

ADOPTED BY THE TIVERTON COUNCIL NOVEMBER 12, 2013

TOWN OF TIVERTON

ORDINANCE

OF THE

TOWN COUNCIL

**Chapter 47 FORECLOSED AND VACANT PROPERTIES
ARTICLE I. Maintenance and Monitoring of Vacant Buildings**

WHEREAS: The Town Council adopts this ordinance for the immediate preservation of the public peace, health or safety, and the Council finds that Tiverton is facing an unprecedented threat to its state economy and local economies because of falling property values due to foreclosed and vacant dwellings and buildings in Tiverton.

NOW, THEREFORE, IT IS HEREBY ORDAINED:

AN ORDINANCE ESTABLISHING CHAPTER 47,

Section 47-1 Findings and purpose.

(a) The Town Council finds, determines and declares that buildings which remain vacant and unoccupied for any appreciable period of time become an attractive nuisance to children, a harborage for rodents, and as a place to engage in illegal conduct, frequently including illegal drug-related activity, and an increased fire hazard; that unkempt and unsecured grounds surrounding such buildings invite the dumping of garbage and trash thereon and the congregation of unauthorized persons who use the property for illegal activity; that such buildings contribute to the growth of blight within the Town, depress market values of surrounding properties, thereby reducing tax revenues, necessitate additional governmental services, significantly interfere with the use and enjoyment of neighboring properties, create an unhealthy and unsafe condition affecting the public and constitutes an unreasonable use of property and a public nuisance.

(b) It is a responsibility of property ownership to prevent owned property from becoming a burden to the neighborhood and community.

(c) Protection of the public health, safety and welfare requires the establishment and enforcement of the means by which such nuisance conditions may be prevented and abated.

(d) Many vacant abandoned real properties are the responsibility of out-of-area owners, banks, lenders and/or trustees.

(e) Even one vacant property that is not actively and well maintained, monitored and managed can be the core and cause of spreading blight and crime.

(f) It is in the interest of the welfare of neighborhoods that owners who fail to maintain property and correct vacant and blighted buildings property, fail to correct substandard structures and blighted conditions or who otherwise allow the structures to remain in violation of this Code be subject to imposition of administrative fines in order to encourage these owners to correct violations of this chapter in a prompt manner.

Section 47-2 Definitions.

The following words and phrases, whenever used in this chapter, shall be construed as defined in this section:

“Enforcement Official” means the Building Official, and/or designee.

“Vacant Property” means any real property condition that independently, or in the context of the totality of the circumstances relevant to that real property would lead a reasonable enforcement official to believe that a property is vacant or occupied by a person without a legitimate right of occupancy. Such conditions include but are not limited to: overgrown or dead vegetation; accumulation of newspapers, circulars, flyers or mail; past due utility notices or disconnected utilities; accumulation of trash, junk, garbage or debris; the absence of window coverings such as curtains, blinds, drapes or shutters; the absence of furnishings or personal items consistent with residential habitation; and/or statements by neighbors, delivery agents, letter carriers, government employees or passersby that the property is vacant.

“Owner” means the person identified and listed as having title to the Property (as defined below) by the latest property tax assessment rolls maintained by the Tiverton Tax Assessor.

“Property” means any real property interest or estate which may be granted or devised by deed and subject to this Ordinance. The word “Property” includes tracts, lots, easements, or parcels of land and any and all improvements thereon.

“Secured” means having taken such measures as may be directed by the Enforcement Official that assist in rendering the Property inaccessible to unauthorized persons in addition to boarding door and windows, including but not limited to repairing fences and walls, chaining/padlocking gates and erecting barrier fences.

“Vacant and Unoccupied Building” means any building or other structure which is neither occupied nor used by persons authorized by the Owner of the property on which such building or structure is located. It shall also include any Vacant and Unoccupied Building or structure that is subject to a current Notice of Default, Notice of Trustee’s Sale, pending Tax Assessors Lien or any real property conveyed via a foreclosure sale resulting in the acquisition of title by an interested beneficiary of a deed or trust or any property conveyed via a deed in lieu of foreclosure/sale.

Section 47-3 Application.

(a) The provisions of this chapter shall apply generally to all real property throughout the Town of Tiverton wherein any of the conditions, specified in this chapter, are found to exist.

(b) Provisions of this chapter are to be supplementary and complementary to all of the provisions of the Tiverton Town Code, state law, and any law cognizable at common law or in equity, and nothing in this chapter shall be read, interpreted or construed in any manner so as to limit any existing right or power of the Town of Tiverton to abate or prosecute any and all violations and nuisances.

Section 47-4 Authority—Enforcement Official.

The Enforcement Official (Building Official) is authorized and directed to use the provisions of this chapter for the purpose of abating those conditions defined by this chapter as a public nuisance or abating the unlawful conditions defined herein.

Section 47-5 Responsibility for Property Maintenance

Every Owner of Property within the Town is required to maintain such Property in a manner so as not to violate the provisions of this chapter or this Code and such Owner remains liable for violations thereof regardless of any contract or agreement with any third party regarding such Property.

Section 47-6 Violations

(a) Any person, firm or corporation who is the Owner of Property who violates the provisions of this Code is guilty of a misdemeanor for each day, or portion thereof, such violation continues. Each day of violation shall constitute a separate offense.

(b) It shall be unlawful and a public nuisance for any Owner of Property in this Town to maintain, permit, suffer or allow such vacant Property to be maintained in such a manner that any one or more of the following conditions are found to exist for more than 15 days following notification to the "Owner", unless it is an immediate threat to health or public safety:

(1) Any vacant building whose doors, windows or other openings are broken or missing, so as to allow access to the interior.

(2) Any vacant building and premises in violation of any of the provisions of this Code or any provisions of this chapter.

(c) It shall be unlawful and a public nuisance for any Owner to allow a building designed for human use or occupancy to be a vacant building for more than sixty (60) days, unless one of the following applies:

- (1) The building is the subject of an active building permit for repair, rehabilitation or demolition and the Owner is progressing diligently to complete the repair, rehabilitation or demolition, or
- (2) Is actively being maintained and monitored by the Owner or the Owner's authorized representative and is being maintained in compliance with all other sections of this Code.

Section 47-7 Maintenance and Monitoring of Vacant Buildings

(a) Owners of any vacant commercial or residential building or structure, and premises thereon, shall maintain and monitor the subject Property as follows:

- (1) Within ten (10) days of obtaining the vacant Property, or the Property becoming vacant, the Owner or the Owner's agent shall post a Notice in a conspicuous place on the front of the building stating the name, address and telephone number of the Owner and, if applicable, the Owner's agent in control of the building. The Notice shall have black lettering not less than two (2) inches high and be readable from at least thirty (30) feet away. For any commercial or residential building that is used for seasonal occupancy only, the Notice of Vacancy need not be posted on the exterior of the building, provided that the building is not vacant for more than eight (8) months in any 12 month period. A copy of the "Notice of Vacancy" shall be delivered to the Town Clerk's Office to be distributed to the Police Department, the Fire Department, and the Building Inspector, and/or "Enforcement Official".
- (2) Within ten (10) days of obtaining the vacant Property, or the Property becoming vacant, the Owner or the Owner's agent shall conduct an inspection of the interior and exterior of the building and the premises for any violation of this chapter or applicable state law and immediately correct all violations.
- (3) Thereafter, an inspection of the Property must be conducted no less than once every fourteen (14) days to ensure the Property is properly maintained. Proper maintenance includes, but is not limited to, regular removal of trash, rubbish and debris, maintenance of landscaping and plants in good healthy condition, maintenance of the exterior of the building, including paint and finishes in reasonable condition, removal of dead, dying or overgrown vegetation and preventing the use of the Property by unauthorized persons.
- (4) The Property shall be maintained free of graffiti, tagging or similar marking. Any removal of graffiti shall be with an exterior grade paint that matches reasonably the color of the exterior of the structure.

Section 47-8 Abatement procedure.

- (a) Whenever the Enforcement Official has inspected or caused to be inspected any Property and determined that such Property is in violation of this chapter, the Enforcement Official shall commence proceedings to cause abatement of the nuisance as provided in this Code.
- (b) Upon determining that Property located in the Town of Tiverton is not secured or Boarded, or is improperly secured or Boarded, or is not being maintained or monitored, the Enforcement

Official shall issue a notice of violation and demand to abate directed to the Owner of the Property. The written notice shall be served either by personal delivery upon the record Owner or by mailing a copy to the record Owner by certified mail to the Owner's last known address as it appears on the latest assessment roll of the Town of Tiverton.

(c) After the written notice has been served, it shall be the duty of the Owner to abate such violation within the time specified by the notice, but not less than 15 days unless it is an immediate threat to health or public safety.

Section 47-9 Abatement by Town.

(a) In the event the violation is not abated within the time specified in the notice, the Town may take all necessary actions to compel compliance to abate such violation, including but not limited to, the proper boarding of the Property. In addition to incurring penalties as provided in this chapter, the Owner shall become personally indebted to the Town of Tiverton for the costs of the boarding and the reasonable administrative costs of abatement and enforcement incurred by the Town by reason of the existence of the violation. These costs may alternatively be assessed as a lien against the Property on which the violation existed.

(b) The Enforcement Official shall keep an itemized account of the expense incurred by the Town in abating violations under this chapter. After the completion of the work of abatement, the Enforcement Official shall cause an itemized bill of the expenses to be mailed to the Owner.

Section 47-10 Emergency abatement.

(a) If, in the opinion of the Enforcement Official, there exists a condition on any Property which is of such a nature as to be imminently dangerous to the public health, safety or welfare, which, if not abated, would, during the pendency of the abatement procedures set forth in this chapter, subject the public to potential harm of a serious nature, the same may be abated by the Town forthwith without prior notice to the Owner, but with concurrent notice being sent to the "Owner" and the "Owner's" agent.

THIS ORDINANCE WILL TAKE EFFECT UPON PASSAGE