

Revitalization in Michigan



A Guide to Transforming Vacant, Abandoned, and Deteriorated Properties through Code Enforcement



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INTRODUCTION



Driving Revitalization in Michigan

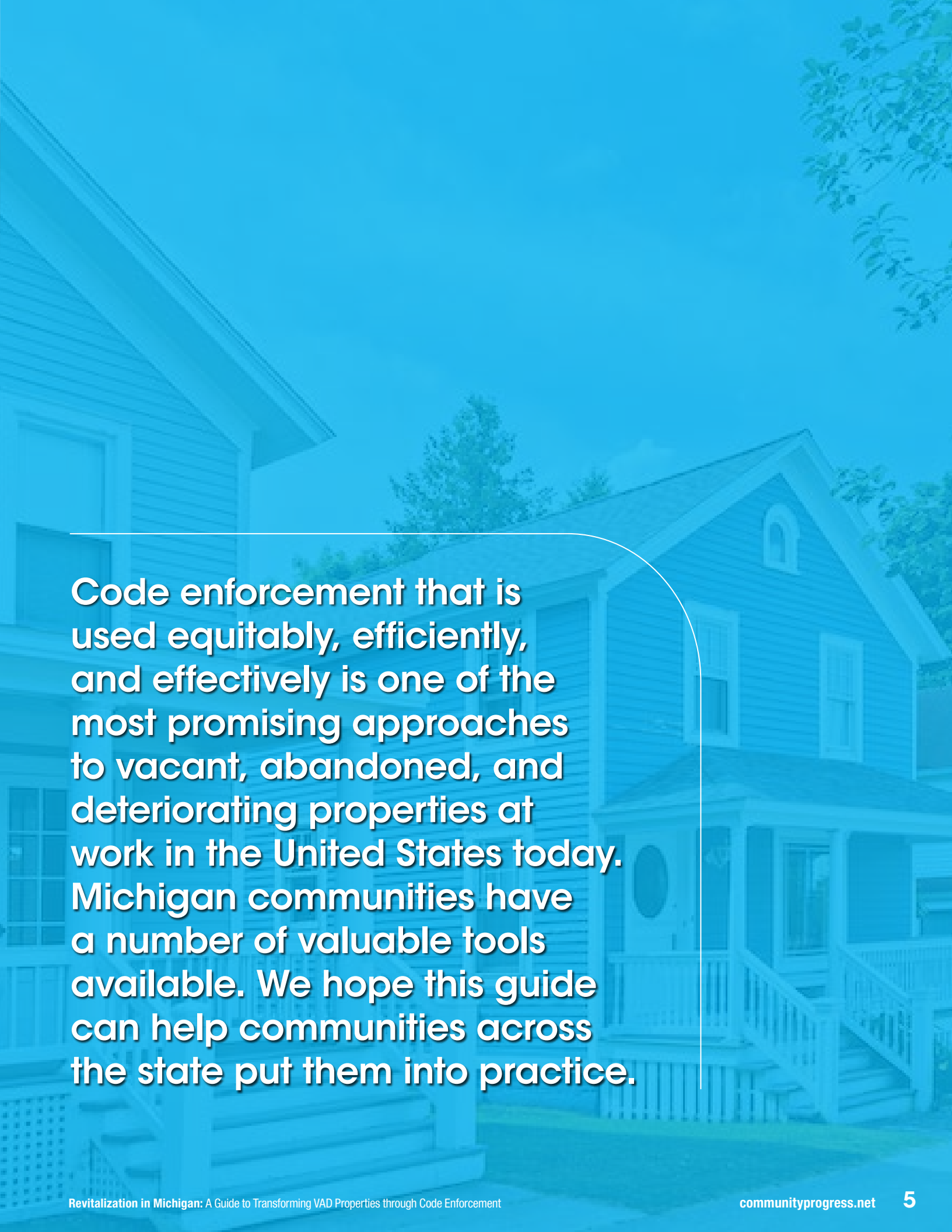
COMMUNITY PROGRESS IN MICHIGAN

The Center for Community Progress (Community Progress) is the leading national, nonprofit resource for urban, suburban, and rural communities seeking to address the full cycle of property revitalization. Our mission is to foster strong, equitable communities where vacant, abandoned, and deteriorated properties are transformed into assets for neighbors and neighborhoods. In all of our work, we seek to ensure that all communities have the policies, tools, and resources they need to support the equitable, efficient, and effective reuse of vacant, abandoned, and deteriorated properties.

Community Progress instituted the Michigan Initiatives Program, a unique, place-based program dedicated to continually serving Michigan communities, as a result of Michigan communities' significant needs and our organization's deep history in the state. Through our technical assistance work, we help Michigan's urban, suburban, and rural communities understand, assess, and reform the systems that impact vacant, abandoned, and deteriorated properties. Community Progress receives a number of inquiries from communities across Michigan about how code enforcement can be strengthened or used more effectively to hold property owners accountable and to reduce the prevalence of vacant, abandoned, and deteriorated properties. Code enforcement can be a powerful tool, so we have prioritized educating more local leaders about how to use it to address vacant, abandoned, and deteriorated properties.

How to Use this Guide

Revitalization in Michigan: A Guide to Transforming Vacant, Abandoned, and Deteriorated Properties through Code Enforcement is an overview of how Michigan communities can use code enforcement to reduce vacant, abandoned, and deteriorated properties. Michigan code enforcement includes provisions for things like property maintenance, nuisance abatement, transfer of property ownership, and demolition — and local leaders can use all of them to prevent and reduce vacant, abandoned, and deteriorated property. Whether you are a local elected official, a member of building department staff, or a community leader striving to improve the condition of properties in your area, we hope this guide will help you enhance or expand your community's code enforcement efforts. This guide includes information on the suite of code enforcement tools that are currently available in Michigan and is designed to help you assess which tools may be best suited for your community. This guide summarizes ten different code enforcement tools that we group accordingly into three general categories: (1) Compelling Compliance: Traditional Enforcement Tools, (2) Preventing Neglect: Proactive Regulation of Specific Property Types, and (3) Taking Action: Additional Enforcement Tools. We are not Michigan attorneys; the information summarized and the analysis included in this guide are not legal advice and are not intended to substitute for guidance and expertise of local legal counsel.



Code enforcement that is used equitably, efficiently, and effectively is one of the most promising approaches to vacant, abandoned, and deteriorating properties at work in the United States today. Michigan communities have a number of valuable tools available. We hope this guide can help communities across the state put them into practice.

SECTION 1

Code Enforcement 101

WHAT IS CODE ENFORCEMENT?

Code enforcement, defined broadly, includes all of the elements involved in obtaining compliance from private owners of vacant, abandoned, and deteriorated properties. It can be a strategy for preventing property decline and restoring disinvested areas. Responsible property ownership and maintenance is at the heart of community stability. While property ownership confers important rights, it also confers equally important responsibilities on the owner. Most owners meet their obligations and maintain their properties in compliance with local codes. However, not all property owners do so. In those cases, local government has the task of encouraging irresponsible owners to carry out their responsibilities. If property owners still fail, it is the responsibility of local governments to take action to minimize the harm to the community. This is the role of code enforcement.¹

THE THREE E'S OF CODE ENFORCEMENT: EQUITABLE, EFFICIENT AND EFFECTIVE

The most impactful code enforcement programs are those that demonstrate the “three E’s”: they are equitable, efficient, and effective.²

What is Equitable Code Enforcement?

Equitable code enforcement recognizes differences in circumstances and provides necessary supports and protections for property owners in more vulnerable positions to ensure further individual hardship is mitigated and property conditions are improved.

Applying identical code enforcement treatment for vacant, abandoned, and deteriorated properties of different use types (i.e., commercial, residential, or industrial uses), ownership type (i.e., an individual homeowner versus an LLC), occupancy status (i.e., occupied or vacant), or neighborhood condition (i.e., a struggling versus thriving real estate market) can exacerbate inequity and do little to achieve the goal of code compliance. In the context of code enforcement, the most vulnerable types of properties are owner- or renter-occupied housing, particularly in low-income areas. Properties which are homes occupied by owners or renters stand in sharp contrast to properties which are vacant lots or lots with deteriorating unoccupied structures.

An equitable code enforcement system must differentiate in its procedures and in its enforcement actions between owner- and renter-occupied housing and all other forms of property ownership and land use. It must also consider how the real estate market

¹ Building American Cities Toolkit, Center for Community Progress <https://www.communityprogress.net/strategic-code-enforcement-pages-204.php>.

² Material in this section references the Center for Community Progress report, “Alternative Strategies for an Equitable, Efficient and Effective Code Enforcement System in Mobile, Alabama.” June 2016 (Alexander). https://www.communityprogress.net/filebin/FINAL_Strategic_Options_for_Mobile_Alabama_Code_Enforcement_June_2016.pdf.

may help or hinder compliance. The minimum housing standards of the community may be the same, but protection of vulnerable owner- or renter-occupants requires outreach and education for both the property owner and occupant, more extensive provisions of notice of violations and opportunities to remedy, the possibility of public resources to assist in remediation, the availability of counsel and guidance, and support throughout the process.

What is Efficient Code Enforcement?

Efficient code enforcement achieves voluntary compliance by the property owner following notice of the violation in the shortest period of time and at the lowest public cost.

The length of time between notice of a violation and final remediation of the violation is the greatest determinant of efficiency. The longer the period of time, the greater the deterioration of the property, the greater the external public costs (such as police and fire safety), and the greater the negative impact on adjoining property values. The most efficient code enforcement system is one that is grounded purely in *in rem*³ liability and enforcement: a code enforcement authority gives notice of the violation and an opportunity to cure.

Efficient code enforcement should, however, be premised on its equitable considerations. More notices should be provided to vulnerable owner occupants and more resources made available to assist in remediation. When it is a vacant or abandoned property, however, such equitable considerations are less at stake and efficiency takes more importance.

What is Effective Code Enforcement?

Effective enforcement results in an improved property that meets local property maintenance standards. It may be achieved through voluntary compliance on the part of the property owner, abatement of the nuisance and recovery of costs by the local government, or the transfer of ownership to a new responsible owner.

To be effective, local governments must tailor approaches based on the likelihood of compliance. For example, in cases where compliance is likely, a simple notice of violation is usually sufficient. In cases where compliance is unlikely, effective code enforcement might force the transfer of property to a new owner with insurable and marketable title.

Section 3 summarizes the different code enforcement tools available in Michigan to address vacant, abandoned, and deteriorated properties. The description of each tool notes some of the potential advantages and disadvantages of application. Section 4 moves beyond policy and describes best practices in code enforcement programs. It highlights how a variety of components can help make code enforcement programs more equitable, efficient, and effective.



³ Liability is assessed against the property instead of against the owner personally.

SECTION 2



The Foundation for Michigan Code Enforcement

COMBATting MICHIGAN'S VACANT, ABANDONED AND DETERIORATED PROPERTIES

Michigan was already dealing with significant declines in its economic and population base when 2007's national economic downturn and foreclosure crisis began. While the nation's recovery has taken hold, many Michigan towns, cities, and counties

continue to face the lasting effects of historic population loss and a weakened housing market, including large-scale vacancy, abandonment, and deterioration. Even as the market recovers in many Michigan communities, there remains the challenges of property neglect and deferred property maintenance. Neglect and deferred maintenance on properties can lead to a number of greater concerns for a community and its residents in public health, individual wealth, and community fiscal stability (see Figure 1, below).

Property maintenance concerns span urban, suburban and rural communities across Michigan. They exist across a variety of property types including residential, commercial, and industrial properties that are held by a variety of property owners including large investment companies, small independent investors, and individuals.

FIGURE 1:



Ways Vacant, Abandoned, and Deteriorated Properties Negatively Impact Communities



PUBLIC HEALTH

Creates unsafe environment for occupants (e.g. lead, asbestos)

Creates unsafe environment for neighbors (e.g. attracts crime, rodent harborage, physical threat)

Harms mental health



INDIVIDUAL WEALTH

Lowers surrounding property values, threatening homeowners' investment

Property deterioration exceeds cost-effective repair

Higher insurance premiums



COMMUNITY FISCAL STABILITY

Lowers property values, reducing tax base

Contributes to future property vacancy

Increases municipal service costs

Differing property types, conditions, and owners require communities to access a variety of code enforcement tools in order to respond appropriately. To experience a successful and lasting recovery in Michigan, communities must look to these code enforcement tools to prevent future deterioration of properties, encourage property owners to fix up their properties, and/or facilitate the transfer of neglected properties to a new responsible owner. All of these methods will help restore and maintain the stability of Michigan's local housing markets.

MANAGING VARIANCE: HOW TO GET LOCAL IN MICHIGAN

Understanding State Law and the Authority Granted to Local Governments

The ability of a local government — including cities, villages, and townships — to adopt and enforce local laws like housing and building code is derived through state constitutions and state law. The extent to which a local government may exercise its ability to adopt and enforce local laws without the explicit authority of the state is often referred to as “home rule” authority. State constitutions and state laws across the country confer varying degrees of home rule authority on their local governments.

