

Village of Cass City, MI

Ordinance No. 184

AN ORDINANCE TO AMEND
THE VILLAGE OF CASS CITY CODE OF ORDINANCES,
CHAPTER 16, ARTICLE II, (Blight), SECTION 16-35.1 - 16-35.14

ENTITLED "**ANTI-BLIGHT ORDINANCE,
VACANT, ABANDONED, AND FORESCLOSED PROPERTIES,
BUILDING REGULATION, AS FOLLOWS.**

The Village of Cass City ordains.....

Chapter 16 – Environment, Article II – Blight, Section(s) 16-35.1 – 16-35.14– Anti Blight

Section 16-35 - VACANT, ABANDONED, AND FORESCLOSED PROPERTIES,
BUILDING REGULATION

Sec. 16-35.1 Purpose

Vacant, Abandoned, and Foreclosed Properties have a negative impact on surrounding properties and neighborhoods. Owners of such properties should be held accountable for the condition of same, because properties which are not maintained constitute a hazard to the public health, safety, and welfare, create blight and nuisances, and lower property values and neighborhood integrity.

Sec. 16-35.2 Scope

The provisions of this ordinance shall apply to all residential, commercial and industrial properties and structures in the Village of Cass City, regardless of condition, including all vacant land in the Village of Cass City.

Sec. 16-35.3 Definitions

- a. "Abandoned Vacant Property" means vacant property as defined in this article that has been vacant for 30 days or more and meets any of the following criteria
 1. Provides a location for loitering, vagrancy, unauthorized entry or other criminal activity;

2. Has one or more broken windows, or two or more windows boarded up, for more than 30 days;
 3. Has utilities disconnected or not in use;
 4. Is not maintained in compliance with village codes and ordinances, including without limitation, Michigan Residential Building Code, International Property Maintenance Code and the Fire Prevention Code.
 5. Has taxes in arrears for a period of time exceeding 365 days;
 6. Is only partially completed, is not fit for human occupancy and there are no active building permits on the property that will result in restoration of the premises to a safe and habitable condition.
- b. “Borrower” means a borrower under a mortgage, who grants a lien or interest in property to a trustee as security for the payment of a debt.
 - c. “Building” means a structure with a roof supported by columns or walls to serve as a shelter or enclosure.
 - d. “Construction Code” is defined as the State of Michigan Construction Code Act, Public Act No. 230 (MCL 125.1501 et seq.), adopted under Section 6.1 of this Code of Ordinances.
 - e. “Foreclosure” means the process by which a mortgage is enforced against a parcel of real property through sale or offering for sale to satisfy the debt of the borrower.
 - f. “Harborage” is defined as a shelter, harbor.
 - g. “Lender” means a person, firm or corporation holding a mortgage on a property.
 - h. “Mortgage” means a recorded lien or interest in a real property to secure payment of a loan.
 - i. “Owner” is defined as one who has the right to possess, use, and convey something, i.e. the owner, occupant or successor to title by foreclosure, sheriff’s sale or by court order.
 - j. “Possessory Lender” means a person, firm, or corporation that has foreclosed a mortgage on a property but may not have legal or equitable title.
 - k. “Property Maintenance Code” is defined as the International Property Maintenance Code adopted under Section 6.1 of this Code.
 - l. “Rodent” is defined as any of an order (Rodentia) of relatively small gnawing mammals (as a mouse, a rat, a squirrel or a beaver) that have in the upper jaw a single pair of incisors with a chisel-shaped edge; also, a small mammal (as a rabbit or a shrew).
 - m. “Safety and Maintenance Inspection” means a visual inspection to check the minimum requirements as set forth in the International Property Maintenance Code, 2006 or its successor Code, for sanitary maintenance, life safety, other obvious hazards and code violations.
 - n. “Structure” means anything constructed or erected the use of which requires location on or attachment to the ground and includes buildings.
 - o. “Vacant property” is defined as a lot, building, or structure that is not legally or currently occupied. Vacant property does not mean property that is temporarily unoccupied while

the residents are away on vacation, personal matters or business, or is not intended by the owner to be left vacant.

Sec. 16-35.4 Registration of vacant, abandoned, and foreclosed property.

- a. An owner of vacant, abandoned, and foreclosed property in the Village shall be responsible for registering that property with the Village Police Department by complying with the affidavit and registration and inspection fee requirements in this article. In the event the owner shall fail or refuse to register the property, the lender or possessory lender shall be responsible for compliance with this provision.
- b. Vacant, abandoned, and foreclosed property shall be registered within 30 days of the vacancy or 10 days of the inspection described in section 35.5.

