

**TOWN OF WEST SPRINGFIELD
BOARD OF HEALTH**

**PROPERTY MAINTENANCE REGULATIONS
BOH Regulation # 105**

§ 105.1 **Purpose.** It is the intent of this Regulation to protect and preserve public health, safety, security and quiet enjoyment of occupants, abutters and neighborhoods by:

- A. Requiring all residential, commercial and industrial property owners to properly maintain their properties in compliance with applicable federal, state or local laws, regulations and/or ordinances;
- B. Requiring all residential, commercial and industrial property owners, including lenders, trustees and service companies, to properly maintain blighted, vacant, and/or foreclosing properties; and
- C. Regulating the maintenance of blighted, vacant, and/or foreclosing residential, commercial and industrial properties to prevent blighted and unsecured properties.

§ 105.2 **Definitions.** When used in this Regulation, unless a contrary intention clearly appears, the following terms shall have the following meanings:

- A. **Blighted Premises.** Any building, structure, parcel of land, or any part of a building or structure that is a separate unit, whether commercial or residential, whether occupied or unoccupied, whether in foreclosure or not, at which at least one of the following conditions exists:
 - 1. The premises is not being adequately maintained and secured as documented by the Enforcement Officer (as the term is defined herein) based upon, without limitation, any of the following factors: missing or boarded windows or doors; collapsing or missing walls, roof or floor; siding that is excessively damaged or missing; fire damage; a foundation that is structurally faulty; accumulation of interior furniture outside; the presence in the yard of garbage, trash, junk, unregistered vehicles, inoperable boats, motorcycles, other machinery, or other refuse (unless otherwise licensed to do so);
 - 2. The premises has been cited for violations as documented by the Enforcement Officer, and said violations have not been corrected;
 - 3. The premises is attracting illegal activity as documented by the Police Department and/or an appropriate agent or department of the Town;
 - 4. The premises is a fire hazard as documented by the Fire Department;
 - 5. Because of fire, wind or other natural disaster, or because of physical deterioration, the premises is no longer habitable as a dwelling or useful for the purpose for which the completed structure was originally intended;
 - 6. The premises contains a vacant building as defined hereunder; or
 - 7. It is determined by the Enforcement Officer that the building, structure or parcel of land is in a condition which poses a serious threat to safety, health, morals, and general welfare of the Town.

- B. **Building.** Any structure, including any part thereof, whether portable or fixed, having a roof, and supported by columns or walls, built to form a structure for the shelter of persons, animals, or property, whether or not permanent in nature.
- C. **Commissioner.** The Building Commissioner.
- D. **Excessive.** Greater than what is usual, proper, necessary or normal; more than *de minimis* in nature.
- E. **Enforcement Officer.** The Enforcement Officer of this Regulation, for investigation and enforcement purposes, shall be the Building Commissioner, Inspector of Buildings, Director of Public Health, Health Inspector, Sanitarian, Code Enforcement Officer, Environmental Health Specialist, Police Chief, Fire Chief and/or their designated agents.
- F. **Foreclosing.** The process by which a property, placed as a security for a real estate loan, is prepared for sale to satisfy the debt if the borrower defaults.
- G. **Initiation of the Foreclosure Process.** Taking any of the following actions:
1. Taking possession of a residential property pursuant to M.G.L. c. 244, § 1;
 2. Delivering the Mortgagee's Notice of Intention to Foreclose pursuant to M.G.L. c. 244, § 17B;
 3. Publishing the first Notice of Sale of a property pursuant to M.G.L. c. 244, § 14; or
 4. Commencing a foreclosure action in any Court of competent jurisdiction.
- H. **Local Agent.** An agent located within twenty (20) driving miles' distance of the property in question.
- I. **Mortgagee.** The creditor, including but not limited to service companies, lenders in a mortgage agreement and any agent, servant, or employee of the mortgagee, or any successor in interest and/or assignee of the mortgagee's rights, interests, or obligations under the mortgage agreement.
- J. **Owner.** Any individual, entity, association or organization, including but not limited to service companies, property managers, or real estate brokers, which alone or jointly or severally with others:
1. Has legal or equitable title to any building, structure, or property;
 2. Has care, charge, or control of any such building, structure or property in any capacity, including but not limited to agent, executor, executrix, administrator, trustee or guardian of the estate of the holder of legal title;
 3. Is a lessee under a written agreement;
 4. Is a mortgagee in possession of any such property or a mortgagee that has initiated the foreclosure process;
 5. Is an agent, trustee, or other person appointed by the courts and vested with possession or control of such building, structure or property;
 6. Is an officer or trustee of the association of unit owners of a condominium. Each such person is bound to comply with the provisions of these minimum standards as if he were the owner. However, "owner" shall not mean a condominium association created

