



EXECUTIVE ORDER
OF
MAYOR JOSHUA A. GARCIA

September 21, 2022

Whereas, local officials have taken an oath to uphold the laws of the Commonwealth of Massachusetts, the United States of America, and the ordinances of the City of Holyoke;

Whereas, it is expected for the public to follow all laws and for departments to enforce laws accordingly;

NOW, THEREFORE, I, Joshua A. Garcia, Mayor of the City of Holyoke, duly elected by the voters of the city, acting under the authority of City Ordinances Part I - Charter and Related Legislation, Subpart A - Charter, Title IV - Executive Department, and of all other authority vested in me, do hereby issue this order to reinforce all laws of our City Ordinances, including the following specific ordinances as a measure necessary to address blight and improve the quality-of-life of the public:

Sec. 18-35. - Regulation of blighted and vacant buildings.

(a) *Purpose and declaration of policy.* It is hereby found and declared that there exist within the City of Holyoke numerous real properties which are in a blighted and/or vacant condition. Many of these properties are essentially abandoned. Some are in violation of multiple aspects of state and local building codes and sanitary codes. The owner of record is often a large financial institution located out of state, making enforcement of the code very difficult. These code violations include, among multiple other violations, unoccupied buildings susceptible to vandalism and/or open structures rendering them unsafe and dangerous, yards full of litter and trash, unlocked houses, un-shoveled snow that renders sidewalks impassable, and overgrown grass and bushes.

The existence of such blighted and vacant properties contributes to the decline of city neighborhoods. It is further found that the existence of such blighted and vacant properties encourages temporary occupancy by transients, drug users and persons engaged in criminal activity; adversely affect the economic wellbeing of the city and the health, safety and welfare of the residents of the city; and create significant costs to the city by virtue of the need for constant monitoring and frequent boarding and securing.

It is further found that many of the blighted or vacant properties can be rehabilitated, reconstructed, demolished and/or reused so as to provide decent, safe and sanitary housing, or commercial facilities, and that such rehabilitation, reconstruction, demolition and/or reuse would eliminate, remedy and prevent the adverse conditions described above.

(b) *Definitions.* For the purposes of this section, the following words, terms and phrases shall have the following meanings, unless the context clearly indicates otherwise:



Blighted premises shall mean any building, structure, parcel of land, or any part of a building or structure that is a separate unit, whether commercial or residential, in which at least one of the following conditions exist:

1. It is not being adequately maintained and secured as documented by the enforcement officer (as that term is defined herein) based upon, without limitation, the following factors: missing or boarded windows or doors; collapsing or missing walls, roof or floor; siding that is seriously damaged or missing fire damage; a foundation that is structurally faulty; accumulation of interior furniture outside, garbage, trash, junk, inoperable cars, boats, motorcycles or other inoperable machinery or other refuse (unless otherwise licensed to do so);
2. It has been cited for violations as documented by the building commissioner, the director of the board of health, the police chief, the fire chief and/or their designated agents, which violations have not been corrected;
3. It is attracting illegal activity as documented by the police department;
4. It is a fire hazard as documented by the fire department;
5. Because of fire, wind, or other natural disaster, or because of physical deterioration, it is no longer habitable as a dwelling or useful for the purpose for which it was originally intended;
6. Is a vacant building as defined hereunder; or
7. It is determined by the building commissioner and/or the director of the board of health 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 city.

Building shall mean an independent structure having a roof supported by columns or walls, resting on its own foundations and designed for the shelter, housing or enclosure of persons, animals or property of any kind.

Enforcement officer shall mean the building commissioner and director of the board of health and/or their designated agents.

Initiation of the foreclosure process shall mean taking any of the following actions:

1. Taking possession of a residential property pursuant to M.G.L.A. c. 244 § 1;
2. Publishing the first notice of a residential property pursuant to M.G.L.A. c. 244 [§ 14](#); or
3. Commencing a foreclosure action on a residential property in either the land court or the county superior court.

Local agent shall mean an agent located within 20 driving miles distance of the property in question.

Owner shall mean any individual, business entity, voluntary association or nonprofit organization, and quasi-governmental entities, (i.e. Holyoke Housing Authority and Holyoke Gas & Electric Co.) which alone or jointly or severally with others:

1. Has legal 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, administratrix, 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



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 a trustee who holds, owns or controls mortgage loans for mortgage-backed securities transactions and has initiated the foreclosure process.

Rehabilitation Plan: shall mean a written document including a narrative of existing property conditions, a list of repairs and a schedule for prioritizing the phases for completion of such repairs, dates certain for the application of required permits, dates certain for obtaining any applicable architectural or design plans, dates certain for the commencement and completion of said work, and any other information or requirements specified by the building commissioner.

Structure shall mean anything erected at a fixed location on the ground to give support, provide shelter or satisfy other purposes (includes the term "building").

Vacant building shall mean any commercial or industrial building in which no person or entity actually conducts a lawfully licensed business in such 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 a licensed business nor a lawful resident exists. Further, any building lacking active water, heat or electrical utility service or in which more than one half of the total exterior windows and doors are broken, boarded or open without a functioning lock shall be deemed "vacant."