Compared to other states, Michigan local governments have fairly strong local authority that allows for more flexibility in their enforcement policies and procedures. This provides an important opportunity for local leaders to tailor their interventions according to specific community needs. While this guide aims to capture the basic characteristics of code enforcement tools in Michigan, local leaders should consult their legal counsel to ensure solutions successfully consider every local nuance.

All cities in Michigan as well as all villages of more than 750 residents and townships of more than 2,000 residents, may adopt a home rule charter. A home rule charter is a kind of miniature constitution that outlines the local government's authority to adopt or enforce local laws, like the ability to impose taxes or to adopt and enforce property standards.

To what extent Michigan home rule authority impacts the ability of a charter local government to adopt and enforce property standards depends entirely on whether the state has chosen to legislate in that particular area. Michigan state law contains



Michigan local governments
have the flexibility to adopt and
tailor local code enforcement
policies and practices that
meet local needs.

a number of statutes that impact the regulation of property standards at the local level. However, it appears most charter local governments retain the authority to act in specific areas.

Although most local governments in Michigan (and all charter local governments) have authority to adopt and enact their own property standards, Michigan law prescribes a variety of minimum standards that most local governments must follow. These minimum standards can be found generally in the various home rule charters applicable to counties, cities, villages, and townships, as well as in the Housing Law of Michigan, the State Construction Code, and a variety of other state statutes. For more detail on how property standards are established as well as the Housing Law of Michigan and State Construction Code, see Figure 2, on page 10.

FIGURE 2: At a Glance: Two Key Michigan Laws that Establish Minimum Property Standards



What is the Housing Law of Michigan?

(MCLA 125.401 et seq.)

- The Housing Law of Michigan (“HLM”) is a set of building maintenance and enforcement standards that applies to dwellings, a term which essentially includes all real property with improvements used exclusively for residential purposes (i.e., not mixed use or commercial properties).
- The HLM applies both to occupied dwellings and to vacant dwellings, but not to vacant lots.
- The HLM mandates dozens of property standards for multiple dwelling buildings, including standards related to whether a basement or cellar room can be occupied as a bedroom;⁴ general interior cleanliness;⁵ minimum requirements for per-person living space to prevent overcrowding;⁶ and minimum requirements for means of egress from the second story of a multiple dwelling building.⁷
- The HLM automatically applies to dwellings in any local government with a population of 100,000 or more and to dwellings that are considered multiple dwellings (three or more units) in any city, village, or township with a population of 10,000 or more. A city, village, or township with a population of less than 100,000 may elect to adopt the HLM for those homes that are less than three units.
- The HLM also authorizes local governments to file an action for receivership and to adopt a “dangerous buildings” ordinance (discussed in [Section 3](#), starting on [page 12](#)).



What is the State Construction Code?

(MCLA 125.1501 et seq.)

- The State Construction Code (“SCC”) applies to all buildings and structures in Michigan and is intended to establish “rules governing the construction, use, and occupation of buildings and structures, including land area incidental to the buildings and structures.”
- The SCC adopts and incorporates the International Code Council’s (“ICC”) international residential code, the international building code, the international mechanical code, the international plumbing code, the international existing building code, and the international energy conservation code.
- The Michigan Court of Appeals has clarified that the SCC also adopts and incorporates the ICC’s international property maintenance code “to the prescribed extent of [the international property maintenance code’s] reference in the international building code.”⁸ However, the Court of Appeals also noted that the ICC codes adopted and incorporated into the SCC do not prohibit certain local governments, like home rule cities, from adopting their own property maintenance codes, so long as local law does not expressly conflict with the SCC.
- The SCC also has adopted and incorporated the ICC’s Rehabilitation for Existing Buildings Code.

WHEN DOES THE HOUSING LAW OF MICHIGAN APPLY?

Applies Automatically	To any community with a population of 100,000 or more. To dwellings that have three or more units in any city, village, or township with a population of 10,000 or more.
May Be Adopted	In any city, village, or township with a population of less than 100,000 for dwellings with fewer than three units.


⁴ MCLA 125.468.

⁵ MCLA 125.474.

⁶ MCLA 125.483.

⁷ MCLA 125.395.

⁸ See *Azaar v. City of Grand Rapids*, 2005 WL 2327076 (Mich. Ct. App. 2005).

An aerial photograph of a city skyline, likely Detroit, with various skyscrapers and buildings. The image is overlaid with a semi-transparent blue filter. A white curved line separates the text area from the rest of the page.

Property maintenance concerns span urban, suburban and rural communities across Michigan. They exist across a variety of property types including residential, commercial, and industrial properties that are held by a variety of property owners including large investment companies, small independent investors, and individuals.




SECTION 3



Code Enforcement Toolbox for Michigan Local Governments

Under Michigan law, local governments may apply a variety of different code enforcement tools to address a variety of different property issues. This includes but is not limited to homes that are vacant, tax-delinquent, and severely dilapidated; vacant lots with illegal dumping and high weeds; or occupied homes showing early signs of neglect. Michigan law allows for significant local variation. While this guide captures the basic characteristics of code enforcement tools provided under state law, the wide variation in local policies and practices granted in Michigan makes it a particular challenge to capture every local nuance. For example, the tool descriptions in this section primarily focus on illustrating how local governments might adopt and/or enforce property standards by ordinance based on authority granted in state law. Some state statutes (e.g., certain state nuisance provisions), do not require the local government to adopt a separate ordinance to enforce the state statute in state court—though it may be wise to do so to clarify local process and procedure. The decision to adopt an ordinance (or not) in such situations is a uniquely local nuance that should be decided in partnership with local legal counsel.

WE DESCRIBE THE TOOLS WITHIN THREE GENERAL CATEGORIES:

-  **Compelling Compliance: Traditional Enforcement Tools**
-  **Preventing Neglect: Proactive Regulation of Specific Property Types**
-  **Taking Action: Additional Enforcement Tools**

Community Progress grouped these tools according to their general intent of use; they are not legal terms. The descriptions of each tool provide communities with more information on what is available to them, in order to make the most informed decision on which tool will best address the particular property issues they face.

COMPELLING COMPLIANCE



Traditional Enforcement Tools

This category of tools can be applied to all property types and for varying types of code violations. When property owner outreach and education have failed, these tools are often the first step in enforcement. They are most effective when the property owner is known and it is likely that the threat of a personal penalty (e.g., monetary fine) will result in compliance.

PREVENTING NEGLECT



Proactive Regulation of Specific Property Types

This category of tools applies to specific subsets of property: vacant properties and rental properties. These more proactive tools are designed to provide increased monitoring, tracking, and enforcement options for those properties that are more likely to be problematic or harmful to communities.

TAKING ACTION



Additional Enforcement Tools

When initial attempts with the property owner to gain compliance have failed or when the property poses a danger to the community or occupants, these tools allow the local government to step in, mitigate the harm imposed, and, in some cases, compel the transfer of the property to a new more responsible property owner.

Learn more about
Michigan Code Enforcement
and Revitalization at
communityprogress.net



COMPELLING COMPLIANCE



Traditional Enforcement Tools

Municipal Civil Infractions

A local government may adopt an ordinance designating a violation of certain state and local property standards as a municipal civil infraction.

Applicable Property Types:

Any property in violation of state or local property standards

Penalty:

Fines

Timeframe:

~ 28 – 120 days (notice to judgment)



Municipal Civil Infraction Process Steps

Notice

Mail notice of civil infraction to the owner **AND** post notice on the property.

NOTE: Notice should include time, date, and location of hearing.

OPTIONAL: If the Local Governmental Unit has established a Municipal Ordinance Violations Bureau, notice should include instructions for how the owner can admit responsibility for the violation and pay a scheduled fine to the bureau prior to hearing.

Hearing, Ruling, & Order

HEARING: Hearing held in a state district court or municipal court.

RULING: Judge finds owner responsible for violation.

ORDER: Judge orders owner to pay fine, fees, and, if applicable, damages and expenses resulting from infraction.

Penalty

In addition to a civil fine, the court may issue a warrant for the owner's arrest if the owner refuses to comply with the court's order or pay the fine.

Property Lien

Record lien on property in violation for the amount of the fine(s) and applicable costs and mail notice of lien to owner.

Lien Enforcement

The local government may also collect the fine similarly to how it collects fines assessed as blight violations. See page 56 for the General Lien Enforcement Process.



Municipal Civil Infractions⁹

A local government may adopt an ordinance designating a violation of certain state and local property standards as a municipal civil infraction. Local governments may not generally seek to impose a civil fine through the municipal civil infraction process *and* also seek criminal penalties.¹⁰

ELEMENTS OF THE TOOL

Authorized Local Governments

All local governments in the state, regardless of size, are able to utilize municipal civil infractions as an enforcement option.

Property Standards

Most violations of the HLM, the SCC, standards related to weeds and overgrown vegetation, and local property maintenance codes can be enforced as municipal civil infractions.

Establishing the Authority to Enforce Locally

A local government may adopt an ordinance designating a violation of a local property standard as a municipal civil infraction. An ordinance enforced as a municipal civil infraction may not be enforced as a misdemeanor or as a blight violation. Violations of the HLM and the SCC may be prosecuted as a municipal civil infraction.

Notice Requirements

A citation alleging a municipal civil infraction must be served on the owner or occupant of the property in violation by mailing a copy of the citation to the owner at the owner's last known address or by posting a copy of the notice or citation on the property in violation. If the local government has established a municipal ordinance violations bureau, it may send a *notice of the violation*, as opposed to a formal *citation* which triggers the court's involvement, to the owner or occupant in the same manner. If the owner or occupant fails to pay the amount of the

fine specified by the local government in the *notice of violation* by the date due, then the local government may send a citation to the owner or occupant by first class mail.

Summary of Enforcement

The citation informing the owner or occupant of the property of the alleged municipal civil infraction must inform the owner that they may choose to (1) admit responsibility and mail payment of a predetermined civil fine, (2) admit responsibility but appear at a hearing to explain the violation, or (3) contest the violation at a hearing. The amount of the civil fine is generally set by ordinance.

The local government may choose to enforce a citation for a municipal civil infraction in state district court or municipal court. This varies across local governments. In either court the property owner may request a formal hearing and request to be represented by an attorney, though the owner is not entitled to a public defender. If a formal hearing is granted, the local government will be represented by an attorney. If no formal hearing is granted, there is an informal hearing at which neither the owner nor the local government may be represented by an attorney. If the local government has established a municipal ordinance violations bureau and the property owner fails to pay the predetermined civil fine, then a citation is issued and enforcement takes place in either the district or municipal court as described earlier in this paragraph.¹¹

If the owner fails to pay the civil fine prior to the hearing and loses the contested hearing, or fails to appear at the hearing, the owner will be ordered by the court to pay the fine plus court costs, fees, and other damages and expenses the court deems appropriate. The court may also issue an arrest warrant for failure to appear or failure to pay the fine or court costs and fees assessed. A property owner may appeal the order of a district court judge to another district court judge or may appeal the order of a magistrate in municipal court to a district court judge.

Timeline

This process takes an estimated 28 to 120 days from initial notice to judgment. The length of time it takes to start and complete the municipal civil infraction process varies based on a number of factors including local practice, the ordinance of the local government or the specific property standard violated, whether the local government has established a municipal ordinance violations bureau, and the court's calendar, rules, and procedures. Michigan law requires only that the time between the citation's issuance and the hearing be "reasonable." Thus, depending on the court's calendar and the severity of the violation, a hearing could potentially be scheduled as soon as 28 days after the citation is mailed.¹² Whether the judge grants the owner or responsible party additional time to comply with the citation before entering a final order is within the discretion of the court.

⁹ Chapter 87 of the Revised Judicature Act of 1961, MCLA 600.8701 to 600.8735, which pertains to the enforcement of municipal civil infractions. Unless otherwise indicated in a footnote, the information contained in this tool description is pulled from these statutes.

¹⁰ In some circumstances, however, failure to appear at a scheduled hearing or failure to pay certain civil fines may subject the person responsible for those fines to criminal penalties, including jail time.

¹¹ MCLA 600.8396.

¹² See, for example, Mich. Ct. R. 4.101 and Mich. Ct. R. 2.108.

Penalties

The amount of the civil fine is set by the local government by ordinance. Unlike criminal fines in Michigan law, there is no specific cap on the civil fine a local government may set.¹³ If the owner fails to admit responsibility and pay the civil fine, loses the contested hearing, or fails to appear or pay the civil fine plus costs, the owner may be ordered to pay the fine and court costs of up to \$500, a justice system assessment fee of \$10, and, if applicable, damages and expenses resulting from the violation.

Post Judgment or Lien Enforcement

If the local government has established a municipal ordinance violations bureau, any municipal civil infraction fines collected by the bureau in advance of a court hearing are retained by the local government. If the municipal civil infraction is prosecuted in state district or municipal court, a fine or penalty is assessed, and, if the fine or penalty goes unpaid, the court seeks payment of the penalty. If the court collects the fine or penalty, it keeps an amount equal to its costs and provides the local government with the remainder, if any.

However, state law does allow the local government to record a copy of the order with the county register of deeds. The order serves as a lien against the property and the local government is required to mail notice of the lien to the property owner. A municipal civil infraction lien does not enjoy priority over previously recorded liens, like a mortgage. The local government may enforce the lien as prescribed in the local government's charter, attempt to personally collect the lien by filing a court action, which could result in garnishing the owner's wages. The local government may also be able to add the lien to the property tax bill. If the owner's property taxes were delinquent, the lien could be enforced with delinquent property taxes.