pursuant to M.G.L. c. 183A to the extent that such association forecloses on or initiates the foreclosure process for unpaid assessments due or owing to the association; or

7. Is a trustee or other entity who holds, owns or controls mortgage loans for mortgage-backed securities transactions and has initiated the foreclosure process.
- K. **Property.** Any real residential, commercial, or industrial property or portion thereof, located in the Town, including buildings or structures situated on the property. For purposes of this Regulation, “property” does not include property owned or subject to the control of the Town or any of its governmental bodies.
- L. **Receiver.** A court-appointed individual who serves as a general contractor and whose duties and powers shall be specified by the court in accordance with the provisions of M.G.L. c. 111, § 127I.
- M. **Securing.** Measures that are taken to prevent unauthorized persons access to the property, including but not limited to erecting fencing around the property, boarding up doors and windows and the like. See Section 105.6 for the Securing of Vacant Building Procedures.
- N. **Temporary Storage Containers.** A container rented or owned for the storage of personal, business, or commercial items or used for the packing or storage of items for permanently moving to or from the residence or for temporarily storing items during a renovation. Temporary Storage Containers include, but are not limited to, sea boxes, bulk storage containers, portable on demand storage containers, store-to-door mobile transportation storage containers, or other such similar containers.
- O. **Town.** Town of West Springfield.
- P. **Vacant Building.** Any commercial or industrial building in which no person or entity actually conducts a lawfully licensed business in said building; or any residential building in which no person lawfully resides in any part of the building; or a mixed-use building in which neither licensed business nor a lawful resident exists. Further, any building in which many of the exterior windows and doors are broken, boarded or open without a functioning lock shall be deemed “vacant.” This definition does not include property that is unoccupied while undergoing repairs due to fire or other casualty, or to residential property that is temporarily vacant due to seasonal absences.
- Q. **Yard Waste.** The part of solid waste composed of grass clippings, leaves, twigs, branches, garden waste and other organic matter.

§ 105.3 Creation or Maintenance of Blighted Premises Prohibited. No owner of property located within the Town shall allow, create, maintain or cause to be created or maintained any blighted premises.

- A. **Investigation.** The Enforcement Officer may undertake an investigation of any alleged violation of this Regulation upon his/her own initiative or upon receipt of a complaint from any individual, civic organization or other governmental agency.

- B. **Orders to Take Corrective Action.** Upon a finding of a violation of the provisions of this Regulation, the Enforcement Officer shall photograph the violations and shall serve notice of the violation and an order to correct such violation upon the owner of the property by regular first class mail, certified mail or by in-hand service. The order shall require the owner to take one or more of the following actions to bring the property into compliance with the requirements of this Regulation within no more than thirty (30) days of receipt of such order:
1. File with the Building Department a completed application and any required plans for a permit for repair or rehabilitation of the building or structure and a schedule indicating a completion date for such work or its various phases. All work performed pursuant to this subsection shall be completed within ninety (90) days of the date the order is received unless the Enforcement Officer permits a greater amount of time. In no instance shall the period of time for compliance be greater than one hundred eighty (180) days from the date the order was received.
 2. File with the Building Department a completed application and any required plans for a permit for demolition of the building or structure and a schedule indicating a completion date for such work in its various phases. All work performed pursuant to this subsection shall be completed within ninety (90) days of the date the order is received unless the Enforcement Officer permits a greater amount of time. In no instance shall the period of time for compliance be greater than one hundred eighty (180) days from the date the order was received.
 3. Take any action that the Enforcement Officer deems necessary to correct the violations of this Regulation in a timely manner in order to assist the Town in protecting public health, safety and welfare. The Enforcement Officer shall determine the allowable amount of time to correct the violation(s). In no instance shall the period of time for compliance be greater than one hundred eighty (180) days.
- C. **Recovery of Costs.** Whenever a property owner fails, neglects or refuses to make repairs or take other corrective actions specified in the order, the Town may undertake such repairs or actions when, in the Enforcement Officers' judgment, a failure to make the necessary repairs or corrective actions will endanger the public health, safety and welfare. The Town may seek a court-appointed receiver to manage the property and bring said property into compliance with all applicable statutes, regulations and codes.
1. Notice of the intention of the Town to make such repairs or other corrective actions shall be served on the owner by certified mail or by service in hand.
 2. When the repairs are made or other corrective actions are taken by the Town, the cost of such repairs shall constitute a debt in favor of the Town against the owner of the repaired building or structure. In the event that the owner fails, neglects or refuses to pay the Town the amount of the debt within thirty (30) days of the receipt of the notice of the debt, the Town may place a lien on the property for such debt and/or may initiate a civil action against the owner in a court of competent jurisdiction to recover the debt.

§ 105.4 Registration of Vacant Buildings Required. All owners of vacant and/or foreclosing buildings shall register said buildings with the Town's Building Commissioner.

A. Registration.

1. Within forty-five (45) days of a building becoming vacant and/or foreclosing, each owner of such vacant and/or foreclosing building shall register said building with the Building Commissioner. All registrations must state the owner's name, mailing address, telephone number and e-mail address if the individual has an e-mail address. The mailing address shall not be a post office box.
2. If none of the owner(s) are at an address within the Commonwealth of Massachusetts, the registration shall also include the name, address, phone number and e-mail address of a person who resides in the Commonwealth of Massachusetts, who shall be designated as the local agent responsible for the maintenance and the security of the property, for the purposes of notification in the event of an emergency affecting the public health, safety and welfare, and for service of any and all notices issued pursuant to this Regulation.
3. The failure to timely register a vacant and/or foreclosing building shall be a violation of this Regulation.

B. Registration Fees.

1. All property registrations pursuant to this Regulation are valid for one (1) calendar year from the date when the registration is received by the Commissioner. An annual registration fee of Two Hundred Fifty Dollars and Zero Cents (\$250.00) must accompany the registration form. Subsequent registrations and fees are due at least thirty (30) days prior to the date of expiration of the previous registration. Subsequent registrations must certify whether the property remains vacant and/or remains in foreclosure, as the case may be.
2. Properties that are being actively marketed by a local real estate agent or broker are exempt from the registration fee, provided the property is secured and maintained in compliance with the requirements of this Regulation.
3. Any owner who has registered a property under this Regulation must report any change in information contained in the registration within thirty (30) days of the change.
4. Once the property is no longer vacant or is sold, the owner shall provide the Commissioner with written notice of legal occupancy or change in ownership, as the case may be.
5. A failure to pay timely the registration fee shall be a violation of this Regulation and the full fee shall be imposed as a municipal charges lien on the property in accordance with M.G.L. c. 40, § 58.

§ 105.5 Duty to Maintain Vacant or Foreclosing Property.

- A. No owner of a vacant or foreclosing property shall allow said property to become or remain unsecured, or to contain an accumulation of rubbish, or to contain overgrowth, or to have a stagnant pool of water. If it appears that any vacant or foreclosing property is unsecured, contains rubbish, overgrowth, or a stagnant pool of water, the Enforcement Officer shall send

written notification to the owner via certified mail, requiring that the owner promptly secure the property, remove the rubbish or overgrowth, or abate the stagnant pool of water.

- B. The property shall be maintained in compliance with any applicable federal, state or local laws, regulations and/or ordinances, including but not limited to the State Building Code, the State Sanitary Code and the State Fire Code. Violations of any of the applicable laws, regulations and/or ordinances shall be deemed a violation of this Regulation.

§ 105.6 Securing Vacant Buildings.