(c) Creation or maintenance of blighted premises prohibited.

1. No owner of real property located within the city shall allow, create, maintain or cause to be created or maintained any blighted premises.
2. *Administration.*
 - a. *Investigation.* The enforcement officer(s) shall undertake an investigation of any alleged violation of this section upon their 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 section the enforcement officer shall serve notice of the violation and an order to correct such violation upon the owner of the property by certified mail or by service in hand by a person duly authorized to do such. 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 section within no more than 30 days of receipt of such order:
 - i. To prepare a *Rehabilitation Plan* approved by the building commissioner within 30 days of receipt of an order to take corrective action. All work to be performed under the *Rehabilitation Plan* shall be completed within 180 days of the date the order is received. In the case of large-scale renovations or rehabilitation work for over 10,000 square feet of work area, the schedule of time to complete the work may be extended in written agreement with the building commissioner. Determinations for qualifying large-scale renovations shall be made at the discretion of building commissioner;
 - ii. To file 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 or its various phases. All work performed pursuant to this subsection shall be completed within 180 days of the date that the order is received; or



- iii. To take any other action that the enforcement officer deems necessary to correct the violations of this section in order to assist the city in protecting the public health, safety and welfare of its residents.
- iv. Failure to take corrective action shall be considered an offense subject to penalties and enforcement as detailed under subsection (e).
- c. *Recovery of costs.* Whenever a property owner fails, neglects or refuses to make repairs or take other corrective action specified in the order, the city may undertake such repairs or actions, when in its judgment a failure to make them will endanger the public health, safety and welfare. Notice of the intention of the city to make such repairs or other corrective action shall be served on the owner by certified mail or by service in hand by a person duly authorized to do such. When repairs are made or other corrective action taken by the city, the cost of such repairs and enforcement action shall constitute a debt in favor of the city against the owner of the repaired building or structure. In the event that the owner fails, neglects or refuses to pay the city the amount of the debt within 30 days of the receipt of the notice of the debt, the city shall take action to collect the debt, which may include placing a lien on the property for such debt and/or initiating a civil action against the owner in a court of competent jurisdiction to recover the debt.

Sec. 42-1. - Inspection of buildings and premises.

It shall be the duty of the chief of the fire department, or any member of the department designated by him, from time to time, to enter upon and into any premises, building, structure or alleyway within the corporate limits of the city for the purpose of examining and inspecting the same to ascertain the condition thereof with regard to the presence, arrangement or deposit of any articles, materials, substances, goods, wares or merchandise which may have a tendency to create danger in case of fire on or in the same, or personal injury to or loss of life of the occupants or of persons on or in such premises, building or structure; also with regard to the condition, size, arrangement and efficiency of any and all appliances for protection against fire on or in such premises, building or structure.

(Code 1972, § 7-1)

State Law reference— Right of entry for purpose of inspection, M.G.L.A. c. 148, § 4; keeping or handling combustible materials, M.G.L.A. c. 148, [§ 24](#); licensing, storing, etc., of explosives, M.G.L.A. c. 148, §§ 13, [39](#) et seq.; removal of combustible materials by chief, M.G.L.A. c. 148, § 5.

Sec. 42-2. - Security of vacant buildings.

Every person owning or in charge or in control of any vacant or abandoned building shall remove therefrom all accumulation of inflammable or combustible waste and rubbish, and shall securely lock, barricade or otherwise secure all windows, doors and other openings thereof. In all cases, security of the building must be approved in writing by the fire chief.

(Code 1972, § 7-2)

Sec. 42-4. - Order to correct dangerous conditions.

If the chief of the fire department shall find, on inspection of any premises, building or structure, any rubbish, debris, waste or inflammable or combustible materials, and the same is not so arranged or disposed as to afford reasonable



safeguard against the dangers of fire, or if he shall find that the articles, materials, goods, wares and merchandise on or in such premises, building or structure are so arranged and disposed that the occupants thereof or persons rightfully on or in the same would not, because of such arrangement and disposition, be afforded reasonable access to the exits of such premises, building or structure in case of fire, or if he shall find that by reason of such arrangement or disposition the members of the fire department would unnecessarily and unreasonably be interfered with in the exercise of their duties in and about such premises, building or structure in case of fire in the same, he may order in writing the removal of such rubbish, debris, waste or inflammable or combustible materials from such premises, building or structure, or the disposing and arranging of the same on or in such premises, building or structure in such manner as will remove such danger from fire. He may also order in writing that such articles, materials, goods, wares or merchandise be so arranged and disposed on or in such premises, building or structure that the occupants thereof, or the persons rightfully on or in the same, will be afforded all reasonable access to the exits from the same in case of fire, and the members of the fire department will be afforded all reasonable facilities for the discharge of their duties in and about such premises, building or structure in case of fire.

(Code 1972, § 7-4)

Sec. 54-18. - Removal of shopping carts.