ADVANTAGES AND DISADVANTAGES OF THE TOOL

Advantages

A municipal civil infraction may be an efficient and effective tool where the threat of a fine and potential collection action or lien from nonpayment of the fine are enough to compel an owner to comply. This may be the case where the owner has financial means to make repairs or pay fines. This may also be the case when the property is located in a stable housing market where a lien would impact the owner's ability to transfer property or get a loan. In some jurisdictions, municipal civil infractions may be prosecuted in an administrative forum, which is generally a more expedient and efficient forum than state courts.

Disadvantages

Like criminal enforcement, fines imposed through the municipal civil infraction process are focused on punishing the owner to compel compliance with property standards. This type of punitive action is not always the most equitable, efficient, or effective way of getting

compliance, particularly where the owner does not have the resources to make the necessary repairs or where the value of the property is such that the cost of the repair (and amount of the fine) will not make economic sense to the owner. Moreover, unless the local government has an effective mechanism to enforce the lien, like through tax foreclosure, it is unlikely the lien will be paid back *unless* the property is located in a stable housing market and a lien would impact the owner's ability to either transfer property without first paying the lien, or to get a loan secured by the property. Finally, personal collection actions to enforce the unpaid fine — like those that seek to garnish someone's wages — may be an effective tool to compel payment for those debtors who can be located and who have financial means but try to avoid enforcement efforts. Personal collection, however, must be wielded carefully to avoid the unintended consequences that may come from garnishing the wages of a vulnerable property owner, like an elderly or low-income homeowner.

Local Application

Enforcing housing and building code violations as a municipal civil infraction is common across the state. The process of enforcement can still vary by local government. Some examples of communities include [Presque Isle Township](#), [Superior Township](#), [City of Lansing](#), and the [City of Grand Rapids](#).

Super-Priority Code Liens

The ability to enforce a lien depends on the priority of the lien in the law. Liens that are more senior, like a lien that has priority over all other liens except for tax liens, are generally a more effective tool. The threat of losing the property because of nonpayment is more likely to compel the owner to pay the lien or comply. Where the property is having a negative impact on the neighborhood, like vacant and abandoned property, a priority lien could potentially force a transfer of the property to a new and more responsible owner. Michigan law allows certain code liens to be enforced along with delinquent property taxes. In practice, this usually means the amount of the lien is added to the tax bill and if the bill is not paid the owner risks losing the property via the tax enforcement process. It does not appear that most code liens are granted sufficient priority to be effectively enforced outside of the tax enforcement process, such as through a separate code lien foreclosure action.

¹³ See, for example, *Huron Township v. City Disposal Systems, Inc.* 448 Mich. 362 (1995) (Michigan Supreme Court acknowledged that townships may declare certain ordinances as civil infractions and may set their own schedule of fines, which do not have a general set limit.)



COMPELLING COMPLIANCE



Traditional Enforcement Tools

Blight Violations

Certain home rule charter cities may designate ordinances as blight violations and create an administrative hearings bureau to adjudicate and impose penalties, including civil fines, for violations.

Applicable Property Types:

Any property where a violation of an ordinance designated as blight violation exists

Penalty:

Fines or jail time

Timeframe:

~ 2 – 4 weeks (notice to hearing)



Blight Violation Process Steps

Notice

Mail **AND/OR** personally serve notice of blight violation to the owner.

NOTE: Notice should include time, date, and location of hearing.

Hearing, Ruling, & Order

HEARING: Administrative hearing is held.

RULING: Hearing officer determines violation.

ORDER: Hearing officer sets civil fine and costs as penalty.

Penalty

In addition to any civil fines or costs assessed, the local government may impose an additional civil fine of up to \$500 through the district court (plus jail time) if fines and costs imposed by the hearing officer are not paid within 30 days.

Property Lien

Record lien on property in violation and mail notice of lien to owner.

Lien Enforcement

The local government may collect the fine similarly to how it collects fines assessed as municipal civil infractions. [See page 56](#) for the General Lien Enforcement Process.



Blight Violations¹⁴

Certain home rule charter cities may designate ordinances as blight violations and create an administrative hearings bureau to adjudicate and impose penalties, including civil fines, for violations.

ELEMENTS OF THE TOOL

Authorized Local Governments

Home rule charter cities with a population of (a) 7,500 or more, or (b) 3,300 or more if the local government is located in Wayne County can enforce violations as blight violations.

Property Standards

Property standards that could be designated as blight violations by the local government are those local ordinances related to (a) zoning; (b) building or property maintenance; (c) solid waste and illegal dumping; (d) disease and sanitation; (e) noxious weeds; (f) vehicle abandonment, inoperative vehicles, vehicle impoundment, and municipal vehicle licensing; (g) right-of-way signage; and (h) ordinances that are substantially the same as certain provisions related to “dangerous buildings” in the HLM.

Establishing Authority to Enforce Locally

To enforce certain property standards as blight violations, home rule charter cities must (1) create an administrative hearings bureau and (2) establish by ordinance the “jurisdiction of the bureau for adjudicating alleged blight violations, making determinations of responsibility, and imposing sanctions upon those found responsible for a violation.”

Notice Requirements

A home rule charter city may either mail or personally serve a written notice of violation to the alleged violator, who is most likely the property owner. The notice must describe the violation, direct the owner to pay a civil fine for the violation, and attend a scheduled hearing at the administrative hearings bureau.

Summary of Enforcement

The owner may respond to a local government’s notice of blight violation in one of four ways: (1) admit responsibility at the hearing or by mail, in which case the owner may not need to attend the hearing; (2) appear at the hearing and deny responsibility, (3) admit responsibility but appear at the hearing to provide an explanation in an attempt to mitigate the penalty imposed; or (4) choose not to appear at the hearing, in which case the local government may seek a decision and order of default. The owner may be represented by an attorney at the hearing.

Hearings are conducted by hearing officers, who must go through a formal training provided by the local government and must be a licensed attorney in Michigan for at least five years. If the owner admits responsibility, fails to convince the hearing officer they were not responsible for the violation, or fails to appear, the hearing officer can determine that a blight violation existed and impose sanctions which may include a civil fine and abatement of the violation or court costs. The law is not clear whether remediation of the violation in advance of the hearing is a defense to a hearing officer’s determination of liability. The owner is given 28 days to file an appeal to the state circuit court.

Timeline

This process takes an estimated two to four weeks from the date of notice to the date of the hearing, though the administrative hearings bureau may have discretion to grant additional time to provide evidence or comply. The hearing is scheduled by the city in the written violation notice. All hearings must be scheduled with “reasonable promptness.” Hearings that are not considered an emergency, meaning they do not “reasonably constitute a threat to the public interest, safety, or welfare,” may at the request of the alleged violator or property owner be scheduled at least 14 days after the notice of violation was served or deposited in the mail. The purpose of the hearing is to determine whether a blight violation exists and to impose appropriate sanctions if it does. Michigan law does not provide any guidance as to whether or for how long the hearing officer may grant the owner additional time to comply before making a determination.

Penalties

The hearing officer may impose civil fines in an amount that is consistent with the ordinance or ordinances the owner is found liable for violating. A hearing officer cannot impose a civil fine of more than \$10,000 or jail time. The hearing officer may also require the violator or owner to pay certain costs related to the violation or the hearing, which could include, for example, costs the local government incurred securing a dangerous building, the costs of enforcement, and a “justice system assessment” of \$10.

Post Judgment or Lien Enforcement

If a civil fine is imposed and the owner does not pay the fine within 30 days, the local government may record a lien against the property on which the blight violation occurred. After mailing notice of the lien to the owner, the local government may enforce the lien as permitted in

¹⁴ MCLA 117.4q pertains to the establishment of an administrative hearings bureau and the enforcement of blight violations. Unless otherwise indicated in a footnote, the information contained in this tool description is pulled from the various subsections of this statute.

its charter, which may include pursuing personal collection. The lien may also be enforced in the same manner as liens for delinquent taxes, meaning the lien may be added to the tax bill and the property could be subject to forfeiture and foreclosure under the Michigan General Property Tax Act (GPTA) if the taxes are not paid. If the property is exempt as a personal residence under Michigan law, however, the local government may not seek forfeiture or foreclosure of the lien under the GPTA unless the property taxes are also delinquent. If the lien is not enforced in the same manner as delinquent taxes (e.g., through tax foreclosure), a blight violation lien has priority over only those liens recorded *after* the blight violation lien was recorded, except for liens for taxes and certain other limited exceptions.

In addition to the enforcement of a blight violation lien, the owner may be subject to an additional civil fine of up to \$500 or up to one year in prison if certain fines and costs imposed by the hearing officer are not paid within 30 days. These additional penalties may not be imposed on an owner that has claimed a personal residence exemption under the GPTA for the property on which the blight violation existed, or on certain financial institutions, mortgage servicers, or government-sponsored enterprises that acquired the property through foreclosure.

ADVANTAGES AND DISADVANTAGES OF THE TOOL

Advantages

Similar to a municipal civil infraction, a blight violation can be useful when the threat of a fine is enough to compel a property owner to comply with local property standards. Unlike a municipal civil infraction, all blight violations are enforced administratively. Administrative enforcement is generally more expedient and efficient than state courts; there are no state court imposed costs or filing fees, and deadlines and hearing dates can be flexibly scheduled by the local government. A blight violation may also include costs the local government has incurred securing or otherwise making a dangerous building safer. For irresponsible commercial or rental property owners, the blight violation lien can be enforced against the property, or *in rem*, by adding the lien to the tax bill. If this is not paid the owner runs the risk of losing the property through forfeiture and foreclosure. Because nonpayment of

a blight violation lien may result in an additional civil penalty for those same owners, there is additional incentive for the owner to comply, pay the lien, and avoid a similar violation in the future.

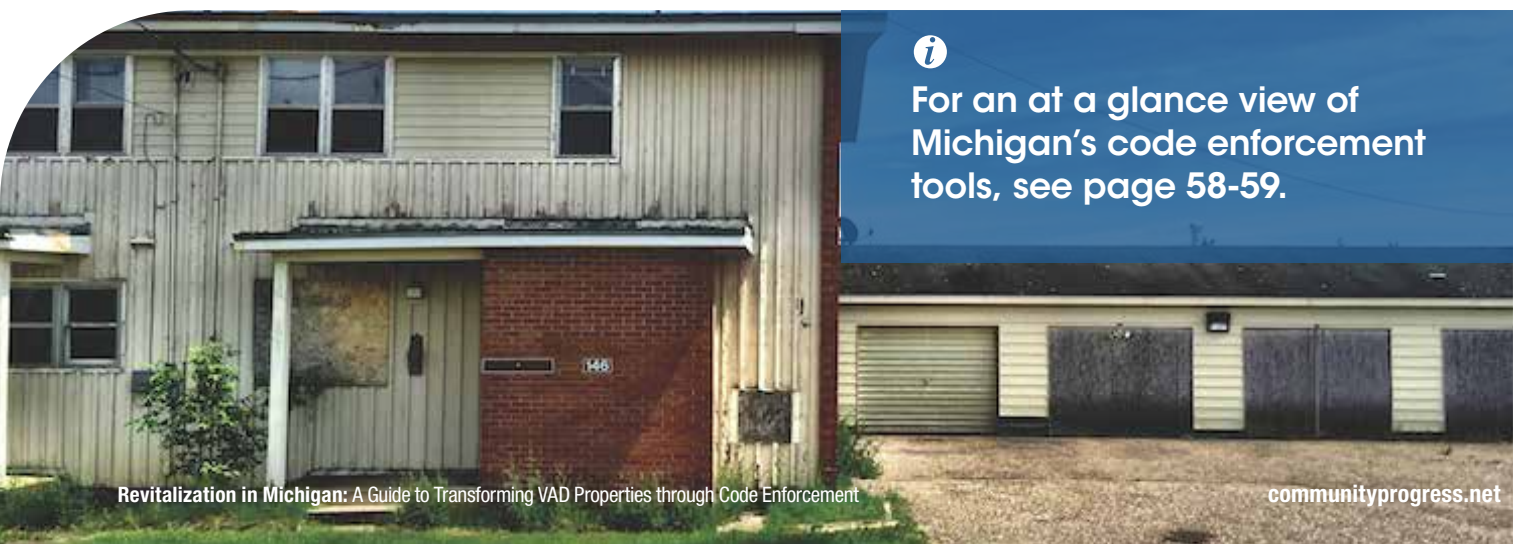
Disadvantages

A blight violation can be a more efficient code enforcement tool than a municipal civil infraction given the administrative forum and increased authority to enforce the lien against irresponsible commercial or rental property owners. However, it is still primarily a punitive tool focused on punishing the owner by imposing a personal, civil fine. Many of the limitations of municipal civil infraction enforcement apply to blight violations. For example, personal fines simply are not as effective against certain types of property owners and may have an inequitable impact on vulnerable property owners, like low-income and elderly property owners. In addition, blight violation liens on those properties causing communities the most harm, like vacant and abandoned properties, likely do not enjoy the type of lien priority where it would be possible to file a separate action to foreclose on the lien and force the transfer of the property to a new, more responsible owner. Finally, the blight violation process outlined in Michigan law does not explicitly provide for reinspection or address the issue of whether or not the property owner has actually complied.

