon, Muskegon County, Michigan, does hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the City Council of the City of North Muskegon at a regular meeting of the City Council on the 18th day of April, 2022, at which meeting a quorum was present and remained throughout, and that the original said ordinance is on file in the records of the City of North Muskegon. I further certify that the meeting was conducted, and public notice was given, pursuant to and in full compliance with Act No. 267, Public Acts of Michigan of 1976, as amended, and that minutes were kept and will be or have been made available as required thereby.

Dated: _____, 2022

CITY OF NORTH MUSKEGON

By _____

Maria Boersma, City Clerk

Publish: Notice of Adoption to be published once within ten (10) days of final adoption.