

Village of Concord
Foreclosed, Vacant & Abandoned Property Registry
Ordinance #110816
(Ord. No. 110816)

This article shall be known as the "Foreclosed, Vacant and Abandoned Property Registry Ordinance."

Ord. No. 110816, Sec. 1, --Findings and Purpose:

The Village of Concord Council finds that there are foreclosed, vacant, or abandoned properties in the Village that are a public nuisance and that foreclosed, vacant, and abandoned properties that are not maintained and secured constitute a hazard to the public health, safety and welfare for the following reasons:

- (1) These properties often become dilapidated because they are not maintained by the owners of the properties;
- (2) These properties attract children, harbor vermin, and provide shelter for vagrants and criminals;
- (3) These properties are more likely to be vandalized or be the target of arsonists;
- (4) These properties provide a dumping ground for garbage, trash and other debris; and
- (5) These properties require an increased amount of Village resources and staff time to maintain, secure, demolish or otherwise respond to problems associated with them.

The Village Council finds that owners of foreclosed, vacant, and abandoned properties should be held accountable for the physical condition of their properties. At a minimum, the owners should prevent the properties from creating a blight upon the surrounding neighborhood and decreasing property values. The Village Council also finds that a responsible local agent should be required for all properties not owned by persons or entities within a reasonable distance of the Village in order to safeguard the properties and structures, assist Village personnel with access for inspections, and accept notices concerning the properties.

Ord. No. 110816, Sec. 2,--Definitions:

Unless the context indicates otherwise, the following words used in this article shall have these meanings:

Abandoned property means a parcel of real property that is unoccupied in any manner for a period of more than six (6) months. Property will be presumed abandoned when mortgage or tax foreclosure proceedings have been initiated for that property, no mortgage or tax payments have been made by the property owner for at least ninety (90) days, and the property has been vacant for at least ninety (90) days. A dwelling may not be considered abandoned if all appropriate permits are issued, in force, and construction is ongoing.

Chief building official means the official designated by the Village to enforce building, zoning, or similar laws and this article, or his or her duly authorized representatives.

Foreclosure means the process by which a lien, mortgage, or security interest is enforced against a parcel of real property through sale or offering for sale of the real property to satisfy the debt or claim. For the purposes of this article, a parcel of real property for which there is any of the following shall constitute a foreclosed property:

- (1) A notice of foreclosure;
- (2) A notice of trustee's sale;
- (3) A foreclosure sale of the real property where the title to the real property was retained by the beneficiary of a mortgage;
- (4) A pending tax sale; or
- (5) A transfer of title under a deed in lieu of foreclosure or deed in lieu of sale.

Owner means any person or entity with any legal or equitable ownership or possessory interest in any real property, with or without accompanying actual possession thereof. The owner shall include, but not be limited to, a bank, a credit union, a trustee or financial institution which is in possession (in whole or in part) of the real property, or that is foreclosing a lien or mortgage interest in the property but may or may not have legal or equitable title. Owner also means any person or entity having charge, care or control of any real property as agent of the owner, as executor, administrator, trustee or guardian of the estate of the owner.

Responsible local agent means an authorized representative of a person, corporation, partnership, firm, joint venture, trust, association, organization, or other entity having a legal or equitable interest in property, and/or who is compensated by the property owner to manage a property and who is properly licensed according to state law. The responsible local agent must have, and will be deemed to have if designated by the owner of the property as the responsible local agent, the authority to do the following:

- (1) Receive all official notices concerning housing, zoning or dangerous buildings on behalf of the owner of a property, and any notice received by the responsible local agent shall be deemed to have been received by the property owner; and
- (2) Be responsible for providing access to the property for any inspection necessary to ensure compliance with the terms of this ordinance.

Securing means taking such measures as may be directed by the Village's Department of Public Works that render the property inaccessible to unauthorized persons, including, but not limited to, the repairing of fences and walls, chaining or padlocking of gates, and repair of doors, windows and other openings.

Vacant property means a parcel of real property that has been unoccupied continuously for a period of thirty (30) days or more, and is either:

- (1) Subject to foreclosure as defined in this article;

- (2) Has been abandoned by the owner;
- (3) Is under a condemnation notice or order to vacate;
- (4) Is not in compliance with the housing, electrical, mechanical, plumbing, or building codes;
- (5) Has one (1) or more broken or boarded windows;
- (6) Is open to casual entry or trespass;
- (7) Is deteriorating due to a lack of maintenance or neglect;
- (8) Has a building or structure for which a building permit has expired that is partially completed and is not fit for human occupancy;
- (9) Contains a structure that is structurally unsound;
- (10) Has utilities disconnected or not in use;
- (11) Has taxes in arrears for more than one (1) year; or
- (12) Is a potential hazard or danger to the safety of persons.