It should also be noted that establishing an administrative hearings bureau and a new blight violation enforcement process will require an investment of time and resources to administer. This investment may eventually result in a more streamlined and efficient enforcement process than, for example, municipal civil infraction enforcement. However, jurisdictions with limited resources that already have an efficient and effective municipal civil infraction enforcement process in place with their local attorney and court system may want to consider whether they have the capacity and willingness to invest the appropriate resources needed to establish an effective blight violation enforcement process.

Local Application

Many Michigan communities use blight violations to enforce their local housing and building codes. For example, the [City of Jackson](#), the [City of Ypsilanti](#), and the [City of Detroit](#) have all established Administrative Hearings Bureaus to administratively handle blight violations.



For an at a glance view of Michigan's code enforcement tools, see page 58-59.



COMPELLING COMPLIANCE



Traditional Enforcement Tools

Criminal Enforcement

Michigan law allows local governments to authorize criminal penalties — including jail time — for a violation of many types of property standards. If a property standard is enforced criminally it may not also be enforced as a municipal civil infraction or a blight violation.

Applicable Property Types:

Any property that is in violation of state or local property standards

Penalty:

Fines and/or jail time

Timeframe:

~ 21 – 120 days (notice to judgment)



Criminal Enforcement (Misdemeanor) Process Steps

Notice

Notice of a misdemeanor may be personally served or mailed according to the Michigan Court Rules.

Bring Action

Local government files criminal action against owner in state district court.

Hearing, Ruling, & Order

Court finds owner responsible for code violation or owner does not appear in court.

Penalty

Court issues a maximum \$1,000 penalty **AND/OR** up to 120 days in jail.

Enforcement

Court may enforce nonpayment of a fine by garnishing owner's wages, placing a judgment lien against the property in violation, **AND/OR** issuing a warrant for the owner's arrest. Lien cannot be enforced through foreclosure or by adding to the property tax bill.



Criminal Enforcement

Michigan law allows local governments to authorize criminal penalties — including jail time — for a violation of many types of property standards. If a property standard is enforced criminally it may not also be enforced as a municipal civil infraction or a blight violation.

ELEMENTS OF THE TOOL

Authorized Local Governments

All Michigan local governments may impose criminal penalties for violations of certain property standards.

Property Standards

Michigan law allows local governments to impose criminal penalties for violations of a number of property standards outlined in the HLM, SCC, and local property maintenance codes. Additionally, failure to comply with a nuisance abatement order from the local government or from the court can be a criminal misdemeanor.

Establishing the Authority to Enforce Locally

A local government may adopt an ordinance designating certain violations of local property standards as a criminal misdemeanor. If the local government is seeking criminal penalties, it generally may not also enforce the violation as a municipal civil infraction or a blight violation. Certain violations of the HLM and the SCC may also be prosecuted as a misdemeanor pursuant to state law.

Notice Requirements

Notice of the local government's intent to seek criminal penalties for a misdemeanor, like jail time, in a court action may be mailed or personally served on the alleged violator, usually the owner of the property. The notice must be served in accordance with local state court rules.¹⁵

Summary of Enforcement

A local government can file a criminal action in state district court against a property owner for a failure to correct a code violation if a violation of the ordinance at issue is either designated as a misdemeanor or not designated as a civil infraction.¹⁶ The local government is typically represented by an attorney at the hearing. A property owner can represent themselves, hire an attorney, or, if they cannot pay for an attorney, apply to be represented by a court-appointed attorney.¹⁷ If the owner fails to successfully plead their case in court or fails to appear, they may be subject to a fine or possible jail time. If the owner fails to pay the fine and related costs, they may also be subject to jail time.

Timeline

This process takes an estimated 21 to 120 days from initial notice to judgment. The length of time it takes from start to finish using criminal enforcement varies based on local practice, the specific property standard violated, state district court rules and procedures, and the state district court's calendar. A review of the Michigan Court Rules suggests that a hearing may be scheduled in a criminal housing and building code enforcement action as soon as 21 days after the summons is served on the property owner.¹⁸

Penalties

If a local government chooses to seek criminal penalties for violations of the HLM, violations are considered a misdemeanor and may be subject to a maximum penalty of \$1,000, up to 120 days in jail, or both. An SCC violation may be enforced by "the same power and authority [the local government] possesses in prosecuting a local ordinance violation,"¹⁹ though there are no broadly applicable fine or jail time limits expressly listed in the SCC. Failure to comply with a court order to abate a nuisance could result in a maximum \$5,000 penalty, up to one year in jail, or both. The fine amount or length of jail time a local government can seek for violation of local property maintenance codes vary and are based on the local government's home rule authority, state law, and local government charters and ordinances.

Post Judgment or Lien Enforcement

The state district court may seek to enforce nonpayment of a fine imposed by the court by attempting to personally collect the debt, which may include garnishing the owner's wages, or the court may issue a warrant for the owner's arrest.²⁰ Nonpayment of a fine may be enforced by placing a judgment lien against the property,²¹ but the judgment lien only has priority over liens recorded against the property after the judgment lien has been recorded.²²

¹⁵ See, for example, Mich. Ct. R. 6.001 6.610; and 2.108.

¹⁶ MCLA 600.8313(1).

¹⁷ See, for example, the Michigan Court's website at: <https://courts.michigan.gov/self-help/center/legalhelp/pages/default.aspx>.

¹⁸ See, for example, Mich. Ct. R. 6.001 6.610; and 2.108.

¹⁹ MCLA 125.1508b(2).

²⁰ See, for example, <https://courts.michigan.gov/Administration/SCAO/Resources/Documents/Collections/Policies/DistrictCourtCollectionPolicy.pdf>.

²¹ See MCLA 600.2803.

²² MCLA 600.2807.

ADVANTAGES AND DISADVANTAGES OF THE TOOL

Advantages

If the local government can locate certain individual property owners, such as real estate investors or irresponsible landlords, the threat of criminal prosecution and fines or jail time may compel compliance by impacting the owner's ability to maximize cash flow from an investment property.

Disadvantages

Criminal enforcement is likely only an effective tool to seek compliance against a very limited subset of property owners, such as those individual owners who live nearby and have the means to comply but are unwilling to do so. Out-of-town individual owners may be difficult and expensive to find and corporations cannot be held criminally liable, making the tool far less efficient and effective in those cases. The public costs of criminal enforcement are higher: in-person notice, attorney time, the potential cost of a public defender to taxpayers, court costs and fees, and the costs of putting someone in jail can add up. It is also strictly punitive and, in many situations, would be unlikely to address the real issue: the need to repair or further prevent the decline of the property. The threat of jail time will likely not compel property owners that simply lack the resources (not the will) to comply. For example, if the owner cannot afford to fix the roof, imposing significant fines (which would likely go unpaid) or imposing jail time are likely to delay or prevent the owner from having the resources or time to make the necessary repairs. More importantly, imposing criminal penalties on an already vulnerable property owner will only further inequity.

Local Application

Many local governments in Michigan have ordinances that allow them to impose criminal penalties for failure to comply with housing and building codes, though it appears uncommon to see criminal penalties, like jail time, actually enforced.

Criminal enforcement is strictly punitive and in many situations, would be unlikely to address the real issue: the need to repair or further prevent the decline of the property. The threat of jail time will likely not compel property owners that simply lack the resources (not the will) to comply. More importantly, imposing criminal penalties on an already vulnerable property owner will only further inequity.





PREVENTING NEGLECT



Proactive Regulation of Specific Property Types

Rental Registration and Certification

Authorized local governments have the authority to mandate that (a) landlords register rental housing, (b) rental dwelling units are subject to periodic interior inspections, and (c) owners obtain and maintain a certificate of compliance or occupancy to allow them to rent the unit for a defined period of time (e.g., 1-3 years) based on the results of the periodic inspections.

Applicable Property Types:

Rental properties only

Penalty:

Varies. Depends on enforcement mechanism.*

Timeframe:

Varies. Depends on enforcement mechanism.*

** May be criminally enforced, or enforced as a blight violation or civil infraction depending on local authority and local ordinance adoption.*



Rental Registration and Certification Process Steps

Notice

Based on the tool used to enforce violations of the ordinance (see, e.g., municipal civil infractions on [page 14](#) and blight violations on [page 18](#)).

Hearing, Ruling, & Order

Based on the tool used to enforce violations of the ordinance (see, e.g., municipal civil infraction, blight violation).

Penalty

Penalties for failure to comply with property standards are based on the tool used to enforce violations of the ordinance (see, e.g., municipal civil infraction, blight violation).

Remedies for repeated failure to comply with property standards or the provisions of the rental ordinance may also include (a) shortening the term of the certificate of compliance and requiring additional inspections; (b) allowing the tenant to pay rent into an escrow account until repairs are made; (c) suspension or revocation of certificate of compliance; and (d) requiring the building to be vacated and tenants relocated.

Lien Enforcement

If the owner fails to pay fines or penalties and a lien is recorded against the property, the way in which it is enforced depends on the tool(s) used to enforce violations of the ordinance (see, e.g., municipal civil infraction, blight violation).





Rental Registration and Certification²³

Authorized local governments have the authority to mandate that (a) landlords register rental housing, (b) rental dwelling units are subject to periodic interior inspections, and (c) owners obtain and maintain a certificate of compliance or occupancy to allow them to rent the unit for a defined period of time (e.g., 1-3 years) based on the results of the periodic inspections.

ELEMENTS OF THE TOOL

Authorized Local Governments

A local government authorized to enforce the HLM has the authority to require rental registration and certification.²⁴ A home rule charter city, which must have a population of 7,500 or more or 3,300 or more if located in Wayne County, may enforce certain rental regulations in an administrative hearings bureau as blight violations.²⁵

Property Standards

Local governments can enforce violations of the HLM and some local governments also appear to utilize rental regulation programs to enforce their own property maintenance codes, likely based on their home rule authority to adopt and enforce property standards. In the ordinance(s) adopting a rental regulation program to enforce property standards included in the HLM, the local government should also clarify the size of the buildings that are subject to the regulation.²⁶

Establishing the Authority to Enforce Locally

A local government may enact a series of ordinances that require property owners to register rental property, obtain a certificate of compliance to rent the property, and condition issuance of a certificate of compliance on periodic interior inspections. The local government may choose to designate violations of these rental regulation ordinances as either municipal civil infractions or, if the local government is a home rule charter city, blight violations.

Notice Requirements

Notice of the violation of a rental regulation ordinance must be provided in the manner prescribed for notice of a municipal civil infraction or blight violation, depending on which enforcement tool the local government uses to enforce rental regulations.

Summary of Enforcement

Local governments have fairly broad authority and flexibility to develop a rental regulation program that incorporates one or more of the primary rental regulation tools: registration, inspection, and certification. For example, the HLM allows a local government to require landlords to register rental property, which may be codified in an ordinance. Local governments may charge a fee to register the property to cover the costs of administering the program. Failure to register the property may result in the local government imposing a fine or fee, likely through a municipal civil infraction or as a blight violation.

Local governments may also choose to subject rental units to periodic inspections and are accorded authority to conduct those inspections in a way that best fits the “needs of the community.” For example, a local government could establish an inspection schedule that seeks to inspect those properties that have a history of violations, or have a higher likelihood of recurring violations, more frequently. At a minimum, local governments must obtain the permission of the tenant or, if the tenant refuses, seek an administrative search warrant to conduct the search. The purpose of the inspection is to assess whether the rental unit complies with appropriate provisions of the HLM or local property maintenance codes. If violations are found and are not corrected, the local government may enforce the violation as a municipal civil infraction or a blight violation. The local government may also charge a fee for inspections.

Landlords must obtain a certificate of compliance for any dwelling unit before it may be occupied. Local governments may condition the issuance of a certificate of compliance on the results of a rental inspection and whether the property complies with the HLM or other property standards. The local government may revoke the certificate

²³ MCLA 125.526 through MCLA 125.532 outline the general authority for local governments to adopt a rental registration and certification program under the HLM. Unless otherwise indicated in a footnote, the information contained in this tool description is pulled from the various subsections of these provisions.

²⁴ Many provisions of the HLM are “self-executing.” This means that authorized local governments may not need to pass a separate ordinance in order to enforce these provisions in the appropriate forum described in the HLM. However, it is recommended that most local governments clarify that they have adopted the relevant parts of the HLM through ordinance and, particularly in the context of adopting a rental registration, inspection, or licensing program, codify the exact process that works best for the local government.

²⁵ MCLA 117.4q(6).