Any individual or group who removes a shopping cart from the business lot where the cart originated shall be subject to a fine of no less than \$25.00 and not more than \$300.00, to be issued by the city police department.

(Ord. of 12-20-11 [14th amd.], § 1)

Sec. 74-93. - Throwing litter from vehicle.

No person, being the driver of a passenger in a vehicle, shall throw or deposit litter upon any street or public place within the city, or upon any private property.

(Ord. of 12-20-11 [6th amd.], § 1)

Sec. 74-95. - Maintenance of trash containers.

No person, commercial, industrial, or professional establishment, or governmental, religious or school organization shall allow a refuse container to be improperly maintained so that trash may be carried or deposited by the elements, passing vehicles, or animals upon or in any street, sidewalk, alley, storm drain, public place, or occupied or unoccupied premises within the city. This includes but is not limited to leaving door(s) on bulk containers open, allowing any container to remain uncovered or having cover(s) which are not tightfitting, or filling container(s) so that closure of door(s) and cover(s) are impeded.

(Ord. of 12-20-11 [6th amd.], § 1)

Section 74-2 (f)(1): Property to be kept clean.

All owners of commercial, professional, industrial, multifamily and residential property must maintain said property, and occupants and business tenants must keep the premises they occupy, as well as common areas, including adjacent sidewalks, grass strips, one-half of alley, and rights-of-way to the edge of the surface of the vehicular travel way of any public street, in a clean and litter-free manner. Rubbish, refuse or other litter on any property must be removed by the owner, occupants and/or business tenants.

(Ord. of 12-20-11 [6th amd.], § 1; Ord. of 4-1-14 [7th amd.], § 1)



Sec. 74-98. - Duty to maintain private property free of litter; duty to cut vegetation.

The owner or person in control of any private property shall at all times maintain his premises, as well as the sidewalk in front of his premises, free of litter so that the same does not constitute a danger to the public health, safety and welfare. The owner or person in control of any private property shall maintain and cut all vegetation, to a maximum of six inches, which constitutes a rodent harborage area or a public health hazard. This section shall not prohibit the storage of litter in authorized private receptacles for collection.

(Ord. of 12-20-11 [6th amd.], § 1)

Sec. 74-99. - Storage of nonoperating or junked motor vehicles.

a. *Declaration of nuisance.* The parking, standing or storage of abandoned, junked or unlicensed vehicles on public or private property within the city is hereby declared to be a nuisance and is prohibited.

b. *Abandoned, junked and/or unlicensed vehicles prohibited; exemptions.*

1. No person in charge or control of any real estate within the city, whether as owner, tenant, occupant, lessee or otherwise, shall allow any abandoned, junked and/or unlicensed vehicle, as defined herein, to remain on such property longer than three days (72 hours).
2. This section shall not apply to:
3. Vehicle(s) parked or stored in an enclosed building;
4. Vehicles at the place of business of a class license issued under M.G.L.A. c. 140 or at a lawfully established salvage, junk, wrecking or storage yard that is legally licensed and zoned for the operation of such types of business and which fully complies with all federal, state and city laws and regulations for the operation of such business;
5. Short term repairs as allowed under sections [86-2](#) and [86-3](#) of this Code.

c. *Enforcement; violations and penalties.*

1. The board of health, its agents and employees and the city police department, its agents and employees are hereby authorized to enforce the provisions of this article.
2. Upon inspection by an enforcing officer, an abandoned, junked and/or unlicensed vehicle may be appropriately tagged, without prior notice to the owner of said vehicle, with a decal calling for a 72-hour notice to remove. In addition, a notice to remove shall be mailed to the owner of the property where the vehicle is located.
3. Failure to remove the vehicle in accordance with a notice issued under subsection (2) of this section shall result in:
 1. A fine of \$50.00 per day until such vehicle or vehicles is moved; and
 2. Removal by towing at the owner's expense, to be impounded at a site determined by the city. The cost of impounding and storage will be assumed by the owner of said vehicle(s).
4. This section may be enforced in the manner provided in M.G.L.A. c. 40, § 21D. A penalty of \$50.00 shall be imposed for each violation of this section. Each day on which a violation exists shall be deemed to be a separate violation of this section.

(Ord. of 12-20-11 [6th amd.], § 1)



Sec. 74-100. - Graffiti.

The owner of any property whether it be occupied/unoccupied, residential/commercial, and in any zoning district shall not allow graffiti to be affixed to any part of its exterior. If an inspection or examination by the city board of health or its authorized agents determines that a property displays graffiti through vandalism or any other means, the city board of health shall notify the owner of the affected property in writing.

(Ord. of 12-20-11 [6th amd.], § 1)

I hereby order every relevant city department to take all necessary steps to implement this Executive Order, including through the allocation of funding and other resources in a manner consistent with applicable laws.

The provisions of this Order are severable and if any provision, or portion thereof, should be held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect the remaining provisions that shall remain in full force and effect.

This Executive Order shall take effect immediately.

Joshua A. Garcia
Mayor, City of Holyoke