- A. Properties subject to this Section shall comply with State Building Code 780 CMR, Section 116 “Standards for Making Buildings Safe and Secure” and shall be maintained in accordance with all other applicable federal, state or local laws, regulations and/or ordinances, including but not limited to the State Sanitary Code and the State Fire Code.
- B. If the compliance method includes the boarding over of windows, doors, or other openings, the U.S. Fire Administration National Arson Prevention Initiative Board Up Procedures must be followed as prescribed with the following exceptions: Clear polycarbonate (1/4” minimum thickness) shall be installed in place of any plywood type material and steel or composite material in place of wood dimensional lumber. No horizontal supports shall be installed on the exterior face of the polycarbonate material.
- C. For all openings, the polycarbonate shall be fitted so that it rest snugly against the exterior frame and flush with the inside of the exterior molding or brick mold. The application shall be completed so that all lift or pry points are avoided. The horizontal supports shall be secured to the polycarbonate using a minimum of 3/8” galvanized carriage bolts, nuts and washers.
- D. For buildings that require access by authorized personnel, a single door that is visible from the street may be secured if it is a solid core or steel door with no windows. The door shall be securely locked using a padlock and hasp bolted through the door with carriage bolts.
- E. The local owner or local agent must inspect and maintain the property on a monthly basis for the duration of the vacancy.
- F. The property must contain a posting with the name and 24-hour contact phone number of the local owner or local agent responsible for the maintenance. This sign must be posted on the front of the property so it is clearly visible from the street.
- G. The water must be shut off at the property by scheduling an appointment with the Town’s Department of Public Works. Additionally, the internal plumbing, including the water meter, at the property must be winterized.

§ 105.7 Property Maintenance. All real property located within the Town, whether vacant or occupied, shall be maintained so that its condition is not less than described in the following standards:

- A. Exterior building surfaces and roofs shall be maintained free of excessive surface cracks, missing materials, warping, dry rot which either threaten the structural integrity, or result in a dilapidated, decaying, disfigured, or partially blighted appearance.
- B. Painted surfaces on buildings, trash enclosures, walls, retaining walls, fences, and structures shall be maintained in order to prevent decay, excessive checking, cracking, peeling, chalking, dry rot or warping.
- C. Broken windows and glass doors and the use of materials other than glass (or polycarbonate pursuant to Section 105.6) as a replacement or covering of windowpanes are prohibited.
- D. All window and glass door screens shall be maintained free of excessive tears, rips, and holes. On residential rental properties, window screens are required on all windows.
- E. Excluding emergency repairs, it is prohibited to use tarps for roof and building repairs. Additionally, the use of tarps for vehicle covers, or temporary canopies, enclosures, and/or awnings is prohibited in any outdoor area visible from any public right-of-way.
- F. All exterior light fixtures shall be maintained in good working order free of broken lamps, lenses, and light bulbs. All exterior site lighting shall be retained on site and shall not create a nuisance to abutting properties and streets.
- G. All buildings, structures, affixed equipment, walls, and fencing on the property shall be maintained free of graffiti.
- H. Barrier fencing and gates for swimming pools and spas shall be maintained as required by the Massachusetts Building Code 780 CMR.
- I. Stagnant water in swimming pools conducive to the breeding or harboring of mosquitoes or other insects shall not be permitted or maintained on any property. Swimming pools and spas must be covered and secured when not in use or when located on a vacant property.
- J. No person shall put or place or cause to be put or placed in any street, lane or alley or other public place in the Town any house dirt, ashes, filth, or any other kind of rubbish, or any handbills, circulars, pamphlets, advertisements or other papers.
- K. No person shall keep on any property any used or damaged lumber, junk, trash, garbage, debris, scrap metal, concrete, sand, asphalt, cans, bottles, tires, salvage materials, boxes, containers, bins, and abandoned, discarded, inoperative or unusable furniture, stove, refrigerator, freezer, sink, toilet, cabinet or other household fixtures, yard waste or other refuse stored so as to be visible from any public road or from an adjoining property. Notwithstanding the foregoing, a property that is appropriately zoned for such use and for which a Certificate of Occupancy has been issued by the Building Commissioner are not subject to this prohibition to the extent the property is being appropriately used pursuant to the Certificate of Occupancy. Nothing herein shall preclude the storage of stacked firewood for use on the property, provided it is stored at least six (6) inches off the ground.

