

CITY OF MARLBOROUGH MEETING POSTING

Meeting Name: City Council Legislative and Legal Affairs Committee

Date: October 25, 2016

Time: 5:00 PM

Location: City Council Chamber, 2nd Floor, City Hall, 140 Main Street

Agenda Items to be addressed:

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9-12-16 – Order No.16-1006458B: Communication from City Solicitor re: Reporting Obligations after a Devastating Event, Order No.16-1006458A with proposed new Article III, entitled “Reporting Obligations After a Devastating Event.” If enacted, it would join Article I, “Anti-blight; Nuisances,” and Article II, “Registration and Maintenance of Abandoned and/or Foreclosing Residential Properties.”

-REFER TO LEGISLATION AND LEGAL AFFAIRS COMMITTEE

THE LISTING OF TOPICS THAT THE CHAIR REASONABLY ANTICIPATES WILL BE DISCUSSED AT THE MEETING IS NOT INTENDED AS A GUARANTEE OF THE TOPICS THAT WILL HAVE BEEN DISCUSSED. NOT ALL TOPICS LISTED MAY IN FACT BE DISCUSSED, AND OTHER TOPICS NOT LISTED MAY ALSO BE BROUGHT UP FOR DISCUSSION TO THE EXTENT PERMITTED BY LAW.

The public should take due notice that the Marlborough City Council may have a quorum in attendance due to Standing Committees of the City Council consisting of both voting and non-voting members. However, members attending this duly posted meeting are participating and deliberating only in conjunction with the business of the Standing Committee.

Electronic devices, including laptops, cell phones, pagers, and PDAs must be turned off or put in silent mode upon entering the City Council Chamber, and any person violating this rule shall be asked to leave the chamber. Express authorization to utilize such devices may be granted by the President for recordkeeping purposes.



IN CITY COUNCIL

Marlborough, Mass., SEPTEMBER 12, 2016

ORDERED:

That the Communication from City Solicitor, Donald Rider re: Reporting Obligations after a Devastating Event, Order No. 16-1006458A, be and is herewith refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE.**

ADOPTED

ORDER NO. 16-1006458B



City of Marlborough
Legal Department

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2016 SEP -8 11:57

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DONALD V. RIDER, JR.
CITY SOLICITOR

CYNTHIA M. PANAGORE GRIFFIN
ASSISTANT CITY SOLICITOR

ELLEN M. STAVROPOULOS
PARALEGAL

September 8, 2016

Edward Clancy
President
Marlborough City Council

RE: Order No. 16-1006458B
Reporting Obligations After a Devastating Event

Dear President Clancy:

As discussed at the Legislative & Legal Affairs Committee meeting held on March 14, 2016, it was suggested that a new Article III be added to Chapter 485 of the City Code (Property Maintenance) that would delineate steps which property owners would need to take after their building or structure had undergone a devastating event such as a fire.

Accordingly, enclosed is the proposed new Article III, entitled "Reporting Obligations After a Devastating Event." If enacted, it would join Article I, "Antiblright; Nuisances," and Article II, "Registration and Maintenance of Abandoned and/or Foreclosing Residential Properties."

Thank you for your attention to this matter.

Very truly yours,

Donald V. Rider, Jr.
City Solicitor

Enclosure

cc: Arthur Vigeant, Mayor
Douglas Scott, Interim Building Commissioner
Pamela Wilderman, Code Enforcement Officer

ORDERED:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARLBOROUGH THAT THE CITY CODE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED BY AMENDING CHAPTER 485, ENTITLED "PROPERTY MAINTENANCE," AS FOLLOWS:

1. Chapter 485, entitled "Property Maintenance," is hereby amended by adding a new Article III, entitled "Reporting Obligations After a Devastating Event," as follows:

ARTICLE III: Reporting Obligations After a Devastating Event

Section 485-16. Definitions.

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

BUILDING

A structure, whether portable or fixed, with exterior walls or firewalls and a roof, built, erected or framed of a combination of any materials, to form shelter for persons, animals, or property.

CITY

The City of Marlborough.

COMMISSIONER

The Building Commissioner of the City of Marlborough or his/her designee.

DEVASTATING EVENT

A fire, gas explosion, lightning strike, storm, flood, falling tree, earthquake, act of vandalism, plumbing burst or freeze, or other similar event that significantly damages, in the estimation of the Commissioner, a building or structure located, at least in part, within the City.

OWNER

Every person, entity, mortgage lender, service company, property manager or real estate broker, who alone or severally with others:

A. Has legal or equitable title to any dwelling, dwelling unit, manufactured home (mobile home unit), building or parcel of land, vacant or otherwise; or

B. Has care, charge or control of any dwelling, dwelling unit, manufactured home (mobile home unit), building or parcel of land, vacant or otherwise, 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

- C. Is a mortgagee in possession of any such dwelling, dwelling unit, mobile home unit, building or parcel of land, vacant or otherwise; or
- D. Is an officer or trustee of the association of unit owners of a condominium;
- F. Is an agent, trustee or other person appointed by the courts and vested with possession or control of any such property; or
- G. Is a person who operates a rooming house.

STRUCTURE

A combination of materials, whether wholly or partially level with, above or below the surface of the ground, whether permanent or temporary, assembled at a fixed location to give support, shelter or enclosure such as a building, framework, retaining wall, stand, platform, bin, fence (having a height at any point of six feet or greater above grade), parking area sign, flagpole, or mast for an antenna or the like.

Section 485-17. Reporting Obligations.

- A. Within 72 hours after a devastating event, the owner of the building or structure damaged by the devastating event shall report in writing to the Building Commissioner the name, mailing address, and contact information including phone number of the insurance company providing insurance on the building or structure, as well as the name, mailing address, and contact information including phone number of any licensed public insurance adjuster retained by or on behalf of the owner.
- B. No later than 30 calendar days after the date of the devastating event, and at no less than 30-calendar-day intervals thereafter, the owner shall report in writing to the Building Commissioner the status of settlement negotiations with the insurer of the damaged building or structure, together with a timetable for repairing, renovating or otherwise disposing of the building or structure. The building or structure will be subject to evaluation by the Building Commissioner or his/her designee every 30 calendar days after the date of the devastating event.
- C. Failure of the owner to comply, within the pertinent 30-calendar-day period, with the reporting obligations of this Section 485-17 shall subject the owner to the antiblight provisions set forth in Article I of this Chapter.
- D. Nothing contained in this Section 485-17 shall prohibit the City from seeking any relief the City deems appropriate to protect and advance the health, safety, welfare and aesthetic concerns of the public, including but not limited to a demolition order pursuant to M.G.L. c. 139, § 1; an inspection of the building or structure by the Building Commissioner or his/her designee pursuant to M.G.L. c. 143, § 6; or a referral of the matter

to the City's Board of Health to enforce the provisions of the sanitary code including by means of judicial appointment of a receiver pursuant to M.G.L. c. 111, § 127I. All costs incurred by the City pursuant to this section shall constitute a debt due the City pursuant to the provisions of M.G.L. c. 139, § 3A, M.G.L. c. 143, § 9, or M.G.L. c. 111, § 125, as applicable.

2. Since the deferred operation of this ordinance would tend to defeat its purpose, which is to make effective its provisions as soon as possible in order to protect the health and safety of the people or their property, this ordinance shall become effective immediately upon passage.

ADOPTED

In City Council
Order No. 16-
Adopted

Approved by Mayor
Arthur G. Vigeant
Date:

A TRUE COPY
ATTEST: