

**EMERGENCY MANAGER OF THE CITY OF LINCOLN PARK**

**ORDER 39**

**AMEND VACANT PROPERTIES ORDINANCE**

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BY THE AUTHORITY VESTED IN THE EMERGENCY MANAGER FOR THE CITY OF LINCOLN PARK  
PURSUANT TO MICHIGAN’S PUBLIC ACT 436 OF 2012  
BRAD COULTER, THE EMERGENCY MANAGER, ISSUES THE FOLLOWING ORDER:

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WHEREAS, under the Local Financial Stability and Choice Act, Act 436, Public Acts of Michigan, 2012 (“Act 436”), Brad Coulter has been appointed as the Emergency Manager (the “EM”) of the City of Lincoln Park, County of Wayne, Michigan (the “City”); and

WHEREAS, pursuant to Section 9(2) of Act 436, the EM “shall act for and in the place and stead of” the Mayor, the City Manager, as the Chief Administrative Officer, and of the City Council, as the governing body of the City; and

WHEREAS, Section 9(2) of Act 436 also grants the EM “broad powers in receivership to rectify the financial emergency and to assure the fiscal accountability of the [City] and the [City’s] capacity to provide or cause to be provided necessary governmental services essential to the public health, safety and welfare;” and

WHEREAS, Section 9(2) of Act 436 prohibits, during the pendency of receivership, the Mayor and the Council from exercising “any powers of those offices except as may be specifically authorized in writing by the [EM] or as otherwise provided by [Act 436] and are subject to any conditions required by the [EM];” and

WHEREAS, Section 12(1)(dd) of Act 436 authorizes the EM, “notwithstanding any charter provision to the contrary,” to “[e]xercise solely, for and on behalf of the local government, all other authority and responsibilities of the chief administrative officer and governing body concerning the adoption, amendment, and enforcement of ordinances or resolutions of the local government” as provided in the Michigan Home Rule City Act, Act 279, Public Acts of Michigan 1909 (the “Home Rule Act”); and

WHEREAS, Section 12(1)(ee) of Act 436 authorizes the EM, “notwithstanding any charter provision to the contrary,” to “[t]ake any other action or exercise any power or authority of any officer, employee, department, board, commission, or other similar entity of the local government, whether elected or appointed, relating to the operation of the local government. The power of the [EM] shall be superior to and supersede the power of any of the foregoing officers or entities;” and

WHEREAS, pursuant to Section 12(2) of Act 436, “during the pendency of the receivership, the authority of the chief administrative officer and governing body to exercise power for and on behalf of the local government under law, charter, and ordinance shall be suspended and vested in the [EM];” and

WHEREAS, Section 3(k) of the Home Rule Act requires that the City’s charter provide for “adopting, continuing, amending, and repealing the city ordinances;” and

WHEREAS, Chapter V, Section 13 of the City Charter grants to the City Council and, pursuant to the above-referenced sections of Act 436, the EM, “full power by ordinance to continue, amend or repeal, in whole or in part, any existing ordinance;” and

WHEREAS, the current City ordinance Chapter 1490 Vacant Structures and Land does not require that all vacant properties in the City be registered and inspected; and

WHEREAS, the Emergency Manager recognizes that vacant properties may have a negative impact on surrounding properties and neighborhoods and that the health, safety and welfare of the citizens would be promoted by preventing blight, protecting property values and ensuring safe and sanitary maintenance of properties.