- L. No owner or occupant of property in the Town shall allow one or more unregistered motor vehicles to be stored in view from a public way or from an abutting property for a period of more than ninety (90) days in a calendar year. Lawfully registered motor vehicles must possess a valid vehicle inspection sticker. Notwithstanding the foregoing, properties on which businesses are located that are authorized and licensed to sell, rent or lease motor vehicles are not subject to this prohibition.
- M. Landscaping shall be maintained in a neat, clean and healthy condition. Lawns shall be properly maintained so that the height of the lawn grass does not exceed eight (8) inches for more than twenty-four (24) hours. Excessive fallen leaves shall be collected as to not adversely affect the abutting properties. Properties situated at street intersections or on curved streets shall be kept in such condition as to give a clear and unobstructed view of the intersection or curve.
- N. No owner or occupant of property in the Town shall allow one or more temporary storage containers to be stored in view from a public way or from an abutting property for a period of more than ninety (90) days in a calendar year.
- O. No person shall blow or throw or cause to be blown or thrown any excessive grass clippings or leaves into any portion of a street, lane or alley in the Town used for travel.
- P. The disposal of yard waste on properties of the Town or areas regulated by the Conservation Commission and/or the Massachusetts Department of Environmental Protection is prohibited.
- Q. All real property shall be maintained in compliance with any applicable federal, state or local laws, regulations and/or ordinances, including but not limited to the State Building Code, the State Sanitary Code and the State Fire Code. Violations of any of the applicable laws, regulations and/or ordinances shall be deemed a violation of this Section.

§ 105.8 Maintenance of the Tree Belt.

- A. The tenant or occupant of any real estate in the town which abuts on any public or private way in the town and, in case there is no tenant or occupant, the owner of such real estate shall keep that portion of the public or private way, commonly known as the “tree belt,” mowed and free and clear of all litter, debris, noxious weeds and brush and any other kind of rubbish and shall maintain the same in a clean and sanitary manner.
- B. Tree belts must be planted with grass, trees, shrubs or other natural vegetation. The use of bark mulch and stone is not permitted.
- C. Trees, bushes or shrubs shall be planted so that they do not present a pedestrian or vehicular visibility hazard. No trees, bushes or shrubs shall be planted in a way to obstruct sight lines of motorists.

- D. Trees, bushes or shrubs that grow near the sidewalk must be trimmed back to allow for safe pedestrian passage and maintain a minimum clearance of seven feet (7') above the surface of the sidewalk.
- E. Rubbish, recyclables, yard waste, bulk-pickup items and holiday trees shall not be placed on any tree belt or driveway apron prior to 3:00 p.m. on the day before collection or later than 7:00 a.m. on the day of collection.
- F. Reusable rubbish containers, recycling containers and any uncollected items shall be removed from the tree belt or driveway apron as soon as possible after collection, but in no case later than 7:00 a.m. on the day following the collection. All rubbish containers shall be stored in an area so as to be as inconspicuous as possible to the public view.

§ 105.9 Enforcement. The Enforcement Officers identified in § 105.2(E) shall enforce the provisions of these Regulations. The provisions of these Regulations may also be enforced through any other lawful means in law or in equity by the Board of Health or the Mayor or their duly authorized agents, and by any available means in law or equity, including but not limited to enforcement by noncriminal disposition pursuant to G.L. c. 40, §21D and Chapter 1, Article II of the Ordinances of the Town of West Springfield. Each day a violation exists shall constitute separate violation. When enforced through noncriminal disposition, the penalties shall be as follows:

- A. Written warning for the first offense;
- B. Twenty-Five Dollars (\$25.00) for the second offense;
- C. Fifty Dollars (\$50.00) for the third offense;
- D. One Hundred Dollars (\$100.00) for the fourth and all subsequent offenses.

The cycle of violation(s) shall reset after the property owner has corrected the violations to the satisfaction of the Enforcement Officer and does not commit the same violation for a period of one hundred eighty (180) days from the most recently cited violation. Any fines not paid when due shall be collected as a “municipal charge lien” pursuant to the provisions of M.G.L. c. 40, § 58 and Section 143-3(E) of Chapter 141 of the Ordinances of the Town of West Springfield.