²⁶ As a reminder, property standards included in the HLM automatically apply to dwellings in any local government with a population of 100,000 or more and to dwellings that are considered multiple dwellings (3 or more units) in any city, village, or township with a population of 10,000 or more. A city, village, or township with a population of less than 100,000 may adopt the HLM for those homes that are less than three units. Thus, and particularly with respect to local governments with populations less than 100,000, the ordinance(s) adopting a rental regulation program to enforce property standards under the HLM must clarify the size of the buildings regulated and whether the local government has or is adopting to enforce those standards in, for example, 1-2 unit dwellings.

of compliance or require the tenant(s) to vacate the property if the inspection reveals conditions that present a hazard to the health and safety of the tenants. In addition, local governments have the authority to limit (or extend) the length of time for which the certificate is valid based on the condition of the dwelling or whether violations were found and not corrected on inspection. If the certificate of compliance has not been issued, or has been suspended because an inspection revealed health and safety hazards in the dwelling, the local government can set up a rent escrow account. Tenants can pay rent into the escrow account instead of to the landlord. Amounts paid may be returned to the landlord when the violations are corrected, or they may be used to pay a third party to conduct the repairs.

Timeline

The time it takes to register and certify a property varies based on local practice. For example, depending on a variety of factors, including whether there are outstanding property maintenance code violations, the City of Grand Rapids may require rental properties to obtain a certificate of compliance every two, four, or six years.²⁷ There can also be variations in the inspection schedule adopted by the local government, the ordinance of the municipality, the enforcement option applied, and/or the type of violation that all influence the timeline.

Penalties

Penalties for a violation of a rental regulation ordinance are generally the same as those for municipal civil infractions or blight violations, depending on which enforcement tool the local government chooses to use. However, a local government may also choose to revoke or deny a property owner's certificate of compliance based on certain criteria related to the condition of the property or the refusal of the landlord to comply with enforcement. In such a case, the landlord may be subject to a number of additional penalties prescribed by the local government, which may include increased municipal civil infraction or blight violation fines, criminal penalties, the local government seeking to vacate the premises, or other penalties allowed by law. In addition, if the local government has suspended or refused to issue the rental certification, rents due under an existing lease may be paid into an escrow account until the certificate of compliance is reinstated or issued.

Post Judgment or Lien Enforcement

Most liens that result from municipal civil infraction penalties or blight violation penalties may be enforced in the same way such liens are normally enforced.

ADVANTAGES AND DISADVANTAGES OF THE TOOL

Advantages

Rental regulation can be an effective tool to assess the condition of rental housing stock and to ensure residents have access to safe, quality housing. Given the availability of various rental regulation tools

in Michigan, programs can be designed to meet the specific needs and available resources of the community. For example, if a local government has a large number of rental dwellings in the community and a relatively small code enforcement team, Michigan law allows the local government to harness local data and develop a system that focuses limited local government resources on those rental dwellings that have the most potential to harm tenants and neighbors. Rental properties identified as more likely to impose harm could be subject to more frequent inspections, while rental properties that are unlikely to impose harm may be subject to far less frequent inspections and lower fees. This flexibility in state law allows for a more tailored local approach. Additionally, when a local government suspends or refuses certification, tenants can pay rent into an escrow account until the certificate of compliance is reinstated or issued providing further incentive for a landlord to comply.

Disadvantages

Rental regulation can be an effective tool, but successful programs must be built to comply with U.S. and state constitutional protections and must be acutely aware of the potential for unintended consequences of implementation.

Any time the local government seeks to enter a private residence, it must do so in accordance with the protections afforded to individuals under the U.S. and state constitutions. A rental regulation program must therefore be clear that the tenant has a right under the U.S. Constitution's Fourth Amendment to be free from warrantless searches and to refuse entry to the local government. The local government may still seek an administrative warrant and gain entry, but the right to refuse entry without a warrant is a crucial right that the local government must observe. Aspects of rental programs that have violated this right have been struck down.²⁸

Local governments should also consider and put measures in place to mitigate the possible unintended consequences in advance of program implementation. First, local governments must demonstrate to landlords that they are willing and able to carry enforcement through to the revocation of the certificate of compliance when landlords refuse to comply. Certificate revocation requires tenants to vacate the dwelling. Local governments need to have a viable and equitable relocation program in place to address this displacement. Second, an effective program may incentivize some bad landlords to retaliate against tenants who report violations to the local government with higher rents or eviction. Accordingly, sufficient protections must be put in place. Finally, it is possible that if a rental regulation program results in an increase in safe, quality rental housing, rent prices may also increase, putting the burden of success on vulnerable tenants without the means to pay more for rent.

Local Application

The design of rental programs varies across the state. The Cities of Grand Rapids, Detroit, and Kalamazoo, have all implemented a varied inspection schedule with the intent to target inspection capacity more efficiently, and incentivize landlord compliance by basing certification intervals on performance. Other examples include Pittsfield Charter Township, the City of Dearborn, and the City of Ishpeming.

²⁷ See Grand Rapids, Michigan, Code of Ordinances § 8.504 (Amending the 2012 International Property Maintenance Code, Ch. 10, Sec. 1000.3).

²⁸ See *Baker v. City of Portsmouth*, 2015 WL 5822659 (S.D. Ohio 2015).



PREVENTING NEGLECT



Proactive Regulation of Specific Property Types

Vacant Property Registration

Local governments may adopt vacant property registration ordinances (VPRO) requiring property owners to register vacant properties as a way of monitoring and better tracking these properties.

Applicable Property Types:

Vacant properties only

Penalty:

Varies. Depends on enforcement mechanism.*

Timeframe:

Varies. Depends on enforcement mechanism.*

** May be criminally enforced, or enforced as a blight violation or civil infraction depending on local authority and local ordinance adoption.*



Vacant Property Registration Process Steps

Establish Ordinance

Ordinance should clarify: (a) criteria required for registration; (b) requirements to maintain the vacant property (e.g., windows and doors should be secured); and (b) the tool that will be used to enforce violations of the ordinance (see, e.g., municipal civil infractions on [page 14](#) and blight violations on [page 18](#)).

Notice

Based on the tool used to enforce violations of the ordinance (see, e.g., municipal civil infraction, blight violation).

Hearing, Ruling, & Order

Based on the tool used to enforce violations of the ordinance (see, e.g., municipal civil infraction, blight violation).

Penalty

Penalties for failure to comply with property standards are based on the tool used to enforce violations of the ordinance (see, e.g., municipal civil infraction, blight violation).

Lien Enforcement

If the owner fails to pay fines or penalties and a lien is recorded against the property, the way in which it is enforced depends on the tool(s) used to enforce violations of the ordinance (see, e.g., municipal civil infraction, blight violation).



Proactive Regulation of Specific Property Types



Vacant Property Registration

Local governments may adopt vacant property registration ordinances (VPRO) requiring property owners to register vacant properties as a way of monitoring and better tracking these properties.

ELEMENTS OF THE TOOL

Authorized Local Governments

Any local government has authority to establish a VPRO.

Property Standards

A VPRO will describe the conditions which qualify a property as vacant, unsafe, or abandoned. Certain conditions established in the HLM, SCC, or other Michigan law for vacant property or abandoned property may also subject property to the local government's registration requirement.

Establishing the Authority to Enforce Locally

Local governments may enact a VPRO pursuant to their broad authority to enact ordinances to protect the health, safety, and welfare of its citizens or to adopt their own property maintenance ordinances.

Notice Requirements

Notice of a failure to properly register a property under the local government's VPRO must be provided in the manner prescribed for notice of a municipal civil infraction or blight violation, depending on which enforcement tool the local government uses to enforce the registration of vacant property.

Summary of Enforcement

Local governments must pass an ordinance mandating the registration of vacant property. A VPRO must first set criteria for registration. The local government's ordinance may prescribe the enforcement of violations as either municipal civil infractions or blight violations. The VPRO may require that property be vacant for a certain time frame (e.g., 180 days), or that the property meet some other definition of

vacant or abandoned under state or local law. All VPROs require the owner of the property to register, and some VPROs also require mortgage holders to register. Generally, registrants are required to pay a fee to register property and the local government may impose a fine or penalty by pursuing a municipal civil infraction or blight penalty for failure to register. Some VPROs may charge higher fines if the property remains vacant for extended periods of time.

In addition, the VPRO may impose separate requirements that the registrant keep the property boarded and secure and/or maintain the yard and exterior. Recently, a federal court held that a Michigan VPRO registration form could put property owners on notice that failure to maintain the property could lead to the local government taking action to abate the dangerous condition on the property.²⁹

Timeline

Enforcement for noncompliance with a VPRO may generally be the same as those for municipal civil infractions or blight violations, depending on which enforcement tool the local government chooses to use to enforce the VPRO.

Penalties

Penalties for a violation of a VPRO may be prescribed as a separate civil fine or may be the same as those for municipal civil infractions or blight violations generally, depending on which enforcement tool the local government chooses to use.

Post Judgment or Lien Enforcement

Most liens that result from municipal civil infraction penalties or blight violation penalties may be enforced in the same way such penalties are normally enforced.

ADVANTAGES AND DISADVANTAGES OF THE TOOL

Advantages

A VPRO can serve as a helpful data collection and management tool for local government. It can be an effective strategy to collect ownership and contact information for vacant properties, which generally run a higher risk of falling into disrepair than occupied properties. A VPRO may also help the local government to monitor and track such properties if the data collected is comprehensive (e.g. includes critical ownership and interested party contact information) and is kept current.

Certain VPROs that impose escalating registration fees for properties that have been vacant for extended periods may incentivize owners to either repair or seek out a more productive use for the property. For this to be successful, it is important to understand the motivations of the property owner and consider how the condition of the real estate market may impact an owner's ability to repair or rehabilitate their property.


²⁹ See *Benjamin, as Trustee for the Rebekah C. Benjamin Trust v. Stemple*, 915 F.3d 1066 at 1071 (6th Cir. 2019).

Disadvantages

A VPRO as a data collection and management tool is only as useful as the information put into it. Compliance rates for most VPROs are often not very high — in fact, some communities would consider a compliance rate of 50 percent high. Out-of-state or deceased owners are unlikely to register, for example, and it may be that these unregistered buildings are the ones imposing the most harm on the community. In addition, enforcing the VPRO, which includes sending out registration notices and monitoring and tracking the status of both registered and unregistered properties, may take a significant amount of resources and thus may not be the most efficient use of limited local capacity.

Local Application

Many Michigan communities have passed a VPRO to track vacant properties. The registration fees set for VPRO programs vary from community to community. Some examples of communities with VPROs include the [City of Clio](#), the [City of Trenton](#), the [City of Dearborn](#), and the [City of Muskegon](#).



Many aspects of vacant property registration ordinances (VPRO), including notice requirements, penalties and lien enforcement are determined by the mechanism used to enforce. VPRO's can be enforced as a municipal civil infraction, described on [page 16](#), or as a blight violation, described on [page 20](#).



TAKING ACTION



Additional Enforcement Tools

Abatement of High Weeds and Grass

A local government may require property owners to maintain grass, weeds, or other types of undergrowth in a way that does not create a nuisance condition, such as requiring owners to maintain grass or weeds at or below minimum standards for height. If the owner does not comply, the local government may enter the property, abate the high grass or weeds, and charge the costs of abatement to the owner or person responsible for the property.

Applicable Property Types:

All property that violates state law related to “noxious weeds” and local property maintenance codes

Penalty:

Fines and cost of abatement

Timeframe:

~10 days or less depending on type of notice (notice to abatement)



Abatement of High Weeds and Grass Process Steps

Notice

Local government must mail notice to property owner to abate high weeds and grass **OR** Local government posts notice in local newspaper that any “weeds not cut by May 1 of that year may be cut by the (local government) and the owner of the property charged with the cost...” of abatement.

Abatement

If the local government mailed notice, it may abate the high weeds and grass within 10 days if the owner fails to do so. If the local government posted notice in local newspaper, then it may abate high weeds and grass at any time throughout the remainder of that year.

Penalty

Local government may bill the property owner for expenses associated with the abatement and assess a fine of up to \$100.

Property Lien

If owner fails to pay the costs of abatement, the local government may notify the property owner and place a lien against the property.

Lien Enforcement

The local government may also collect the fine similarly to how it collects fines assessed as municipal civil infractions or blight violations. See page 56 for the General Lien Enforcement Process.



Abatement of High Weeds and Grass³⁰

A local government may require property owners to maintain grass, weeds, or other types of undergrowth in a way that does not create a nuisance condition, such as requiring owners to maintain grass or weeds at or below minimum standards for height. If the owner does not comply, the local government may enter the property, abate the high grass or weeds, and charge the costs of abatement to the owner or person responsible for the property.

ELEMENTS OF THE TOOL

Authorized Local Governments

All local governments may enforce maintenance standards for grass, weeds, or other undergrowth. Counties however appear to be somewhat more limited in enforcement authority than cities, villages, or townships.

Property Standards

State law related to “noxious weeds” and local property maintenance codes can establish property standards.

Establishing the Authority to Enforce Locally

Authority to regulate high grass or weeds is generally granted under state law related to “noxious weeds” and local property maintenance codes. If the local government chooses to enforce the state statute for noxious weeds it does not have to adopt or pass a separate ordinance, though it may be wise to do so and codify the exact process that makes sense for the local government.

Notice Requirements

A local government may notify property owners of its intent to abate high grass or weeds in one of two ways. First, the city, township, or village may mail notice to a property owner with high grass or weeds that the city, village, or township will enter the property and abate the condition if not corrected in 10 days. Alternately, the township, village, or city may choose to publish notice once a year in March in a local newspaper that states that any “weeds not cut by May 1 of that year may be cut by the township, village, or city and the owner of the property charged with the cost.”