Sec. 16-35.5 Registration affidavit

Owners, lenders and/or possessory lenders who are required to register property pursuant to this article shall do so by submitting a copy of a driver's license and an affidavit containing the information specified in this section. The affidavit may be provided by an agent provided the agent's written authorization from the owner, lender, or possessory lender is submitted with the affidavit. The affidavit must be signed and dated by the owner(s), lender(s) and/or possessory lender(s) required to register property or the authorized agent and must set forth the following information:

1. The name(s) and owner(s) of the property.
2. The name(s) of lender(s) and/or possessory lender(s) for the property.
3. 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.
4. The name of an individual or legal entity responsible for the care and control of the property. Such individual may be the owner, if the owner is an individual, or may be someone other than the owner with whom he/she has contracted.
5. A current address, telephone number, facsimile number and email address 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.

Sec. 16-35.6 Registration, inspection and other fees.

All fees applicable to this article shall be set by resolution of the Village Council.

Registration and inspection fees shall be paid at the time of submitting the registration affidavit. There shall also be a fee for the filing of any additional or new owner's affidavit, with such fee being set by resolution of the village's board. For properties that are not registered within the required time, an additional fee for the added cost of the expenses in having to determine ownership, which may include, but is not limited to, title searches, shall be assessed and immediately payable. All unpaid fees shall be charged against the real property upon which the structure is located and shall be lien upon such property in accordance with the 2006 International Property Maintenance code, or any successor code.

Sec. 16-35.7 Requirement to keep information current.

If at any time the information contained in the affidavit is no longer valid, the property owner, lender or possessory lender has 10 days to file a new affidavit containing current information. There shall be no fee to update a registered owner's current information.

Sec. 16-35.8 Safety and maintenance inspections.

- a. If the foreclosed upon vacant or abandoned property includes vacant or unoccupied buildings, the owner of that property is responsible for immediately obtaining and paying for the village's "safety and maintenance inspection" (as defined herein) of the building and property, obtaining necessary permits, making required repairs and obtaining inspections from the village annually thereafter until the building(s) is lawfully occupied, to ensure the building(s) are safe, secured and well maintained. The owner shall demonstrate that all water, sewer, electrical, gas, HVAC and plumbing systems, exterior finishes and walls, concrete surfaces, accessory buildings and structures, swimming pools and spas, roofing, structural systems, foundation, drainage systems, gutters, doors, windows, driveways, sidewalks are sound, operational or properly disconnected.

- b. If, at the time of the safety and maintenance inspection, the inspector deems that the electrical, plumbing or mechanical systems pose health or safety hazards and require additional inspection by the licensed code official in that discipline, the owner shall be responsible to obtain and pay for that required inspection.
- c. If an owner fails or refuses to complete the inspections required by the subsection (a) of this section, the possessory lender shall be obligated to complete the inspection upon foreclosure of the property. Additionally, any lender who holds a mortgage on a property located within the village shall obtain and pay for the inspection pursuant to subsection (a) of this section to the extent permitted by law or under that mortgage, of the property that is the security for the mortgage, upon default by the borrower, within five days after either the filing of a complaint for foreclosure (if foreclosure is by judicial action) or publishing a notice of foreclosure (if foreclosure is by advertisement).

Sec. 16-35.9 Property constituting a public nuisance, maintenance and security requirements.

- a. It is declared a public nuisance for any owner to cause, permit, or maintain any property condition contrary to the provisions of this section. The owner, entity, individual or authorized agent responsible for the care and control of the property must adhere to the vacant property maintenance requirements as contained in this section. The owner, entity, individual or authorized agent responsible for the care and control of the property shall perform bi-monthly inspections of the property to assure compliance with the requirements of this section. In case of emergency and/or exigent circumstances, the owner, entity, individual or authorized agent responsible for the care and control of the property shall allow access to the property by the Village staff or agent, for the purpose of inspection.
- b. Vacant property shall be kept free of the following:
 - 1. Weeds or grass more than six (6) inches high,
 - 2. Vegetation growth between sidewalk and/or driveway flags or from cracks in the pavement,
 - 3. Dry brush, dead vegetation, trash, junk, debris, building materials, rodent harborage, accumulated snow on sidewalks and driveways,
 - 4. Any accumulation of newspapers, circulars, flyers, and notices (except those required by federal, state or local law),
 - 5. Discarded items including, but not limited to, furniture, clothing, large and small appliances, printed material, signage, containers, equipment, construction materials, and
 - 6. Any illegal outside storage of vehicles.
- c. Vacant property shall comply with the minimum-security fencing, barrier and maintenance requirements of the Construction Code and the Property Maintenance Code.

