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## Appendix 3

# Vacant Building Ordinances: Strategies for Confronting Vacant Building Challenges

## Municipal Lien Checklist

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# MUNICIPAL LIEN CHECKLIST<sup>1</sup>

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## Background

The main document of this publication discusses different types of liens that municipalities may use them to recover the expenses they incur in securing and maintaining vacant property, describing what these liens are and when they can be used. This appendix provides a checklist for how to obtain those liens, . It was prepared for a non home rule municipality in Cook County, though other municipalities would follow substantially the same steps. The checklist also assumes that a municipality will prosecute code violations in the circuit court, but home rule municipalities may use administrative adjudication if they have established such a system. For the following liens, the term “abandoned residential property” is defined as property that “has been unoccupied by any lawful occupant or occupants for at least 90 days, and for which after such 90 day period, the municipality has made good faith efforts to contact the legal owner or owners of the property identified on the recorded mortgage, or, if known, any agent of the owner or owners, and no contact has been made.” 65 ILCS 5/11-20-15.1 Liens on abandoned property are entitled to priority status over all other liens, except taxes. *Id.*

## Lien Checklist

### **A. Demolition Liens – 65 ILCS 5/11-31-1(a)(“regular” procedure).**

- Identify property that requires removal of garbage, repair, and/or demolition (if property is dangerous and unsafe and beyond reasonable repair).
- Perform title search to identify all owners and lien holders of record.
- Issue 15-day advance written notice to all owners and lien holders of record, in the form of a “Notice of Dangerous and Unsafe Property,” informing the interested parties that the Village will file a Complaint against them unless the garbage is removed, and/or the structures are repaired or demolished (as necessary).

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<sup>1</sup> The information provided by Ancel Glink is not, nor is it intended to be, legal advice nor is it intended to create an attorney-client relationship. You should consult with an attorney before taking action based on the information provided herein.

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- If the garbage is not removed, and/or the structures are not repaired or demolished in 15 days, as required by the Notice of Dangerous and Unsafe Property,” file a Complaint in Cook County Circuit Court.
- Negotiate for removal of garbage, and/or repair or demolition of structures with any parties that appear in response to the Complaint.
- Following substantive hearing, obtain court order for removal of garbage, and/or repair or demolition of structures from Cook County Circuit Court.
- Proceed to remove garbage, and/or repair or demolish structures under terms of court order.
- Maintain records detailing costs and expenses incurred in prosecution of Complaint, and execution of court order.
- Prepare “Notice of Lien” form, attaching the Notice of Dangerous and Unsafe Property and any records, receipts or invoices for costs and expenses incurred in prosecution of Complaint, and execution of court order.
- Mail the following to the Cook County Recorder’s Office: 1) two copies of a completed Notice of Lien; 2) a check for \$40.00, plus \$1.00-per-page for notices with five or more pages; and 3) a self-addressed stamped envelope.
- Ensure Notice of Lien is filed with the Cook County Recorder of Deeds within 180 days of the court-ordered removal of garbage, repair or demolition.

**B. Demolition Liens – 65 ILCS 5/11-31-1(e) (“fast-track” procedure).**

- Request Village building code official to identify properties that are: 1) less than three stories; 2) open and vacant; 3) an immediate and continuing hazard to the community.
- Post notice in front of building, 2 feet by 2 feet in size, stating that “unless the building is demolished, repaired, or enclosed, and unless any garbage, debris, and other hazardous, noxious, or unhealthy substances or materials are removed so that an immediate and continuing hazard to the community no longer exists, then the building may be demolished, repaired, or enclosed, or any garbage, debris, and other hazardous, noxious, or unhealthy substances or materials may be removed, by the Village.”
- Perform title search to identify all parties with an interest in the property, including owners, lien holders of record and beneficial owners of a land trust owning title to the property.
- Within 30 days of the posting of the notice on the property:
  - 1) Send a “Notice to Remediate” to all parties with an interest in the property, stating that the Village intends “to demolish, repair, or enclose the building or remove any garbage, debris, or other hazardous, noxious, or unhealthy substances or materials if that action is not taken by the owner or owners;”

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- 2) Record the Notice to Remediate with the Cook County Recorder of Deeds;  
and
- 3) Publish a notice for three consecutive days in the Cook County Life,  
including:
  - a. the permanent tax index number and the address of the building;
  - b. a statement that the property is open and vacant and constitutes an  
immediate and continuing hazard to the community;
  - c. a statement that the municipality intends to demolish, repair, or  
enclose the building or remove any garbage, debris, or other  
hazardous, noxious, or unhealthy substances or materials if the  
owner or owners or lien holders of record fail to do so.