Summary of Enforcement

A city, village, or township may regard certain plants — like high grass or weeds on subdivided land or land “located on an improved street in common usage” — as common nuisances and adopt ordinances or standards defining the conditions under which such plants may become a nuisance.³¹ For example, subject to certain exceptions, the City of Grand Rapids defines “[a]ny grass, weeds, or undergrowth higher or longer than twelve (12) inches” to be a public nuisance.³² As mentioned above, the local government can either mail notice to the property owner of the local government’s intent to abate high weeds for each violation and abate the condition within 10 days of the notice, or the local government may choose to publish notice to all properties once a year in March in a local newspaper. If the local government chooses to provide notice to all properties once a year through publication, the local government may abate the nuisance “as many times as is necessary” throughout the year.³³ If the local government must abate high grass or weeds, it is entitled to a lien against the property for any amounts expended plus a fine. Note that local governments may not abate high grass and weeds on certain lands, like those lands or rights of way owned by railroads.

Timeline

If notice is not published in a local newspaper in March, the city, village, or township may abate the high grass or weeds 10 days after providing notice. If notice is published in a local newspaper in March, the city, village, or township may abate high grass or weeds at any time throughout the year.

Penalties

The expense of abating high grass or weeds can be enforced as a lien against the property. Thus, the lien appears to be of a similar priority to liens for blight violations or for the abatement of dangerous buildings under the HLM. In addition to the lien for expenses, local governments may impose a fine of up to \$100, which may be enforced as a municipal civil infraction or a blight violation.

³⁰ MCLA 247.61 to MCLA 247.72 pertain to the establishment of a local commissioner of noxious weeds and the removal of noxious weeds. Unless otherwise indicated in a footnote, the information contained in this tool description is pulled from these provisions.

³¹ Counties may also pass a resolution to “participate under (the noxious weeds act),” but they are subject to additional restrictions not applicable to cities, villages, or townships, including being required to work with the state’s Department of Natural Resources and how they may impose any fine. See MCLA 24.64(5) and MCLA 247.70.

³² Grand Rapids. Michigan, Code of the City of Grand Rapids § 9.108(2) (MuniCode 2019).

³³ *Id.*

Post Judgment or Lien Enforcement

A lien reflecting the costs of abating high grass or weeds may be enforced in the manner prescribed by charter of the local government, by the Michigan law providing for the enforcement of tax liens, or by ordinance. The amount of any unpaid fines may be enforced in the manner in which the local government is authorized to enforce unpaid fines from municipal civil infractions or blight violations.

ADVANTAGES AND DISADVANTAGES OF THE TOOL

Advantages

Michigan law provides local governments with an efficient tool to ensure high grass or weeds do not become a nuisance and to recover any costs expended through abatement. Different notice options and the local governments opportunity to abate high grass and weeds can make this an effective tool.

Disadvantages

This tool is enforced as either a municipal civil infraction or blight violation. For this reason, the local government's successful recovery of abatement costs is largely contingent on market dynamics. For example, if the value of the property is low and the property is located in a weak real estate market, it becomes less likely that the local government will recover costs.

Local Application

Many Michigan communities have established an approach to addressing high weeds and grass. For example, the City of Marquette will issue a municipal civil infraction for violations to its Noxious Weeds Ordinance, and the City will abate the violation if the owner does not comply. The City of Lansing will abate a high weed nuisance if the owner fails to comply.



See [page 56](#) for an overview of the general lien enforcement process that applies to: municipal civil infractions, blight violations, the abatement of high grass and weeds, nuisance abatement, and dangerous buildings abatement/enforcement.





TAKING ACTION



Additional Enforcement Tools

Nuisance Abatement

Certain hazardous property conditions may be considered a public nuisance under Michigan law. Local governments may adopt an ordinance or a series of ordinances designating certain conditions as nuisances and outlining a process for abatement and recovery of costs. Local governments may seek a court order to abate a nuisance and recover any costs incurred.

Applicable Property Types:

All property meeting definition of nuisance under state or local law

Penalty:

Fines and cost of abatement

Timeframe:

~7 - 105 days (notice of hearing to abatement)



Nuisance Abatement Process Steps

Notice

Mail **OR** personally serve notice to the owner and other party with a recorded interest in the property that nuisance action has been filed and a hearing will be held.

Bring Action

Bring an action against the owner in state district court to abate a nuisance and file a nuisance action.

NOTE: Notice should include time, date, and location of hearing

Hearing, Ruling, & Order

A hearing may be held in state district court.

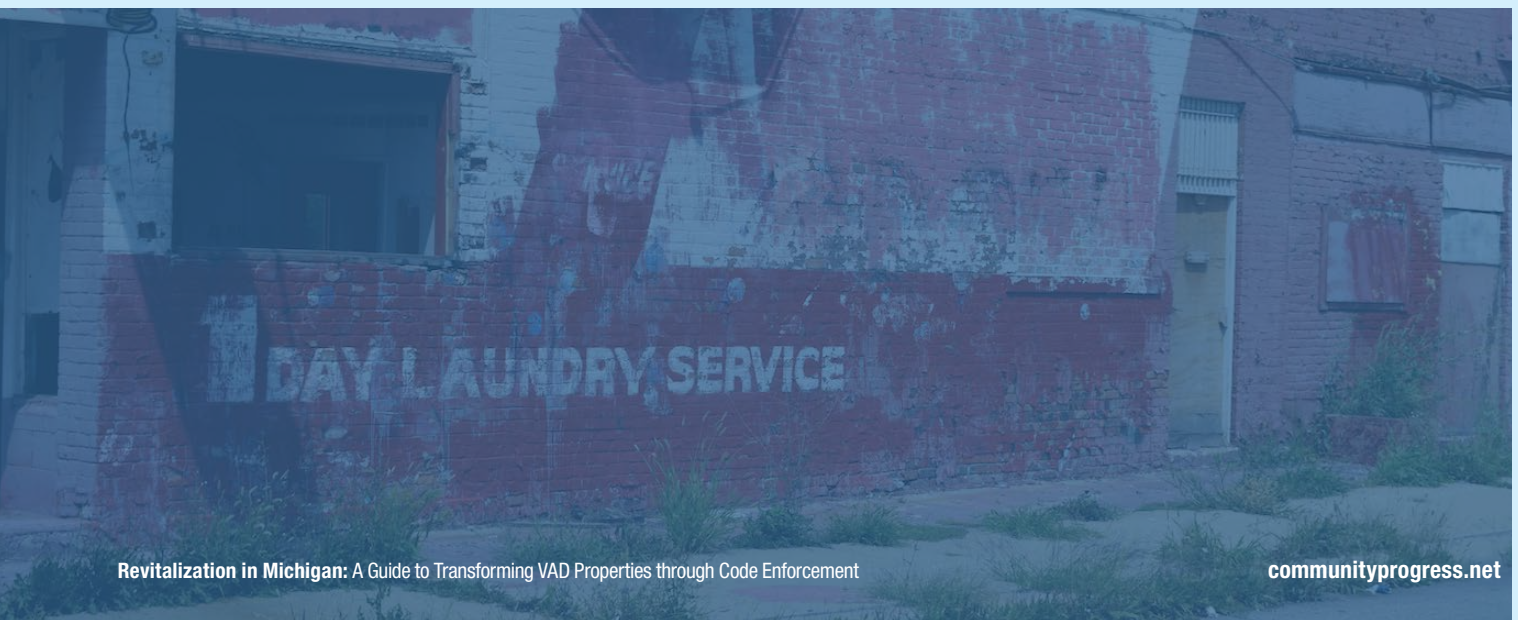
The court may give the property owner the opportunity to abate the nuisance, or may direct the local government or other officer of the court to remove the nuisance.

Penalty

If the owner fails to appear in court or to abate, and depending on the type of nuisance, the court may enter a judgment that includes any costs the local government or other officer incurred abating the nuisance, a fine of up to \$5,000 (or up to 6 months in jail), and any related costs, which could include demolition of an unsafe structure or building.

Lien Enforcement

The local government may also enforce the judgement or lien in the same way it collects fines assessed as municipal civil infractions or blight violations. [See page 56](#) for the General Lien Enforcement Process.





Additional Enforcement Tools



Nuisance Abatement³⁴

Certain hazardous property conditions may be considered a public nuisance under Michigan law. Local governments may adopt an ordinance or a series of ordinances designating certain conditions as nuisances and outlining a process for abatement and recovery of costs. Local governments may seek a court order to abate a nuisance and recover any costs incurred.³⁵

ELEMENTS OF THE TOOL

Authorized Local Governments

Any local government can utilize nuisance abatement.³⁶

Property Standards

A local government may declare certain dangerous or hazardous conditions related to real property a public nuisance. Some conditions are explicitly identified as nuisances in the HLM (nuisance exists where a condition of a dwelling, building, or property is dangerous or detrimental to life),³⁷ the Michigan Health Code (nuisance exists where building or property is in violation of local health codes),³⁸ the Michigan Fire Prevention Act (existence of a fire hazard on premises is a nuisance),³⁹ and Michigan law related to abandoned or neglected plants, trees, and shrubs (nuisance exists if plant, tree, or shrub may provide a favorable or likely harbor for injurious or destructive pests or disease).⁴⁰ A local government may also define certain property conditions as public nuisances in its own property maintenance or related codes.⁴¹

Establishing the Authority to Enforce Locally

A local government may pass an ordinance declaring a property condition a nuisance and outline its own process for abatement, it may file an appropriate action in state district court to have a condition declared as a nuisance pursuant to Michigan law, or it may follow a process outlined in Michigan law, such as the process outlined in the HLM.⁴²

Notice Requirements

Some local governments have adopted a nuisance ordinance that allows the local government to provide written notice to the owner demanding they abate the nuisance condition or the local government will abate the nuisance. Ordinances may require notice to be served by first class mail, personally upon the owner of the property, or published in a local newspaper.⁴³

If the local government chooses to file a court action to compel the abatement of a nuisance, the local government must notify property owners and any “secured party or other lien holder whose (interest in the property) has been filed with the secretary of state or in the office of the register of deeds” by personal service or registered mail that a nuisance abatement action has been filed and a hearing will take place.⁴⁴

Summary of Enforcement

Some local nuisance ordinances allow the local government to provide written notice to the owner that includes (a) an order to abate the nuisance or request a hearing, (b) the timeframe the owner has to correct the violation, (c) a statement that if the violation is not corrected in the timeframe (e.g., 10 days) the local government will cause the violation to be abated, and (d) a statement that if the local government causes the nuisance to be abated the costs will be assessed against the person and may be a lien against the property.⁴⁵ If a hearing is requested by the owner, the hearing is most likely heard in the manner described below.

A local government attorney may also bring an action to abate a public nuisance in state court, which may include circuit court or district court.⁴⁶ After notice has been provided, at the hearing, the court may give the property owner the opportunity to abate the nuisance, or may direct the local government or other officer of the court to

³⁴ A variety of provisions in Michigan law provide a local government with the authority to designate certain conditions as nuisances and to adopt processes to enforce.

³⁵ Note that the City of Detroit and the Detroit Land Bank Authority (“DLBA”) have established a nuisance abatement program to address vacant properties which allows the DLBA to file a court action demanding the owner renovate the property or, if the owner is unable or unwilling to do so, seek transfer of the property to the DLBA. This program has not been replicated in any other jurisdiction in Michigan and is not discussed in any additional detail in this tool description. For more about this program, including a common exhibit justifying the program in its court filings, see the DLBA website at: <https://buildingdetroit.org/nuisance-abatement/>.

³⁶ Any resident of the county in which the nuisance is located may also enforce a public nuisance.

³⁷ MCLA 125.486.

³⁸ MCLA 333.2455.

³⁹ MCLA 29.23.

⁴⁰ MCLA 286.253.

⁴¹ See, generally, *Bonner v. City of Brighton*, 848 N.W.2d 380, 392 (Mich. 2014).

⁴² See MCLA 125.540 and MCLA 125.541.

⁴³ See, for example, the Village of New Haven Nuisance Ordinance. The Code of the Village of New Haven, §§ 361-1 *et seq.*

⁴⁴ See MCLA 600.3810; see also Michigan Court Rule 2.105.

⁴⁵ See, for example, the Village of New Haven Nuisance Ordinance. The Code of the Village of New Haven, §§ 361-1 *et seq.*; see also the Bay City, Michigan, Code of Ordinances § 54-81.