- d. Vacant 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 structure.
- e. Vacant property 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 landscaping and removal of all trimmings.
- f. Pools, spas and other water feature located on vacant property shall be kept in working order or winterized to ensure that the water remains clear and free of pollutants and debris, or drained and kept dry and free of debris, and must comply with the minimum-security fencing, barrier and maintenance requirements of the Construction Code and the 2006 International Property Maintenance Code, or its successor code.
- g. Vacant property shall be maintained in a secure manner so as not to be accessible to unauthorized persons. Secure manner includes, but is not limited to, the closure and locking of windows, doors (walk-through, sliding and garage), gates and any other opening of such size that it may allow a child to access the interior of the property and/or structure(s). Broken windows must be repaired or replaced within fourteen (14) days. Boarding up of open or broken windows is prohibited except as a temporary measure for no longer than fourteen (14) days.
- h. Utilities at vacant property must be properly disconnected or if remained connected, maintained in proper working order.
- i. Building appurtenances at vacant property must be securely attached so as not to cause a blighting condition, including, but not limited to, gutters, downspouts, shutters, railings, guards, steps, awnings, canopies, signs, light fixtures, and fire-escapes.
- j. Detached signs and lighting systems at vacant property shall be structurally sound, and maintained so as not to cause a blighting condition.
- k. Vacant property fencing and retaining wall shall be maintained structurally sound. Any fence or wall with broken or hanging components shall be repaired, straightened, or removed.
- l. Perishables shall be removed from the interior of the structures located on vacant property.

Sec. 16-35.10 Fire damaged property.

If a building is fire damaged, the owner or possessory lender has 90 days from the date of the fire to apply for a permit to start construction or demolition. Additional 90-day extensions may be

granted by the Village provided the owner(s), lender(s) or possessory lender(s) submits a written request to the Village prior to the expiration of the current 90-day period, wherein said written request sets forth facts and information demonstrating substantial progress towards completing repairs. Failure to do so will result in the property being deemed vacant and/or abandoned and subject to the requirements of this article.

Sec. 16-35.11 Right of entry.

If the owner, lender or possessory lender has failed to secure the property, the Village may seek an administrative search warrant in order to permit entry upon the property to secure the property. Such will necessarily include the authority to conduct inspections to ensure the absence of emergency or hazardous health and safety conditions within the structure. All administrative expenses associated with the issuance of the search warrant shall be recoverable and assessed against any owner(s), lender(s) or possessory lender(s) of the property jointly and severally.

Sec. 16-35.12 Re-occupancy.

A vacant building or structure on abandoned or foreclosed property shall not be occupied until all violations have been corrected in accordance with the violation or correction notices issued and a certificate of re-occupancy has been issued by the village building official. All mechanical, electrical, plumbing and structural systems shall be certified by a licensed contractor as being in good repair, the provisions of the Construction Code or 2006 International Property Maintenance Code, or its successor, complied with and all blight removed.

Sec. 16-35.13 Penalty.

Any person who violates the provisions of this article shall upon conviction thereof, be guilty of a misdemeanor and subject to a penalty not to exceed \$500 or imprisonment in the county jail for a period not to exceed 90 days, or both such fines and imprisonment.

Sec. 16-35.14 Repealing of conflicting provisions.

All resolutions, ordinances or parts thereof in conflict with the provisions of this article are to the extent of such conflict hereby repealed.

A Motion to Adopt Village of Cass City, MI Ordinance No. 184, "AN ORDINANCE TO AMEND THE VILLAGE OF CASS CITY CODE OF ORDINANCES, CHAPTER 16, ARTICLE II, (Blight), SECTION(S) 16-35.1 - 16-35.14 ENTITLED, "ANTI-BLIGHT ORDINANCE, VACANT, ABANDONED, AND FORECLOSED PROPERTIES, BUILDING REGULATION ORDINANCE,

Was offered by Trustee Piaskowski and supported by Trustee Leeson

Ayes: Delamarter, Ball, Herron, Kim, Leeson, Piaskowski, Zawilinski

Nays: None

Resolution: Approved

Dan Delamarter
President, Village of Cass City

Nanette Walsh
Clerk/Treasurer, Village of Cass City

Introduction and First Reading: March 25, 2019

Second Reading: April 29, 2019

Public Hearing and Request for Adoption: April 29, 2019

Adopted: April 29, 2019

Effective: Upon adoption by the Cass City Village Council, this ordinance shall become effective 30 days later.

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CERTIFICATION

I, the undersigned duly appointed Village Clerk of the Village of Cass City, County of Tuscola, State of Michigan, do hereby certify that the above ordinance, or a summary thereof, was published in Cass City Chronicle, a newspaper of general circulation in the Village on May 8, 2019, and that such ordinance was entered with the Ordinance Book of the Village on May 8, 2019.

Dated: May 8, 2019.

Nanette Walsh
Clerk/Treasurer, Village of Cass City