**IT IS HEREBY ORDERED THAT:**

Chapter 1490, Vacant Structures and Land, shall be repealed in its entirety and replaced with a new Chapter 1490, entitled Vacant Properties which new Chapter shall read as follows:

**CHAPTER 1490 VACANT PROPERTIES**

**1490.01 PURPOSE.**

The purpose of this article is to help protect the health, safety and welfare of the citizens by preventing blight, protecting property values and neighborhood integrity, avoiding the creation and maintenance of nuisances and ensuring safe and sanitary maintenance of dwellings, commercial and industrial buildings. The city normally inspects properties upon a change of ownership or use and, in the case of nonowner-occupied residential property, every three years. Due to economic conditions, mortgage fraud, and increased bankruptcies, many homes and buildings have become vacant and unsupervised. This has caused properties to become attractive nuisances for minors and criminal activity. Vacant properties have a negative impact on surrounding properties and neighborhoods. Potential buyers are deterred by the presence of nearby vacant abandoned buildings. There is an increased instance of unsecured or open doors and windows, broken water pipes, theft of metals and other materials, overgrowth of grass, weeds, shrubs, and bushes, illegal dumping, and rat and vermin activity at vacant structures. Such neglect devalues properties and causes deterioration in neighborhoods and commercial areas. The city also needs to be able to contact owners for fire safety and police reasons.

**1490.02 SCOPE.**

The provisions of this article shall apply to all existing residential, commercial and industrial structures and all vacant land. An exception is allowed for properties where the City enters into an agreement with a third party to exercise its First Right of Refusal with Wayne County on tax foreclosed properties, and then transfers title to those properties to the third party. These properties are exempt for 18 months after title is placed in the name of the third party.

**1490.03 DEFINITION OF VACANT PROPERTY.**

A vacant property is defined as any address having a lot, building, or structure that is not legally or currently occupied. If no address has been assigned to the property, then property will be defined by parcel.

Evidence of vacancy shall include 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; boarded-up windows; abandoned vehicles, auto parts or materials; the absence of window coverings such as curtains, blinds and/or shutters; the absence of furnishings and/or personal items consistent with habitation or occupancy; statements by neighbors, passersby, delivery agents, or government employees that the property is vacant.

**1490.04 VACANT PROPERTIES TO BE REGISTERED.**

Owners and/or owners' agents of real property are required to register all vacant properties within 90 days of the vacancy.

**1490.05 OWNER'S AFFIDAVIT.**

Owners who are required to register their properties pursuant to this article shall submit a copy of a driver's license and an affidavit containing the following information:

- (1) The name of the owner of the property.
- (2) A mailing address where mail may be sent that will be acknowledged as received by the owner. If certified mail/return receipt requested is sent to the address and the mail is returned marked "refused" or "unclaimed," or if ordinary mail sent to the address is returned for whatever reason, then such occurrence shall be prima facie proof that the owner has failed to comply with this requirement.
- (3) The name, driver's license number, birth date, and contact information of the individual responsible for the care and control of the property. The responsible party may be the owner, if the owner is an individual, or may be someone other than the owner with whom he/she has contracted. Owners who do not reside within a one hundred mile radius of the City shall appoint a Michigan based resident agent or other responsible party upon whom notices and services of process may be made.

- (4) A current address, phone number, fax, and email address (if fax and email addresses are available) where communications may be sent that will be acknowledged as received by the individual responsible for the care and control of the property. If certified mail/return receipt requested is sent to the address and the mail is returned marked "refused" or "unclaimed," or if ordinary mail sent to the address is returned for whatever reason, then such occurrence shall be prima facie proof that the owner has failed to comply with this requirement.
- (5) Permission to city authorized staff to access the exterior of the property for inspection purposes.

#### **1490.06 FEES.**

There shall be a semi-annual registration fee. The registration fee includes the cost of routine property maintenance and safety inspections. In addition, in the case where the owner has failed to register, there shall be assessed the added costs of the city's expenses in having to determine ownership which may include, but are not limited to, title searches. There shall be a fee for the filing of any additional or new owner's affidavit. Fees shall be set from time to time by Mayor and Council and placed on the Lincoln Park Fee Schedule.

#### **1490.07 REQUIREMENT TO KEEP INFORMATION CURRENT.**

If at any time the information contained in the affidavit is no longer valid, the property owner has ten days to file a new affidavit containing current information. There shall be no fee to update the current owner's information.

#### **1490.08 INSPECTIONS REQUIRED**

Owners of vacant or unoccupied buildings who are required to file an owner's affidavit under this article are subject to routine safety and maintenance inspection of the building and property.

#### **1490.09 MAINTENANCE AND SAFETY REQUIREMENTS.**

Properties subject to this section shall comply with the International Property Maintenance Code and more specifically be kept free of weeds; grass more than six inches high; 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 items including, but not limited to, furniture, clothing, large and small appliances, printed material, signage, containers, equipment, construction materials, or any other items that give the appearance that the property is abandoned.

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.

All visible front and side yards shall be landscaped and properly maintained. Landscaping includes, but is not limited to, grass, ground covers, bushes, shrubs, hedges or similar plantings, decorative rock or bark designed and maintained in an appropriate manner. Landscaping does not include weeds, gravel, broken concrete, asphalt, decomposed materials, plastic sheeting, indoor-

outdoor carpet or any similar material. Maintenance includes, but is not limited to, regular watering, irrigation, cutting, pruning and mowing of required landscaping and removal of all trimmings.

Pools, spas, and other water features shall be kept in working order so the water remains clear and free of pollutants and debris or drained and kept dry and free of debris. In either case, properties with pools and/or spas must comply with the minimum security fencing and barrier requirements of the Michigan building, construction and maintenance codes.

Properties subject to this section shall be maintained in a secure manner so as not to be accessible to unauthorized persons such as vandals, scrappers or small children. Secure manner includes, but is not limited to, the closure and locking of windows, doors (walk-through, sliding and garage), gates, rooftop access, and any other opening of such size that it may allow an unauthorized person to access the interior of the property and/or structure(s). Broken windows must be repaired or replaced within seven days. Boarding up of open or broken windows is prohibited except as a temporary measure. It is the owner's responsibility to secure the property.

The owner or the owner's agent shall demonstrate that all water, sewer, electrical, gas, HVAC, plumbing systems, exterior finishes and walls, concrete surfaces, accessory buildings, roofing, structural systems, foundations, drainage systems, gutters, doors, windows, parking areas, signage, driveway apron(s), service walk(s), sidewalk(s), and other public areas are sound operational, or properly disconnected.

If the property is owned by a corporation and/or the beneficiary/trustee/owner is located more than 100 miles away, a local Michigan property management company shall be contracted to perform weekly inspections to verify that the requirements of this section, and any other applicable laws, are being met.

#### **1490.10 FIRE DAMAGED PROPERTY.**

If a building is fire damaged, the owner has 90 days from the date of the fire to apply for a permit to start construction or demolition. The Code Official may grant additional 90-day extensions, provided the owner can demonstrate substantial progress towards completing repairs. Failure to do so will result in the property being deemed vacant and subject to the requirements of this article.

#### **1490.11 PENALTIES.**

Violations of this article shall be treated as a strict-liability offense regardless of intent. Any person, firm and/or corporation that violates any portion of this article shall be subject to prosecution. Registration of property under this article is in addition to, and not in lieu of, the requirements of MCL 125.539(i), which allows for demolition of vacant structures, or nuisance abatement by the city.

Each day that a required affidavit is not on file and each day that an owner and/or owner's agent fails to maintain current information in an affidavit on file shall be considered a separate offense.

Any person who violates this ordinance shall be responsible for a municipal civil infraction subject to the procedures and sanctions in Section 202.101. Increased civil fines shall be imposed

for repeated violations, which mean a subsequent civil infraction violation committed by a person within any twenty-four month period. The third violation of this Ordinance committed by a person within any twenty-four month period shall be punishable by a misdemeanor with fines up to \$500.00 and/or 90 days in jail.

**SO ORDERED** this 14<sup>th</sup> day of August, 2015.

By:   
BRAD COULTER  
Emergency Manager  
City of Lincoln Park

cc: State of Michigan Department of Treasury  
Mayor Thomas E. Karnes  
Members of the Lincoln Park City Council