⁴⁶ MCLA 600.3805.

remove the nuisance.⁴⁷ If the owner fails to abate the nuisance, the court's judgment against the property owner may include the costs of the abatement action.⁴⁸ The court's judgment may also include a fine against the owner of up to \$5,000 or up to six months in jail.⁴⁹ Finally, the Michigan Supreme Court has affirmed that public nuisance abatement actions may be used to address dangerous buildings and structures, including demolition: "It is firmly established that nuisance abatement, as a means to promoting public health, safety, and welfare, is a legitimate exercise of police power."⁵⁰

The HLM also provides local governments with an alternative to the filing of a court action to abate certain dangerous conditions in buildings or structures. This information in the following paragraph is also included under the Dangerous Building Enforcement tool on page 44. Under the HLM, a local government may appoint a hearing officer to hear matters where the local government seeks to have a building or structure declared a "dangerous building" under the HLM.⁵¹ The hearing officer may order that the building be "demolished, otherwise made safe, or properly maintained."⁵² If the owner fails to comply, the hearing officer may file their order with the legislative body of the local government or, if one has been established, the local government's board of appeals.⁵³ If the owner again fails to comply after being provided another opportunity to be heard before the local government's legislative body or board of appeals, the HLM gives the local government the authority to secure, demolish, or otherwise abate the dangerous condition.⁵⁴

Timeline

Local governments must provide property owners a reasonable time to comply with orders to abate a nuisance before the local government proceeds to have the nuisance abated, though there is generally an exception to such timelines for emergencies. The City of Bay City provides owners at least 14 days to comply with an order to abate;⁵⁵ the Village of New Haven provides at least 10 days.⁵⁶

If an action is filed in state court, the timeline for abatement varies based on a number of factors, including, for example, whether the process has been previously established with the court system, and the court's calendar and availability. A hearing for a nuisance abatement action may be scheduled as soon as seven days from the date of the notice,⁵⁷ though whether the court will provide the owner with additional time to comply before entering an order allowing the local government to abate the nuisance is within the discretion of the court.

If a local government pursues the abatement of a dangerous building under the HLM, the initial hearing must take place at least 10 days after the local government's notice to the property owner that the building is considered a dangerous building.⁵⁸ The hearing officer must issue their decision within five days of the hearing.⁵⁹ If the owner refuses to comply and the matter is referred to the local government's legislative body or appeals board, another hearing will be held within 30 days of the previous hearing.⁶⁰ The legislative body or appeals board may give the owner up to 60 days to comply, or the local government may abate the conditions on the property.⁶¹

Penalties

If the owner fails to abate the nuisance per the local government's order, the local government may assess the costs of the abatement against the owner and place a lien against the property.⁶² In addition to the costs of abatement, some local government nuisance ordinances allow the imposition of an administrative fee to cover costs and staff time related to "investigating, prosecuting and remedying" the nuisance.⁶³ The local government may also seek to impose criminal penalties through a court action,⁶⁴ or a fine through the municipal civil infraction process.⁶⁵

If the nuisance case is filed and heard in state court, and if the court issues a judgment against the property owner, the judgment amount may include the costs of the abatement, a fine against the owner of up to \$5,000 or up to six months in jail, and any other costs or fees (including attorney's fees) the court deems reasonable.⁶⁶

⁴⁷ See, generally, MCLA 125.534(5); MCLA 600.3815; MCLA 600.3825; and MCLA 600.2940.

⁴⁸ See, generally, MCLA 125.534(7); MCLA 600.3830 and MCLA 600.3835.

⁴⁹ MCLA 600.3820.

⁵⁰ *Bonner v. City of Brighton*, 848 N.W.2d 380, 392 (Mich. 2014). The question before the Supreme Court of Michigan in *Bonner* was whether a local ordinance that allowed for a municipality to demolish a structure and bill the owner for the cost of the demolition when the structure was declared a public nuisance was constitutional. *Id.* at 384. The Supreme Court of Michigan held that the ordinance and the procedures used by the local government satisfied the minimum standards of due process and were therefore constitutional. *Id.*

⁵¹ See MCLA 125.540 and MCLA 125.541.

⁵² MCLA 125.541(2).

⁵³ MCLA 125.541(3).

⁵⁴ MCLA 125.541.

⁵⁵ Bay City, Michigan, Code of Ordinances, § 54-81.

⁵⁶ Code of the Village of New Haven § 361-5.

⁵⁷ Mich. Ct. R. 3.601.

⁵⁸ MCLA 125.540(5).

⁵⁹ MCLA 125.541(1).

⁶⁰ MCLA 125.541(4).

⁶¹ *Id.*

⁶² See, for example, Code of the Village of New Haven § 361-11; see also Bay City, Michigan, Code of Ordinances § 54-83(b).

⁶³ Charter Township of Delhi, Michigan, Code of Ordinances § 9-6(d).

⁶⁴ See *Id.* at § 9-4.

⁶⁵ See the Village of Millford, Michigan, Code of Ordinances § 42-34.

⁶⁶ MCLA 600.3820.



Nuisance Abatement

Post Judgment or Lien Enforcement

Ordinances that allow a local government to abate a nuisance condition generally allow the local government to seek payment of the abatement costs from the owner by placing a lien on the property.⁶⁷ These ordinances also generally allow the costs of the abatement to be a lien against the property that, if unpaid, may be added as a special assessment to the local tax rolls.⁶⁸ If the local government has obtained a judgment for additional criminal or civil penalties, like a fine through municipal civil infraction process, those judgments may be enforced separately in the manner prescribed for each tool.

The court's judgment in a nuisance abatement action may be enforced in the same way as other judgments issued by Michigan courts.⁶⁹ Judgments may be enforced in a variety of ways, including pursuing personal collection of money owned or by seeking to foreclose on the amounts due in judgment.⁷⁰ A judgment is considered a lien against the property, though Michigan law is unclear whether the lien from a nuisance abatement action enjoys priority over other liens or whether it may be enforced with taxes in the same manner as, for example, a municipal civil infraction lien.

If a local government engages in the abatement of a dangerous building under the HLM, the HLM clearly establishes that the abatement costs and related fees are a lien against the property.⁷¹ The lien does not technically enjoy priority over previously recorded liens, but it may be enforced in the same manner as property tax liens under the General Property Tax Act.⁷²

ADVANTAGES AND DISADVANTAGES OF THE TOOL

Advantages

Nuisance abatement can be a very effective tool to mitigate the harm or danger certain property conditions impose on a community. Michigan law appears to give local governments broad authority to declare property a public nuisance and to pursue an action to abate the nuisance or dangerous building. Although not entirely clear, Michigan

law appears to provide some authority for a local government to attempt to collect nuisance abatement costs through the property tax enforcement process. Given the nature of many nuisance properties (e.g., vacant or dilapidated), it is often not likely that nuisance abatement judgments or liens will be paid. If the local government is unlikely to recover its abatement costs from the property owner, it is important to consider compelling the transfer of the property to a new, more responsible owner to ensure the property does not continue to decline and require further local government expenditures. Enforcing the nuisance abatement judgment or lien along with unpaid property taxes is likely one of the best ways to compel such a transfer.

Disadvantages

Similar to the enforcement of municipal civil infraction or blight violation liens, whether the local government will recover its abatement costs is usually a matter of market dynamics. If the value of the property is low or the property is located in a weak housing market, it may be unlikely that the local government will recover its costs. Further, if the abatement judgment or lien in favor of the local government is insufficient to force a transfer of the property, then the local government has little leverage to prevent future decline.

Local Application

Bay City's nuisance ordinance identifies a number of property conditions that constitute a public nuisance, including accumulations of garbage, refuse, or other waste material in the yard without a proper waste bin; storage of a disabled motor vehicle; and other conditions.⁷³

⁶⁷ See, for example, Code of the Village of New Haven § 361-11; Bay City, Michigan, Code of Ordinances § 54-83(b); Village of Millford, Michigan, Code of Ordinances § 42-32; and Charter Township of Delhi, Michigan, Code of Ordinances § 9-6(d).

⁶⁸ See *Id.*

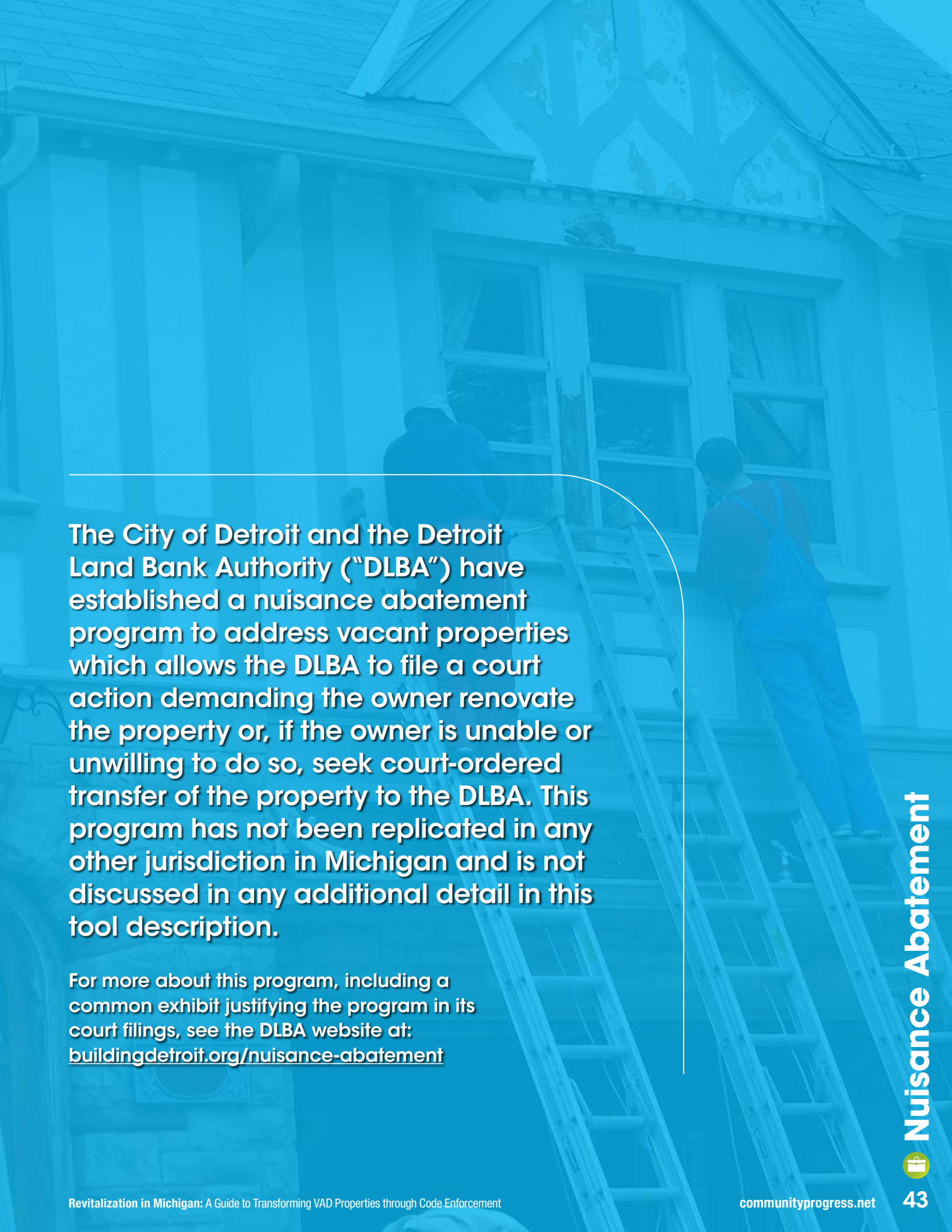
⁶⁹ See MCLA 600.6001 *et seq.*

⁷⁰ *Id.*

⁷¹ MLCA 125.541(6).

⁷² *Id.*

⁷³ See the Bay City, Michigan, Code of Ordinances § 54-78 to 54-79.



The City of Detroit and the Detroit Land Bank Authority (“DLBA”) have established a nuisance abatement program to address vacant properties which allows the DLBA to file a court action demanding the owner renovate the property or, if the owner is unable or unwilling to do so, seek court-ordered transfer of the property to the DLBA. This program has not been replicated in any other jurisdiction in Michigan and is not discussed in any additional detail in this tool description.

For more about this program, including a common exhibit justifying the program in its court filings, see the DLBA website at: buildingdetroit.org/nuisance-abatement



TAKING ACTION



Additional Enforcement Tools

Dangerous Buildings Enforcement

The HLM allows local governments to establish by ordinance an administrative process to seek the repair or removal of dangerous conditions in buildings or structures.

Applicable Property Types:

All property that violates the Housing Law of Michigan

Penalty:

Abatement costs

Timeframe:

~10 – 105 days (notice to compliance or abatement)



Dangerous Buildings Enforcement Process Steps

NOTE: Local governments that have adopted a Dangerous Buildings Ordinance may appoint a hearing officer to hear matters where the local government seeks to have a building or structure declared a “dangerous building.”

Notice

The hearing must take place at least 10 days after the local government notifies the owner the building has been declared dangerous.

Hearing, Ruling, & Order

The hearing officer issues decision within 5 days: may give the owner the opportunity to abate the nuisance, OR may direct the local government or other officer of the court to remove the nuisance within a certain timeframe.

If the owner appeals, another hearing will take place within 30 days before the local government’s legislative body or appeals board, if one has been established.

Enforcement

The legislative body or appeals board may give the owner up to 60 days to comply, or the local government may abate by boarding up, demolishing, or otherwise repairing the building.

Penalty

In addition to any fines or abatement costs, the legislative body or appeals board may also seek penalties for failure to comply with the abatement order, including blight violation penalties (if applicable), or criminal penalties of up to a \$1,000 fine or up to 120 days in jail.

Demolition Cost Recovery

If property is demolished, local government may file a court action to recover the costs of the demolition.

Property Lien

The legislative body or appeals board may recover its abatement costs by filing a lien against the property.

