

## ***DIVISION 3. REGULATING THE MAINTENANCE OF ABANDONED AND FORECLOSING RESIDENTIAL AND COMMERCIAL PROPERTIES<sup>1</sup>***

### **Sec. 12-66. Purpose.**

It is the intent of this division to foster the protection and preservation of public safety and health of occupants, abutters, and neighborhoods and prevent blight and dangerous conditions caused by poorly maintained and unsecured real property by: (i) requiring each owner of an abandoned real property or real property in foreclosure to register that real property with the inspectional services department and (ii) encouraging and authorizing maintenance of such real property. This division is in addition to the existing authority of various municipal officials, boards and commissions, including the director of inspectional services and the board of health, to address problems caused by unsecured and poorly maintained real properties and nothing set forth herein shall be construed to limit that authority.

The director of the inspectional services department has enforcement authority hereunder pursuant to, inter alia, M.G.L. c. 143, § 3, the State Building Code, and the City of Salem Zoning Ordinance.

(Ord. of 12-5-2013)

### **Sec. 12-67. Definitions.**

When used in this division, unless a contrary intention clearly appears, the following terms shall have the following meanings:

*Abandoned* means any property, residential and commercial, that is unoccupied for more than 45 days excluding, however, real property used exclusively for seasonal occupancy or to which improvements are being made pursuant to a building permit.

*City* means City of Salem.

*Days* mean consecutive calendar days.

*Director* means director of inspectional services department.

*Evidence of abandonment* means any condition that would lead a reasonable person to believe that the property is abandoned.

*Foreclosure process* means when, as to that real property, (1) an action for possession has been brought or possession has been taken by a mortgagee pursuant to M.G.L. c. 244, § 1 or (ii) publication of the first foreclosure notice has been made pursuant to M.G.L. c. 244, § 14.

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<sup>1</sup>Editor's note(s)—An ordinance adopted Dec. 5, 2013, enacted new provisions to read as Ch. 12, Art. II, Div. 3, §§ 12-86—12-95. Seeing as provisions have been set out as Art. III, §§ 12-86—12-90 and in keeping with the numbering style of this code, said provisions have been renumbered and set out as §§ 12-66—12-85, at the discretion of the editor. See Code Comparative Table for derivation.

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*Mortgagee* means the creditor, including but not limited to, service companies and lenders, in a mortgage agreement.

*Mortgagee in possession* means a mortgagee that has taken over control and/or occupancy of a property upon default of the borrower to collect from the property and/or prepare for foreclosure.

*Occupied* means a property that is not abandoned.

*Owner* means each person or entity who alone or severally with others:

- (1) Holds legal or equitable title to any real property;
- (2) Has care, charge or control of any real property in any capacity including but not limited to agent, personal representative, executor, executrix, administrator, administratrix, trustee or guardian of the estate of the holder of legal title;
- (3) Is a mortgagee in possession of any real property;
- (4) Is an agent, trustee, receiver or other person appointed by a court and vested with possession or control of any real property; or
- (5) That has initiated the foreclosure process.

*Real property* means any parcel of land, with improvements thereof, if any, residential or commercial, or portion thereof, including a condominium unit located in the City of Salem.

*Secure* means making real property inaccessible to unauthorized persons.

(Ord. of 12-5-2013)

## **Sec. 12-68. Registration.**

Each owner of an abandoned real property or real property for which the foreclosure process has begun shall register that property as required herein with the director on forms provided by the director. All registrations forms must be complete and be received by the director within seven days of abandonment or the initiation of the foreclosure process as defined in section 12-87.

An annual registration fee of \$300.00 must accompany the registration form. The fee and registration are valid for the calendar year, or remaining portion of the calendar year, in which the registration was initially required. Registration fees shall be prorated on a monthly basis. Each such real property must be re-registered until it is occupied or the foreclosure is complete or otherwise resolved. Subsequent registrations and fees are due January 15th of each year and must include a complete registration form.

(Ord. of 12-5-2013)

## **Sec. 12-69. Maintenance requirements.**

Real property subject to this division must be maintained in accordance with all applicable sanitary codes, building codes, and federal, state and local laws, rules and regulations. For so long as real property is subject to this division, each owner of the property shall make at least monthly inspections thereof.

(Ord. of 12-5-2013)

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### **Sec. 12-70. Inspections.**

The inspectional services department shall have the authority and to inspect properties subject to this division for compliance and to issue citations for any violations hereof. The inspectional services department shall have the discretion to determine when and how such inspections are to be made, provided that their policies are reasonably calculated to ensure that this division is enforced. The director may request that an owner of real property subject to this division take action to secure, maintain or otherwise improve that property.

(Ord. of 12-5-2013)

### **Sec. 12-71. Enforcement and penalties.**

Failure to register, including the submission of a complete registration form, with the director is punishable by a fine of \$300.00, each day being a separate offense.

(Ord. of 12-5-2013)

### **Sec. 12-72. Appeal.**

Any person aggrieved by the requirements of this division or by a decision issued under this division by the director may seek relief pursuant to M.G.L. c. 40, § 21D.

(Ord. of 12-5-2013)

### **Sec. 12-73. Applicability.**

If any provision of this division imposes greater restrictions or obligations than those imposed by any other general law, special law regulation, rule ordinance by-law order, or policy then the provisions of this division control.

(Ord. of 12-5-2013)

### **Sec. 12-74. Regulatory authority.**

The director has the authority to promulgate rules and regulations necessary to implement and enforce this division.

(Ord. of 12-5-2013)

### **Sec. 12-75. Severability.**

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

(Ord. of 12-5-2013)