- If the building is not demolished or remedied within 30 days of mailing the  
notice or the last day of publication (whichever is later), the Village may  
demolish or remediate the building without any need to seek court permission,  
unless any party with the interest in the property files an objection.
- Maintain records detailing costs and expenses incurred in preparation of Notice  
to Remediate, and execution of demolition authority.
- Draft “Affidavit of Village Building Inspector,” stating: 1) the building was  
open and vacant and constituted an immediate and continuing hazard to the  
community; 2) the required sign was posted on the building; 3) that notice was  
sent by certified mail to the owners of record; 4) that notice was published in  
accordance with 65 ILCS 5/11-31-1(e); and 5) when and where the notice was  
published.
- Prepare “Notice of Lien” form, attaching the Notice to Remediate, Affidavit of  
Village Building Inspector, and any records, receipts, or invoices for costs and  
expenses incurred in execution of demolition authority.
- Mail the following to the Cook County Recorder’s Office: 1) two copies of a  
completed Notice of Lien; 2) a check for \$40.00, plus \$1.00-per-page for  
notices with five or more pages (always check website to verify price); and 3) a  
self-addressed stamped envelope.
- Ensure Notice of Lien is filed with the Cook County Recorder of Deeds within  
180 days of the removal of garbage, repair or demolition.

**C. Water or Sewer Service Liens – 65 ILCS 5/11-139-8.**

- Identify properties that failed to pay water and sewer charges by the due date.
- Each month, the Village Treasurer must send a “Notice of Delinquency” to the  
owner and any occupant of every property delinquent in water and sewer  
service charges, including the date the amounts became delinquent and a

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statement that “unpaid charges may create a lien on the real estate under 65 ILCS 5/11-139-8.”

- Prepare the “Notice of Lien” form, and attach a copy of each (if more than one) Notice of Delinquency sent to the person responsible for paying the charges.
- Mail the completed Notice of Lien to the owner(s) of record.
- Mail the following to the Cook County Recorder’s Office: 1) two copies of a completed Notice of Lien; 2) a check for \$40.00, plus \$1.00-per-page for notices with five or more pages; and 3) a self-addressed stamped envelope.
- If the lien is satisfied by the owner, lender or other interested party, provide the party with a completed “Release of Lien” for the party to record at their expense.

**D. Weed Cutting Liens – 65 ILCS 5/11-20-7; 65 ILCS 5/11-20-7(d)(abandoned residential property).**

- Identify properties with growth of weeds, grasses or bushes beyond a height of 8 inches, other than planted and cultivated flowers, shrubbery or other landscaping.
- Issue “Notice of Violation” to property owner requiring the owner to remove the weeds within a reasonable time (e.g., 7 days), or the Village will remove the weeds and recover the removal cost from the owner. The Notice of Violation should include a copy of: 1) the relevant section of the municipal code; and 2) 65 ILCS 5/11-20-7.
- For abandoned residential property, perform a title search and send the Notice of Violation to the mortgagee or loan servicer for the property.
- For abandoned residential property, prepare a dated “Affidavit of Village Building Inspector,” including: 1) the date when the property was first known or observed to be unoccupied by any lawful occupant or occupants; 2) a description of the actions taken by the municipality to contact the legal owner or owners of the property identified on the recorded mortgage, or, if known, any agent of the owner or owners, including the dates such actions were taken; 3) a statement that no contacts were made with the legal owner or owners or their agents as a result of such actions; 4) a dated certification of the necessity and specific nature of the work to be performed; 5) a copy of the agreement with the person or entity performing the work that includes the legal name of the person or entity, the rate or rates to be charged for performing the work, and an estimate of the total cost of the work to be performed; 6) detailed invoices and payment vouchers for all payments made by the municipality for such work; and 7) a statement as to whether the work was engaged through a competitive bidding process, and if so, a copy of all proposals submitted by the bidders for such work.
- Perform weed removal, and maintain records detailing costs and expenses incurred.

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- Prepare “Notice of Lien” form, attaching Notice of Violation, Affidavit of Village Building Inspector (for abandoned residential property) and relevant records, receipts and invoices detailing removal costs.
- Serve a copy of the Notice of Lien on the person to whom last year’s property tax bill was sent, by personal service or by certified mail.
- Mail the following to the Cook County Recorder’s Office: 1) two copies of a completed Notice of Lien; 2) a check for \$40.00, plus \$1.00-per-page for notices with five or more pages; and 3) a self-addressed stamped envelope.
- Ensure Notice of Lien is filed with the Cook County Recorder of Deeds within one year of the date the removal cost was incurred.
- If the charges remain unpaid, sue for foreclosure within 2 years after filing Notice of Lien.
- If the lien is satisfied by the owner, lender or other interested party, provide the party with a completed “Release of Lien” for the party to record at their expense.

**D. Pest Extermination Lien – 65 ILCS 5/11-20-8; 65 ILCS 5/11-20-8(d)(abandoned residential property).**

- Identify properties infested with pests, including undesirable arthropods (including certain insects, spiders, mites, ticks, and related organisms), wood infesting organisms, rats, mice, and other obnoxious undesirable animals, but excluding feral cats, pets, domestic animals, poultry, and wild animals in captivity, or wild birds, wild mammals and other animals protected under the Wildlife Code (520 ILCS 5/).
- Issue “Notice of Violation” to property owner requiring the owner to remove the pests within a reasonable time (e.g., 7 days), or the Village will remove the pests and recover the removal cost from the owner. The Notice of Violation should include a copy of 65 ILCS 5/11-20-8.
- For abandoned residential property, perform title search and send the Notice of Violation to the mortgagee or loan servicer for the property.
- For abandoned residential property, prepare a dated “Affidavit of Village Building Inspector,” including: 1) the date when the property was first known or observed to be unoccupied by any lawful occupant or occupants; 2) a description of the actions taken by the municipality to contact the legal owner or owners of the property identified on the recorded mortgage, or, if known, any agent of the owner or owners, including the dates such actions were taken; 3) a statement that no contacts were made with the legal owner or owners or their agents as a result of such actions; 4) a dated certification of the necessity and specific nature of the work to be performed; 5) a copy of the agreement with the person or entity performing the work that includes the legal name of the person or entity, the rate or rates to be charged for performing the work, and an estimate of the total cost of the work to be performed; 6) detailed invoices and

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payment vouchers for all payments made by the municipality for such work; and 7) a statement as to whether the work was engaged through a competitive bidding process, and if so, a copy of all proposals submitted by the bidders for such work.

- Perform pest removal, and maintain records detailing costs and expenses incurred.
- Prepare "Notice of Lien" form, attaching Notice of Violation, Affidavit of Village Building Inspector (for abandoned residential property) and relevant records, receipts and invoices detailing removal costs.
- Serve a copy of the Notice of Lien on the person to whom last year's property tax bill was sent, by personal service or by certified mail.
- Mail the following to the Cook County Recorder's Office: 1) two copies of a completed Notice of Lien; 2) a check for \$40.00, plus \$1.00-per-page for notices with five or more pages; and 3) a self-addressed stamped envelope.
- Ensure Notice of Lien is filed with the Cook County Recorder of Deeds within one year of the date the removal cost was incurred.
- If the charges remain unpaid, sue for foreclosure within 2 years after filing Notice of Lien.
- If the lien is satisfied by the owner, lender or other interested party, provide the party with a completed "Release of Lien" for the party to record at their expense.

**E. Removal of Infected Trees Lien – 65 ILCS 5/11-20-12; 65 ILCS 5/11-20-12(d)(abandoned residential property).**

- Identify properties that have elm trees infected with Dutch elm disease or ash trees infected with the emerald ash borer.
- Issue "Notice of Violation" to property owner requiring the owner to remove the infected trees within a reasonable time (e.g., 7 days), or the Village will remove the trees and recover the removal cost from the owner. The Notice of Violation should include a copy of: 1) the relevant section of the municipal code; and 2) 65 ILCS 5/11-20-12.
- For abandoned residential property, perform title search and send the Notice of Violation to the mortgagee or loan servicer for the property.
- For abandoned residential property, prepare a dated "Affidavit of Village Building Inspector," including: 1) the date when the property was first known or observed to be unoccupied by any lawful occupant or occupants; 2) a description of the actions taken by the municipality to contact the legal owner or owners of the property identified on the recorded mortgage, or, if known, any agent of the owner or owners, including the dates such actions were taken; 3) a statement that no contacts were made with the legal owner or owners or their

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agents as a result of such actions; 4) a dated certification of the necessity and specific nature of the work to be performed; 5) a copy of the agreement with the person or entity performing the work that includes the legal name of the person or entity, the rate or rates to be charged for performing the work, and an estimate of the total cost of the work to be performed; 6) detailed invoices and payment vouchers for all payments made by the municipality for such work; and 7) a statement as to whether the work was engaged through a competitive bidding process, and if so, a copy of all proposals submitted by the bidders for such work.

- Perform tree removal, and maintain records detailing costs and expenses incurred.
- Prepare "Notice of Lien" form, attaching Notice of Violation, Affidavit of Village Building Inspector (for abandoned residential property) and relevant records, receipts, and invoices detailing removal costs.
- Serve a copy of the Notice of Lien on the person to whom last year's property tax bill was sent, by personal service or by certified mail.
- Mail the following to the Cook County Recorder's Office: 1) two copies of a completed "Notice of Lien;" 2) a check for \$40.00, plus \$1.00-per-page for notices with five or more pages; and 3) a self-addressed stamped envelope.
- Ensure Notice of Lien is filed with the Cook County Recorder of Deeds within one year of the date the removal cost was incurred.
- If the charges remain unpaid, sue for foreclosure within 2 years after filing Notice of Lien.
- If the lien is satisfied by the owner, lender or other interested party, provide the party with a completed "Release of Lien" for the party to record at their expense.

**F. Garbage Removal Lien – 65 ILCS 5/11-20-13; 65 ILCS 5/11-20-13(e)(abandoned residential property).**

- Identify properties where garbage or debris has been discharged on the premises.
- Issue "Notice of Violation" to property owner requiring the owner to remove garbage or debris within a reasonable time (e.g., 7 days), or the Village will remove the trees and recover the removal cost from the owner. The Notice of Violation should include a copy of: 1) the relevant section of the municipal code; and 2) 65 ILCS 5/11-20-13.
- For abandoned residential property, perform title search and send the Notice of Violation to the mortgagee or loan servicer for the property.
- For abandoned residential property, prepare a dated "Affidavit of Village Building Inspector," including: 1) the date when the property was first known

or observed to be unoccupied by any lawful occupant or occupants; 2) a description of the actions taken by the municipality to contact the legal owner or owners of the property identified on the recorded mortgage, or, if known, any agent of the owner or owners, including the dates such actions were taken; 3) a statement that no contacts were made with the legal owner or owners or their agents as a result of such actions; 4) a dated certification of the necessity and specific nature of the work to be performed; 5) a copy of the agreement with the person or entity performing the work that includes the legal name of the person or entity, the rate or rates to be charged for performing the work, and an estimate of the total cost of the work to be performed; 6) detailed invoices and payment vouchers for all payments made by the municipality for such work; and 7) a statement as to whether the work was engaged through a competitive bidding process, and if so, a copy of all proposals submitted by the bidders for such work.

- Perform garbage or debris removal, and maintain records detailing costs and expenses incurred.
- Prepare “Notice of Lien” form, attaching Notice of Violation, Affidavit of Village Building Inspector (for abandoned residential property) and relevant records, receipts and invoices detailing removal costs.
- Serve a copy of the Notice of Lien on the person to whom last year’s property tax bill was sent, by personal service or by certified mail.
- Mail the following to the Cook County Recorder’s Office: 1) two copies of a completed Notice of Lien; 2) a check for \$40.00, plus \$1.00-per-page for notices with five or more pages; and 3) a self-addressed stamped envelope.
- Ensure Notice of Lien is filed with the Cook County Recorder of Deeds within one year of the date the removal cost was incurred.
- If the charges remain unpaid, sue for foreclosure within 2 years after filing Notice of Lien.
- If the lien is satisfied by the owner, lender or other interested party, provide the party with a completed “Release of Lien” for the party to record at their expense.

**G. Recording Priority Liens – 65 ILCS 5/11-20-15.1**

- Determine whether the property been unoccupied by any lawful occupant or occupants for at least 90 days (via periodic visual inspections by the municipality).
- After such 90 day period, perform title search and send the Notice of Violation to the legal owner, and mortgagee or loan servicer for the property.

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- If no contact is made, Municipality may proceed to conduct one or more removal activities identified in Sections 11-20-7, 11-20-8, 11-20-12, 11-20-13, or 11-31-1.01 (secure and enclose) of the Municipal Code (see above), on the abandoned Property and document costs incurred.
- Prepare a dated “Affidavit of Village Building Inspector,” including: 1) the date when the property was first known or observed to be unoccupied by any lawful occupant or occupants; 2) a description of the actions taken by the municipality to contact the legal owner or owners of the property identified on the recorded mortgage, or, if known, any agent of the owner or owners, including the dates such actions were taken; 3) a statement that no contacts were made with the legal owner or owners or their agents as a result of such actions; 4) a dated certification of the necessity and specific nature of the work to be performed; 5) a copy of the agreement with the person or entity performing the work that includes the legal name of the person or entity, the rate or rates to be charged for performing the work, and an estimate of the total cost of the work to be performed; 6) detailed invoices and payment vouchers for all payments made by the municipality for such work; and 7) a statement as to whether the work was engaged through a competitive bidding process, and if so, a copy of all proposals submitted by the bidders for such work.
- Within one (1) year after the removal cost is incurred, file a “Notice of Lien” with the Cook County Recorder of Deeds. The Notice must include 1) a description of the parcel that sufficiently identifies the parcel (i.e. legal description, PIN, etc.); 2) the amount of the removal costs; 3) the date or dates when the removal cost was incurred by the Village.

Note: If the municipality engaged in any activity on more than one occasion during the course of one year, then the municipality may combine any or all of the costs of each of those activities into a single notice of lien.

- Serve a copy of the Notice of Lien on the person to whom last year’s property tax bill was sent, by personal service or by certified mail.
- Mail the following to the Cook County Recorder’s Office: 1) two copies of a completed Notice of Lien; 2) a check for \$40.00, plus \$1.00-per-page for notices with five or more pages; and 3) a self-addressed stamped envelope.
- Ensure Notice of Lien is filed with the Cook County Recorder of Deeds within one year of the date the removal cost was incurred.
- If the charges remain unpaid, sue for foreclosure within 2 years after filing Notice of Lien.
- If the lien is satisfied by the owner, lender or other interested party, provide the party with a completed “Release of Lien” for the party to record at their expense.

#### **H. Unpaid Municipal Tax Liens – 65 ILCS 5/8-3-15**

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- Identify properties with unpaid municipal taxes of any kind, other than real estate taxes.
- Prepare “Notice of Lien” form, attaching records evidencing the delinquent taxes.
- Mail the following to the Cook County Recorder’s Office: 1) two copies of a completed Notice of Lien; 2) a check for \$40.00, plus \$1.00-per-page for notices with five or more pages; and 3) a self-addressed stamped envelope.
- Ensure that the Notice of Lien is filed within three years from the original due date for the delinquent taxes.
- Once the delinquent taxpayer has paid: 1) the delinquent taxes, interest and any penalty for late payment; 2) the costs for recording the lien with the recorder of deeds; and 3) the costs for recording the release of lien with the recorder of deeds, the Village should record a “Release of Lien” with the Cook County Recorder of Deeds, by mailing: 1) two copies of a Release of Lien; 2) a check for \$40.00, plus \$1.00-per-page for documents with five or more pages; and 3) a self-addressed stamped envelope.
- If the delinquent taxes remain unpaid, sue for foreclosure within 20 years after filing Notice of Lien.

**I. Judicial and Administrative Adjudication Judgment Liens – 735 ILCS 5/12-101**

- After the Village obtains a judgment against a defendant, identify any real property belonging to the defendant anywhere in the State of Illinois (Note: Must be a home rule adjudication judgment (65 ILCS 5/1-2.1-8) or non-home rule judgment certified by Circuit Court (65 ILCS 5/1-2.2-55)).
- Prepare “Notice of Lien” form, attaching a transcript, certified copy or memorandum of the judgment.
- Record Notice of Lien with the recorder of deeds in the county where the property to be liened is located.
- If the lien remains unsatisfied, file complaint for foreclosure or petition to revive the judgment against the defendant within 7 years. Record any memorandum of judgment extending judgment with the recorder of deeds in the county where the property to be liened is located.
- If the lien is satisfied by the owner, lender or other interested party, provide the party with a completed “Release of Lien” for the party to record at their expense.

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