

ORDINANCE NO. 404-09

**CITY OF LATHRUP VILLAGE
OAKLAND COUNTY, MICHIGAN**

**AN ORDINANCE TO AMEND THE
CITY OF LATHRUP VILLAGE CODE OF
ORDINANCES, CHAPTER 14 BUILDINGS AND
BUILDING REGULATIONS BY ADDING ARTICLE X
ABANDONED RESIDENTIAL PROPERTY REGISTRATION
SECTIONS 14-400 THROUGH AND INCLUDING
SECTION 14-409 TO ESTABLISH AN ABANDONED
RESIDENTIAL PROPERTY REGISTRATION PROGRAM
AND PROVIDE A REGISTRATION FEE AND TO
ESTABLISH A PENALTY FOR NON-COMPLIANCE**

THE CITY COUNCIL OF THE CITY OF LATHRUP VILLAGE ORDAINS:

PART I. TITLE.

This Ordinance shall be known as the “Abandoned Residential Property Registration” Ordinance.

PART II. PURPOSE.

It is the purpose and intent of the City of Lathrup Village, through the adoption of this ordinance, to establish an abandoned residential property registration program as a mechanism to protect residential neighborhoods from being blighted through the lack of adequate maintenance and security of abandoned properties.

PART III. ORDINANCE AMENDMENT.

That Chapter 14 Buildings and Building Regulations is hereby amended by adding Article X Abandoned Residential Property Registration as follows:

Article X Abandoned Residential Property Registration

Section 14-400 **Definitions**

- A. “Abandoned” means a property that is vacant and is under a current notice of default and/or notice of trustee’s sale, pending tax sale and/or properties that have been the subject of a foreclosure sale where the title was retained by the beneficiary of a mortgage

involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure/sale.

- B. “Accessible property” means a property that is accessible through a compromised/breached gate, fence, wall, etc.
- C. “Accessible structure” means a structure/building that is unsecured and/or breached in such a way as to allow access to the interior space by unauthorized persons.
- D. “Agreement” means any agreement or written instrument which provides that title to residential property shall be transferred or conveyed from one owner to another owner after the sale, trade, transfer or exchange.
- E. “Assignment of rents” means an instrument that transfers the beneficial interest under a mortgage from one lender/entity to another.
- F. “Beneficiary” means a lender or entity acting as a nominee for a lender or lenders successors or assignees under a note secured by a mortgage.
- G. “Buyer” means any person, co-partnership, association, corporation, or fiduciary who agrees to transfer anything of value in consideration for property described in an agreement of sale, as defined in this subsection.
- H. “Dangerous building” means any building/structure that is in violation of any condition referenced in Chapter 14, Article VIII of the City Code of Ordinances.
- I. “Days” means consecutive calendar days.
- J. “Deed in lieu of foreclosure/sale” means a recorded document that transfers ownership of a property from the trustor to the holder of a mortgage upon consent of the beneficiary of the mortgage.
- K. “Default” means the failure to fulfill a contractual obligation, monetary or conditional.
- L. “Distressed” means a property that is under a current notice of default and/or notice of trustee’s sale and/or pending tax assessor’s lien sale or has been foreclosed upon by the trustee or has been conveyed to the beneficiary/trustee via a deed in lieu of foreclosure/sale.

- M. “Evidence of vacancy” means any condition that on its own or combined with other conditions present would lead a reasonable person to believe that 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, the absence of window coverings such as curtains, blinds and/or shutters, the absence of furnishings and/or personal items consistent with residential habitation, statements by neighbors, passersby, deliver agents, government employees that the property is vacant.
- N. “Foreclosure” means the process by which a property, placed as security for a real estate loan, is sold at auction to satisfy the debt if the trustor (borrower) defaults.
- O. “Local” means within 40 road/driving miles distance of the subject property.
- P. “Mortgage” means an instrument by which title to real estate is transferred to a third party trustee as security for a real estate loan.
- Q. “Neighborhood standard” means those conditions that are present on a simple majority of properties within a 300-foot radius of an individual property. A property that is the subject of a neighborhood standard comparison, or any other abandoned property within the 300-foot radius, shall not be counted toward the simple majority.
- R. “Notice of default” means a recorded notice that a default has occurred under a mortgage and that the beneficiary intends to proceed with a trustee’s sale.
- S. “Out of area” means in excess of 40 road/driving miles distance of the subject property.
- T. “Owner” means any person, co-partnership, association, corporation, governmental agency/department or fiduciary having a legal or equitable title or any interest in any real property.
- U. “Owner of record” means the person having recorded title to the property.
- V. “Property” means any unimproved or improved real property, or portion thereof, situated in the City and includes the buildings or structures located on the property regardless of condition.

- W. “Residential building” means any improved real property, or portion thereof, situated in the City, designed or permitted to be used for dwelling purposes, and shall include the buildings and structures located on such improved real property. This includes any real property being offered for sale, trade, transfer, or exchange as “residential” whether or not it is legally permitted and/or zoned for such use.
- X. “Secure” or “secured” means such measures as may be directed by the City of Lathrup Village Building Department head or his or her designee that render the property inaccessible to unauthorized persons, including but not limited to the repairing of fences and walls, chaining/padlocking of gates, and the repair or boarding of doors, broken windows and/or other openings. In the case of broken windows, securing means the reglazing or boarding of the window. Boarding shall be completed to a minimum of the current HUD securing standards at the time the boarding is completed or required and to the requirements of Chapter 14, Article VI of the City of Lathrup Village Code of Ordinances. In addition, “secure” or “secured” means closing and locking windows, doors (walk-through, sliding and garage), gates and any other opening of such size that it may allow a person to access the interior of a property and/or structure(s).
- Y. “Trustee” means the person, firm, corporation, or entity acting as a nominee for a lender or lenders successors or assignees holding a mortgage on a property.
- Z. “Trustor” means a borrower under a mortgage, who deeds property to a trustee as security for the payment of a debt.
- AA. “Vacant” means a building/structure that is not legally occupied, or has utilities disconnected or not in use, or provides a location for loitering, vagrancy, unauthorized entry or other criminal activity, or as taxes are in arrears for a period of time exceeding 365 days, or has been boarded up for at least 30 days or is not maintained in compliance with City of Lathrup Village Ordinance.

Section 14-401 Recordation of transfer of loan/mortgage/assignment of rents.

Within 30 days of the purchase and/or transfer of a loan/mortgage secured by residential property the new beneficiary/trustee shall record, with the Oakland County Register of Deeds, an assignment of rents, or similar document, that lists the name of the corporation, and/or individual, the

mailing address and contact phone number of the new beneficiary/trustee responsible for receiving payments associated with the loan/mortgage.

Section 14-402 Registration.

- a. Any beneficiary/trustee, who holds a mortgage on a property located within the City, shall perform an inspection of the property that is the security for the mortgage, upon default by the trustor, prior to recording a notice of default with the Oakland County Register of Deeds. If the property is found to be vacant or shows evidence of vacancy, it is, by this ordinance, deemed abandoned and the beneficiary/trustee shall, within 10 days of the inspection, register the property with the City of Lathrup Village Building Department head or his or her designee on forms provided by the City.
- b. If the property is occupied but remains in default, it shall be inspected by the beneficiary/trustee, or his designee, monthly until (1) the trustor or other party remedies the default or (2) it is found to be vacant or shows evidence of vacancy at which time it is deemed abandoned, and the trustee shall, within 10 days of that inspection, register the property with the City of Lathrup Village Building Department head or his or her designee on forms provided by the City.
- c. In either case the registration shall contain the name of the beneficiary/trustee (corporation or individual), the direct street/office mailing address of the beneficiary/trustee (no P.O. boxes), a direct contact name and phone number for the beneficiary/trustee and, in the case of a corporation or out-of-area beneficiary/trustee, the local property management company responsible for the security, maintenance and marketing of the property. Registration fees will not be prorated.
- d. An annual registration fee shall accompany the registration form. The fee and registration shall be valid for the calendar year, or remaining portion of the calendar year, in which the registration was initially required. Subsequent registrations and fees are due January 1st of each year and must be received no later than January 31st of the year due.
- e. This section shall also apply to properties that have been the subject of a foreclosure sale where the title was transferred to the beneficiary of a mortgage involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure/sale.

- f. Properties subject to this ordinance shall remain under the annual registration requirement, security and maintenance standards of this section as long as they remain vacant.
- g. Any person, firm or corporation that has registered a property under this ordinance must report any change of information contained in registration to the City of Lathrup Village Building Department within 10 days of the change.