Ord. No. 110816, Sec. 3.--Property Registration Required:

Ordinance Number 110816 establishes a Foreclosed, Vacant, and Abandoned Property Registry requiring an owner of a foreclosed, vacant, or abandoned property to register the structure with the Village of Concord's Department of Public Works within 15 days of the earlier of:

- (1) The property becoming subject to foreclosure
- (2) The property becoming a vacant property
- (3) The property becoming an abandoned property
- (4) Notice being sent to the owner of a structure by the Village of Concord's Department of Public Works declaring the structure to be a foreclosed, vacant, or abandoned property

1. An owner of a foreclosed, vacant or abandoned property may apply for a registration on forms provided by the Village of Concord. The owner must pay the required registration fees. No registration is valid unless filled out accurately and completely, signed by the owner, and the proper fees have been paid. A registration fee once tendered may not be refunded or transferred. It is a violation of this article for an owner to provide inaccurate information on an application for a registration.

The registration must contain the following information:

- (1) The address of the foreclosed, vacant or abandoned property;
- (2) The date on which the property became foreclosed, vacant or abandoned;
- (3) The legal name, address, telephone number and date of birth of the owner;
- (4) The names, addresses and telephone numbers of the members of any owner that is a limited liability company, and the dates of birth of the members if individuals;

- (5) The names, addresses and telephone numbers of the majority shareholders of any owner that is a corporation, and the dates of birth of the majority shareholders if individuals;
 - (6) An acknowledgment of local responsible agent form signed by the local responsible agent, if required;
 - (7) Any additional information required by the department of community development; and
 - (8) A statement allowing authorized staff of the city to enter the premises for purposes of inspection.
2. Payment in full of all of the following fines, fees and debts relating to the property being registered that are owed to the Village of Concord and are currently due or past due must be paid prior to obtaining a foreclosed, vacant or abandoned property registration:
- a. Outstanding water or sewer bills;
 - b. All charges for mowing, cleanup, weed or debris removal; and
 - c. Any fines, penalties or debts of any sort arising from provisions of the Village's other ordinances, including any blight violations.

Fees:

- (1) Registration fees are \$200. The first quarter of a quarterly monitoring fee is due at registration, and ranges from \$100 - \$150 depending on the type of housing.
- (2) A late fee of \$100 will also be charged if the foreclosed, vacant, or abandoned residential property is registered within 30 calendar days after the due date (day 16 through 45)
- (3) Properties registered more than 30 calendar days after the due date (day 46+) will also be charged an additional \$25 per day late fee.

Responsible Local Agent:

The designation of a Responsible Local Agent is required for a foreclosed, vacant, or abandoned residential property owned by a person or entity that resides more than 50 miles outside of the Village of Concord. The property owner must designate a Responsible Local Agent who resides within 50 miles of the Village of Concord. If the Responsible Local Agent is a corporation, limited liability company, partnership, or other for-profit or non-profit entity, the address of the registered office of the entity must be within 50 miles of Concord.

Property Registration:

A property registration, which will remain valid for 2 years, will be issued if the applicant meets all the following requirements:

- (1) A Village of Concord Foreclosed, Vacant, & Abandoned Property Registry Application is properly submitted

- (2) An Acknowledgment of Responsible Local Agent form is submitted and signed by the Responsible Local Agent, if required
- (3) All application fees are paid
- (4) All outstanding inspection fees and late fees are paid
- (5) Payment in full of all of the following fines, fees, and debts owed to the Village relating to the property being registered that are currently due or past due including but not limited to:
 - o Outstanding water, sewer, and garbage bills
 - o All charges for mowing, cleanup, weed, or debris removal
 - o Any fees, penalties, or debts of any sort arising from provisions of the building code, including any blight violations

A foreclosed, vacant or abandoned residential registration is valid for a period of two (2) years from the date of issuance. A renewal foreclosed, vacant or abandoned residential property registration must be applied for at least sixty (60) days prior to the expiration date. Failure to timely renew a property registration is a violation of this article and shall subject the property owner to late fees.

Ord. No. 110816, Sec. 4.--Changes to the Application:

If any information submitted upon the application changes, including a majority change of new members of an owner that is a limited liability company or a change of the majority shareholders in an owner that is a corporation, the owner must notify the Village of Concord's Department of Public Works within 10 days and submit an amended application at no cost. However, failure to update information within 10 days is a violation and subject to late fees of \$25 per unit per day.

Transfer of Ownership:

The seller of a foreclosed, vacant or abandoned property must notify the Village of Concord Department of Public Works within forty-five (45) days of the sale or transfer and provide the name and address of the purchaser or transferee. The purchaser or transferee must apply for a property registration within forty-five (45) days of the sale or transfer, no refunds or credits of fees will be given when there is a transfer of ownership unless it is intended to be occupied as a single-family owner occupied structure and has filed a 100% Principal Residence Exemption with the Village assessor. Failure to register within 45 days after close of sale will be subject to late registration fees. If a foreclosed, vacant or abandoned structure will be occupied after a sale or transfer of the ownership, a certificate of compliance must first be obtained and all required fees must be paid unless there is a valid, unexpired building permit issued for the property.

Registration Renewal:

A renewal property registration must be applied for at least 60 days prior to the expiration date.

