

PART IV REVISED ORDINANCES

Chapter 13B REGULATING THE MAINTENANCE OF VACANT AND FORECLOSED RESIDENTIAL PROPERTIES

(A0108-08)

Section 13B-1. Purpose

It is the intent of this chapter to protect and preserve public safety, security, and quiet enjoyment of occupants, abutters, and neighborhoods by:

- (a) Requiring all residential property owners, including lenders, trustees, and service companies, to properly maintain vacant and foreclosed residential properties.
- (b) Regulating the maintenance of vacant and foreclosed residential properties to prevent blighted and unsecured residences.

Section 13B-2. Enforcement authority

The Code Enforcement Task Force has enforcement authority pursuant to the State Building Code, the State Sanitary Code, the city's Zoning Ordinance, and Chapter 13A of these Revised Ordinances.

Section 13B-3. Definitions

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

- (a) City: City of Everett
- (b) Code Enforcement Task Force: The City of Everett's Code Enforcement Task Force acting through its Chairman.
- (c) Days: Consecutive calendar days.
- (d) Foreclosing: The process by which a property, placed as security for a real estate loan, is prepared for sale to satisfy the debt if the borrower defaults.
- (e) Initiation of the foreclosure process: Taking any of the following actions:
 - (1) Taking possession of a residential property pursuant to the General Laws, Chapter 244, Section 1.
 - (2) Delivering the mortgagee's notice of intention to foreclose to the borrower pursuant to the General Laws, Chapter 244, Section. 17B.
 - (3) Commencing a foreclosure action on a property in either the Land Court or Suffolk Superior Court.
- (f) Local: Within twenty (20) driving miles distance of the property in question.
- (g) Mortgagee: The creditor, including but not limited to, service companies, lenders to a mortgage agreement and any agent, servant, or employee of the mortgagee, or any

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successor in interest and/or assignee of the mortgagee's rights, interests or obligations under the mortgage agreement.

- (h) Owner: Every person, entity, service company, property manager or real estate broker, who alone or severally with others:
- (1) Has legal or equitable title to any dwelling, dwelling unit, mobile dwelling unit, or parcel of land, vacant or otherwise, including a mobile home park; or
 - (2) Has care, charge or control of any dwelling, dwelling unit, mobile dwelling unit or parcel of land, vacant or otherwise, including a mobile home park, in any capacity including but not limited to agent, executor, executrix, administrator, administratrix, trustee or guardian of the estate of the holder of legal title; or
 - (3) Is a mortgagee in possession of any such property; or
 - (4) Is an agent, trustee or other person appointed by the courts and vested with possession or control of any such property; or
 - (5) 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, this chapter shall not apply to a condominium association created pursuant to the General Laws, Chapter 138A to the extent that such association forecloses on or initiates the foreclosure process for unpaid assessments due or owing to the association; or
 - (6) Is every person who operates a rooming house; or
 - (7) Is a trustee who holds, owns or controls mortgage loans for mortgage backed securities transactions and has initiated the foreclosure process.
- (i) Property: Any real, residential property, or portion thereof, located in the city, including building or structures situated on the property. For purposes of this chapter only, property does not include property owned or subject to the control of the city or any of its' governmental bodies. Such property includes, but is not limited to, property owned or controlled by the Everett Housing Authority.
- (j) Residential property: Any property that contains one or more dwelling units used, intended, or designed to be occupied for living purposes.
- (k) Securing: Measures that assist in making the property inaccessible to unauthorized persons.
- (l) Vacant: Any property not currently legally occupied and not properly maintained or secured.

Cross reference(s)--Definitions and rules of construction generally, § 1-3.

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Section 13B-4. Registration of vacant and foreclosing/foreclosed residential properties; to provide written notice of vacant, residential property and/or mortgage foreclosure

On or before November 15th of each calendar year, all owners must register vacant and foreclosing/foreclosed residential properties with the Code Enforcement Task Force on forms provided by the Code Enforcement Task Force. All registrations must state the individual owner's or agent's phone number and mailing address located within the Commonwealth as required by the General Laws, Chapter 59, Section 57D and Chapter. 156D, Section 5.02, and 950 CMR 113.20. The mailing address may not be a P.O. Box. This registration must also certify that the property was inspected and identify whether the property is vacant at the time of filing. If the property is vacant, the owner and/or registrant must designate and retain a local individual or local property management company responsible for the security and maintenance of the property. This designation must state the individual or company's name, phone number, and local mailing address. The mailing address may not be a P.O. Box. If the property is in the process of foreclosure, then the registration must be received within seven days of the initiation of the foreclosure process as defined in Section 13B-3 of this chapter. If the Chairman of the Code Enforcement Task Force determines that the property is vacant and that foreclosure proceedings have not been initiated, the registration must be received within fourteen days of the Code Enforcement Task Force's first citation for improper maintenance.

The annual registration fee shall be based on the duration of the vacancy as of November 15th of such calendar year according to the following schedule:

\$500.00	For properties that have been vacant for less than one year.
\$1,000.00	For properties that have been vacant for one year or more but less than two years.
\$2,000.00	For properties that have been vacant for two years or more but less than three years.
\$3,000.00	For properties that have been vacant for three years or more.

Subsequent annual registrations and fees are due within thirty (30) days of the expiration of the previous registration and must certify whether the foreclosing and foreclosed property remains vacant or not. Once the property is no longer vacant or is sold, the owner must provide proof of sale or written notice and proof of occupancy to the Code Enforcement Task Force.

A failure to pay timely the registration fee shall be a violation of this chapter, and the full fee shall be deemed an assessment subject to a lien on property.

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Section 13B-5. Maintenance requirements

Properties subject to this chapter must be maintained in accordance with the relevant Sanitary Codes, Building Codes, and local regulations concerning external and/or visible maintenance. The owner, local individual or local property management company must inspect and maintain the property on a monthly basis for the duration of the vacancy.

The property must contain a posting with the name and 24-hour contact phone number of the local individual or property management company responsible for the maintenance. This sign must be posted on the front of the property so it is clearly visible from the street.

Section 13B-6. Inspections

The Code Enforcement Task Force shall have the authority and the duty to inspect properties subject to this chapter for compliance and to issue citations for any violations. The Code Enforcement Task Force 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 chapter is enforced.

Section 13B-7. Enforcement and penalties

Failure to initially register with the Code Enforcement Task Force is punishable by a fine of three hundred dollars and no cents (\$300.00).

If applicable, failure to properly identify the name of the local individual or local property management company is punishable by a fine of three hundred dollars and no cents (\$300.00).

Failure to maintain the property is punishable by a fine up to three hundred dollars and no cents (\$300.00) for each week the property is not maintained.

All monies collected pursuant to this chapter shall be directed to a specific Code Enforcement Task Force enforcement fund.

Section 13B-8. Appeal

Any person aggrieved by the requirements of this chapter may seek an administrative appeal to the Code Enforcement Task Force. Any person aggrieved by a final decision issued under this chapter by the Code Enforcement Task Force, may seek relief in any court of competent jurisdiction as provided by the laws of the Commonwealth.

Section 13B-9. Applicability

If any provision of this chapter 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 chapter shall control.

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Section 13B-10. Regulatory authority

The Chairman of the Code Enforcement Task Force has the authority to promulgate rules and regulations necessary to implement and enforce this chapter.

Section 13B-11. Severability

If any provision of this chapter 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.

Section 13B-12. Implementation

The provisions of this chapter are effective immediately upon passage and all provisions shall be enforced immediately but no monetary fine shall be imposed pursuant hereto until ninety (90) days after passage.