Section 14-403 **Maintenance requirements.**

- a. Properties subject to this section shall be, in comparison to the neighborhood standard, kept free of weeds, 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 personal items including but not limited to furniture, clothing, large and small appliances, printed material or any other items that give the appearance that the property is abandoned.
- b. The 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. Visible front and side yards shall be landscaped and maintained to the neighborhood standard at the time registration was required. Landscape includes, but is not limited to, grass, ground covers, bushes, shrubs, hedges or similar plantings, decorative rock or bark or artificial turf/sod designed specifically for residential installation. Landscape does not include weeds, gravel, broken concrete, asphalt, decomposed granite, plastic sheeting, mulch, indoor-outdoor carpet or any similar material.
- d. Maintenance includes but is not limited to regular watering, irrigation, cutting, pruning and mowing of required landscape and removal of all trimmings.
- e. Pools and spas shall be kept in working order so the water mains clear and free of pollutants and debris or drained and kept dry. In either case properties with pools and/or spas must comply with the minimum security fencing requirements of the State of Michigan and local ordinance.
- f. Adherence to this section does not relieve the beneficiary/trustee or property 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.

- g. In addition to the above set forth requirements properties shall be maintained in accordance with the standards set forth under Chapter 14 Article VI, Section 14-151 of the City of Lathrup Village Code of Ordinances.

Section 14-404 **Security requirements.**

- a. Properties subject to this section shall be secured so as not to be accessible to unauthorized persons.
- b. If the property is owned by a corporation and/or out-of-area beneficiary/trustee/owner, a local property management company shall be contracted to perform monthly inspections to verify that the requirements of this section, and any other applicable laws, are being met.
- c. The local property management company shall inspect the property on a monthly basis to determine if the property is in compliance with the requirements of this ordinance and shall file with the building official a report of its inspection within 7 days of said inspection.

Section 14-405 **Additional authority.**

In addition to the enforcement remedies established in the City of Lathrup Village Code of Ordinances, the City of Lathrup Village Building Official or his or her designee shall have the authority to require the beneficiary/trustee/owner and/or owner of record of any property affected by this section to implement additional maintenance and/or security measures including but not limited to securing any/all door, window or other openings, installing additional security lighting, increasing on-site inspection frequency, employment of an on-site security guard or other measures as may be reasonably required to arrest the decline of the property.

Section 14-406 **Fees.**

The fee for registering an abandoned residential property shall be set by resolution of the City Council.

Section 14-407 **Enforcement.**

Violations of this ordinance are a civil infraction and may be enforced as allowed in Chapter 2, Article VI, Municipal Civil Infraction, of the City's Code of Ordinances.

Section 14-408 Appeals.

Any person aggrieved by any of the requirements of this section may appeal to the City of Lathrup Village Council, provided that a written application for appeal is filed within 21 days after the day the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, the requirements of this code are adequately satisfied by other means, or the strict application of any requirement of this code would cause an undo hardship.

Section 14-409 Violation/penalty.

Violations of this ordinance shall be treated as a strict liability offense regardless of intent. Any person, firm and/or corporation that violate any portion of this section shall be subject to prosecution and/or administrative enforcement under Chapter 2, Article VI, Municipal Civil Infraction. Each day that a violations continues after due notice has been served shall be deemed a separate offense.

PART IV. SEVERABILITY

This Ordinance and its various parts, sentences, paragraph, sections, clauses and rules promulgated hereunder are hereby declared to be severable. If any part, sentence, paragraph, section, clause, or rule promulgated hereunder is adjudged to be unconstitutional or invalid for any reason, such holdings shall not affect the remaining portions of this Ordinance.

PART V. EFFECTIVE DATE; PUBLICATION.

This Ordinance shall become effective after publication of a brief notice in the newspaper circulated in the City, stating the date of the enactment and the effective date of the Ordinance, and that a copy of the Ordinance is available for public use and inspection at the office of the City Clerk, and such other facts as the City Clerk shall deem pertinent.

MADE, PASSED AND ADOPTED BY THE CITY COUNCIL, CITY OF LATHRUP VILLAGE, OAKLAND COUNTY, MICHIGAN THIS 21st DAY OF December, 2009.

Gloria Harris-Ford, City Clerk

Date of Public Hearing: November 16, 2009
Date of Adoption: December 21, 2009
Date of Publication of
Notice of Adoption: January 3, 2010

CERTIFICATE OF ADOPTION

I hereby certify that the foregoing is a true and complete copy of the ordinance passed at a meeting of the City of Lathrup Village held on the 21st day of December, 2009.

Gloria Harris-Ford, City Clerk