Ord. No. 110816, Sec. 5.--Duty to Maintain & Secure:

An owner of a foreclosed, vacant, or abandoned property shall comply with all of the following maintenance and security requirements:

- (1) The property and structure be maintained in a secure manner so as not to be accessible to unauthorized persons, including, but not limited to, the closure and locking of windows, doors, gates, and any other openings of such size that could allow a child or other person to access the interior of the property
- (2) The property on which the structure is located be in compliance with Village of Concord's Anti-Blight and Anti-Nuisance Ordinance #173 (sec.4-P.) Weed and Grass Growth Prohibition
- (3) The property be kept free of trash, junk, and debris as required by Village of Concord's Anti-Blight and Anti-Nuisance Ordinance #173 sec. 4
- (4) The structure shall be maintained in accordance with applicable sections of Village of Concord's Anti-Blight and Anti-Nuisance Ordinance #173 and Building Codes.
- (5) The property be kept free of any accumulation of newspapers, circulars, flyers, and notices, except for those required by federal, state, or local law
- (6) The property and structure be maintained free of graffiti.
- (7) The property be in compliance with Village of Concord's Police and Public Safety Ordinance Chapter 5, as to unregistered, dismantled, or inoperable vehicles
- (8) All structures on the property be properly winterized to prevent bursting of pipes
- (9) Pools, spas, and other water features be covered by a safety cover approved by the state construction code and minimum security fencing and barrier requirements

Monitoring:

The DPW Director or his/her authorized representative will conduct periodic monitoring to assure compliance with the duties set forth above. Monitoring fees will be billed and paid in advance of the quarter in which they are due. By resolution of the Village Of Concord Council, the following monitoring fees are established:

- (1) Single-Family Structure - \$25 per month (\$100 per quarter)
- (2) 2-Family Structure - \$31.25 per month (\$125 per quarter)
- (3) Multi-Family Structure of 3 or more units - \$37.50 per month (\$150 per quarter)
- (4) Commercial Building - \$37.50 per month (\$150 per quarter)

Display of Property Contact Information:

Information Requirements:

Foreclosed, vacant, or abandoned properties must be posted with a contact number individuals can call to report problems or concerns to the Village of Concord's Department of Public Works. The following regulations apply:

- (1) The posting must be no less than 18 inches by 24 inches, in a font legible from a distance of 45 feet
- (2) It shall contain the words "To report problems or concerns call the Village of Concord Department of Public Works at 517-524-8534"
- (3) It shall also contain the name and contact information of the owner or Responsible Local Agent, if any, with the words: "Is responsible for the maintenance of this property"

Display Requirements:

- The posting must be placed on the interior of 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 or structure facing the street to the front of the property
- Exterior postings must be constructed of and printed with weather-resistant materials

Abatement:

If the owner fails to secure or maintain the property as required under this section, such failure shall constitute a hazardous and nuisance condition. Within three (3) business days after a notice to abate has been provided, the DPW Director or his or her authorized representative may abate the nuisance without giving further notice. The DPW Director or his or her authorized representative may abate the offending condition by arranging for Village employees or private contractors to secure and board the structure, remove rubbish and debris from the premises, or make repairs to maintain the buildings and premises to conform to this section. The cost of abating the nuisance condition(s) may be charged to the owner and against the premises. The DPW Director or his or her authorized representative may abate a public nuisance without giving notice if the public health or safety requires immediate abatement.

Appeal of abatement costs:

An owner assessed for abatement costs may appeal the assessment to the Village of Concord Council. On appeal, the Village of Concord Council shall determine whether the property was in violation of this article, whether the owner was provided with notice as required by this article prior to abatement of the nuisance (except for in the case of emergency abatement), and whether the costs charged to the owner and assessed against the property were properly calculated. An appeal shall be filed within twenty (20) days after the Village serves notice on the owner of the property that the costs will be charged to the owner and assessed against the property.

Failure to pay fees and charges:

If an owner fails to pay fees or charges due under the terms of this article, an invoice for the fees or charges will be submitted to the owner. If the owner fails to pay the invoiced charges within thirty (30) days of mailing of the invoice, the Village may cause the cost reflected in the invoice to be assessed against the premises as a special assessment, and the Village may institute an action against the owner for the collection

of the costs in any court of competent jurisdiction. However, the Village's attempt to collect such costs shall not invalidate or waive any lien filed against the property.

Notice:

All notices required of this Code, including notice of any violations of this article or demand for abatement concerning a foreclosed, vacant or abandoned property may be served upon the registered owner of record or upon the responsible local agent by either first class mail, certified mail, or personal service and by posting a copy thereof in a conspicuous place on or about the structure affected by the notice.

Disclaimer of liability:

The Village shall not be liable to any person or entity by reason of this article or the issuance of a foreclosed, vacant or abandoned property registration. A property registration is not a warranty or guarantee that there are no defects in or on any foreclosed, vacant or abandoned property.

Nuisance per se:

A vacant structure or unit in violation of this article is considered to be a nuisance per se and is subject to abatement in any manner prescribed by law.

Penalties:

A violation of any provision of this article is a blight violation and is subject to enforcement by the procedures and penalties as provided in this Ordinance. Each day that a provision of this article continues to exist is a separate offense.

Severability:

If any provision of this article is determined to be unenforceable by a court, the remainder of this article shall be deemed severable and is to remain in full force and effect.