Lien Enforcement

The local government may also collect similarly to how it collects fines assessed as municipal civil infractions or blight violations. See [page 56](#) for the General Lien Enforcement Process.



Additional Enforcement Tools



Dangerous Buildings Enforcement⁷⁴

The HLM allows local governments to establish by ordinance an administrative process to seek the repair or removal of dangerous conditions in buildings or structures.

ELEMENTS OF THE TOOL

Authorized Local Governments

Any local government that is authorized to adopt a dangerous buildings ordinance under the HLM may use this as an enforcement tool.⁷⁵

Property Standards

Property standards are established in the HLM.

Establishing the Authority to Enforce Locally

The local government may pass an ordinance that adopts or is based on the authority to enforce dangerous buildings under the HLM.⁷⁶

Notice Requirements

The local government must provide written notice that the property is considered a dangerous building to “each owner of or party in interest in the building or structure in whose name the property appears on the last local tax assessment records.” If the property is registered with the local government under the HLM, the local government must provide notice to the registered “owner, agent, or lessee of the property.” Notice can be provided by certified mail, return receipt requested, or served personally. If a notice is served on a person by certified mail, a copy of the notice must be posted on the building or structure. The notice must detail the time and place of a hearing on whether the building or structure is considered dangerous, and the notice must be served at least 10 days prior to the hearing date.

Summary of Enforcement

A local government may appoint a hearing officer to hear matters where the local government seeks to have a building or structure declared a

“dangerous building” under the HLM. The hearing officer may order that the building be “demolished, otherwise made safe, or properly maintained.” If the owner fails to comply, the hearing officer may file their order with the legislative body of the local government or, if one has been established, the local government’s board of appeals. If the owner again fails to comply after being provided another opportunity to be heard before the local government’s legislative body or board of appeals, the HLM gives the local government the authority to secure, demolish, or otherwise abate the dangerous condition.

Timeline

The initial hearing must take place at least 10 days after the local government’s notice to the property owner that the building is considered a dangerous building. The hearing officer must issue their decision within five days of the hearing. If the owner refuses to comply and the matter is referred to the local government’s legislative body or appeals board, another hearing will be held within 30 days of the previous hearing. The legislative body or appeals board may give the owner up to 60 days to comply, or the local government may abate the conditions on the property.

Penalties

If the local government must abate the dangerous conditions on the property, the owner is responsible for all costs incurred by the local government. If the local government must demolish the property, the demolition costs may include “fees paid to hearing officers, costs of title searches or commitments used to determine the parties in interest, recording fees for notices and liens filed with the county register of deeds, demolition and dumping charges, court reporter attendance fees, and costs of the collection of the charges authorized under (the HLM).”

Post Judgment or Lien Enforcement

If a local government abates a dangerous building under the HLM, the HLM allows the recovery of the local government’s abatement costs and related fees as a lien against the property. The lien does not enjoy priority over previously recorded liens, but it may be enforced in the same manner as property tax liens under the GPTA. Furthermore, the local government may place the lien against any property owned by the property owner in the state of Michigan.

ADVANTAGES AND DISADVANTAGES OF THE TOOL

Advantages

The ability to adopt a dangerous building ordinance allows local governments to establish a more efficient administrative tool to quickly and more flexibly address vacant and dangerous buildings that impose the most harm on communities. The ability to adopt such an

⁷⁴ MCLA 125.538 to MCLA 125.541a of the HLM pertain to the establishment and enforcement of a dangerous building ordinance. Unless otherwise indicated in a footnote, the information contained in this tool description is pulled from these provisions.

⁷⁵ See MCLA 125.408.

⁷⁶ See MCLA 125.408.

ordinance offers property owners an opportunity to be heard before an independent hearing officer and make an appeal to a separate board of appeals or the legislative body of the local government while also avoiding the cost and hassle of litigating the matter in court. Furthermore, the process details a way that, if it must, the local government can abate the dangerous condition of the property, secure its costs as a lien against the property, and, if those costs are unpaid, compel the transfer of the property to a new owner through the General Property Tax Act (GPTA). This process reflects an approach to code enforcement for vacant and abandoned properties that, when equitable safeguards and resources for vulnerable property owners are built into the system, can be effective, efficient, and equitable. The approach can be simply referred to as: fix it up, pay it up, give it up.⁷⁷

Disadvantages

A dangerous buildings ordinance is an effective tool to address dangerous or unsafe structures and to mitigate the harm they impose on neighbors and the community. However, similar to the enforcement of municipal civil infractions, blight violation liens, or nuisances, whether the local government will recover the costs of dangerous building enforcement or abatement is usually a matter of market dynamics. If the value of the property is low and the property is located in a weak housing market, it may be unlikely that the local government will recover its costs even if the amount of the lien is added to the tax bill. In such a case, the owner may not be willing (or able) to pay back the public costs of enforcement or abatement and even if the property is subjected to tax enforcement and eventual foreclosure under the GPTA, there may not be an interested end-user or purchaser. For that reason, a dangerous buildings ordinance is likely most effective when another local partner, like a land bank authority, may exist to serve as a responsible potential end-user that can manage, maintain, and seek responsible reuse of the property in line with the needs and priorities of the community.

Local Application

Local governments across Michigan have adopted some form of a dangerous buildings or unsafe structures ordinance based on the HLM. As one example, the Township of Howell adopted the Howell Township Dangerous Buildings Ordinance (“DBO”).⁷⁸ The definition of a dangerous or unsafe structure in Howell’s DBO is largely the same as what is included in the HLM, as is the notification, hearing, and appeal timeline.



See page 56 for an overview of the general lien enforcement process that applies to: municipal civil infractions, blight violations, the abatement of high grass and weeds, nuisance abatement, and dangerous buildings abatement/enforcement.



⁷⁷ Read more about the concept of fix it up, pay it up, give it up in Center for Community Progress report, “Alternative Strategies for an Equitable, Efficient and Effective Code Enforcement System in Mobile, Alabama.” June 2016 (Alexander). https://www.communityprogress.net/filebin/FINAL_Strategic_Options_for_Mobile_Alabama_Code_Enforcement_June_2016.pdf.

⁷⁸ See Howell Township Ordinance No. 219, available at: <https://howelltownshipmi.org/departments/zoning/forms-and-applications>.



TAKING ACTION



Additional Enforcement Tools

Receivership

A local government that enforces the HLM may file a court action and request the court appoint a receiver to repair, renovate, or rehabilitate the property.

Applicable Property Types:

All property that violates the Housing Law of Michigan

Penalty:

Loss of property and lien payment

Timeframe:

Subject to court discretion and property repair time



Receivership Process Steps

File Court Action

Must file an action to enforce the HLM in court. Notice of an action to enforce a provision of the HLM must be served on the owner and lienholders (in person and/or by mail), and a copy of the complaint must be filed with the register of deeds.

Court Appoints Receiver

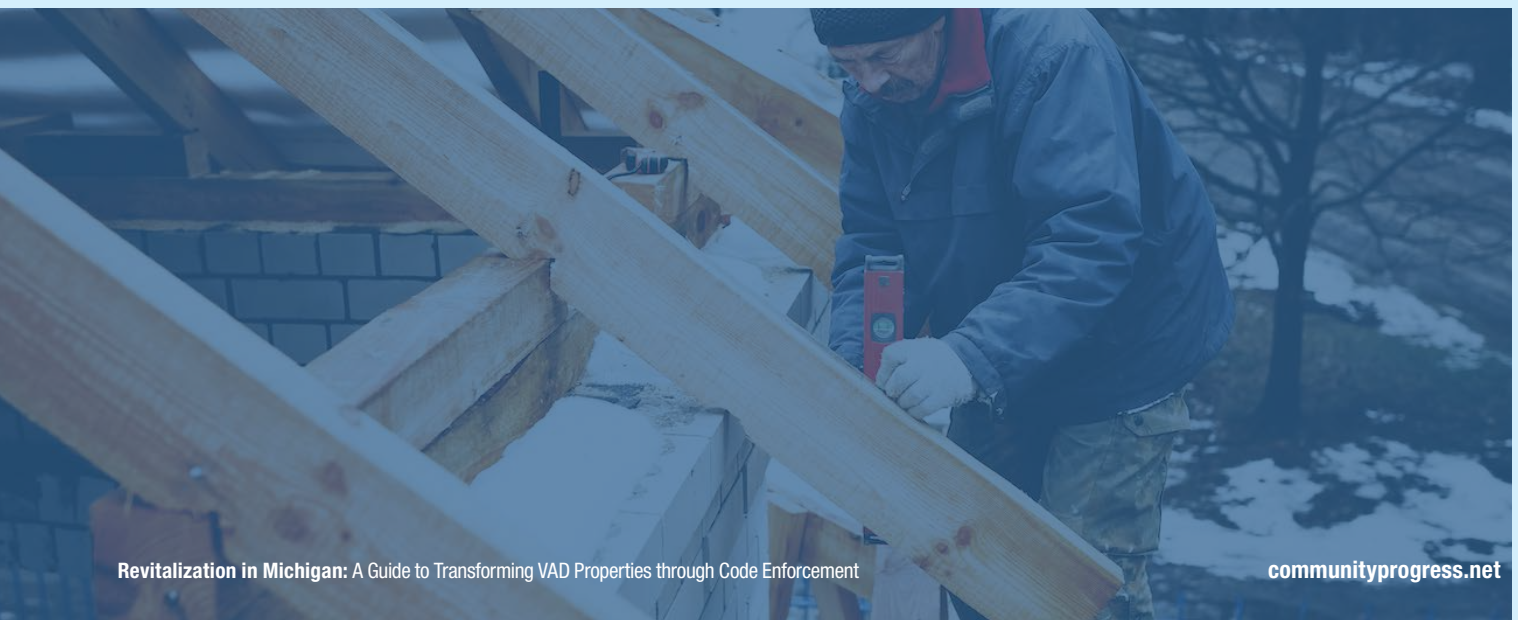
If court finds adequate grounds, it may appoint a receiver. Under the court's discretion, the receiver may use a wide variety of tools to "repair, renovate and rehabilitate the premises as needed to make the building comply with the provisions of this act, and where ordered by the court, to remove a building."

Penalty

If the receiver's expenses are not paid or recovered (e.g., the owner pays the amount or the receiver was able to collect rents from the property to cover expenses), the court may approve the expense and allow the receiver a lien against the property.

Lien Enforcement

A receiver's lien is senior to all other liens except for tax, assessment, and first priority mortgage liens. The receiver may enforce the lien as allowed by Michigan law, which may include foreclosure.





Additional Enforcement Tools

Receivership⁷⁹

A local government that enforces the HLM may file a court action and request the court appoint a receiver to repair, renovate, or rehabilitate the property.

ELEMENTS OF THE TOOL

Authorized Local Governments

Local governments that enforce the HLM.

Property Standards

Property standards are established in the HLM.⁸⁰

Establishing the Authority to Enforce Locally

The local government has the authority to ask the court to appoint a receiver as part of an action brought by the local government in the appropriate state court, which may include circuit court or district court.⁸¹

Notice Requirements

Receivership is a court-ordered remedy. Notice of the court action to enforce the HLM, which may include personal service on the owner or occupant, posting notice on the property, or notice by first class mail, is sufficient.

Summary of Enforcement

If the local government files a court action to enforce provisions of the HLM, it may ask the court to appoint a receiver to repair, renovate, or rehabilitate the property. The HLM does not limit the type of property the receiver may be appointed to manage. That means a receiver may manage or address HLM violations on vacant property or occupied property. If the court finds adequate grounds to appoint a receiver, it may appoint the local government or another “proper” or “competent” person. After being appointed, the receiver shall promptly begin the process of repairing or rehabilitating the property, which may include demolishing a building or structure. Subject to the court’s oversight, the receiver may contract for any necessary construction or rehabilitation services and, if the property is occupied, the receiver may collect rent

or lease units. Once the court deems the receiver’s work complete, it may enter a judgment closing the case and order a lien in favor of the receiver for any amounts owed to the receiver for the receiver’s services.

Timeline

The length of time it takes to successfully apply receivership is largely subject to the court’s discretion, as well as how long it takes to repair the property.

Penalties

Any unpaid expenses of the receiver that have been approved by the court are applied as a lien against the property.

Post Judgment or Lien Enforcement

If the receiver was not already paid for the receiver’s services (such as through the collection of rents), the court may order a lien against the property in favor of the receiver. The receiver’s lien is a senior lien, junior only to tax and assessment liens and to first mortgage liens that were recorded before the receiver’s lien.

ADVANTAGES AND DISADVANTAGES OF THE TOOL

Advantages

Where the appointed receiver has the ability and expertise to serve as manager of the property, receivership can be an effective tool to repair or otherwise rehabilitate property to comply with state and local property standards. In certain circumstances, the priority of the receiver’s lien may be a useful tool to compel the transfer of substandard property to a more responsible owner.

Disadvantages

Unless a receiver is appointed who is not concerned about recovering expenses or being compensated for their services, receivership is a realistic tool only in limited circumstances. For example, a receiver may be a feasible solution if there is a substandard occupied rental property where the rents collected by the receiver will be sufficient to cover the receiver’s expenses and fees. Receivership may also be a reasonable option if the property in question has enough current or potential future value that the property owner will pay the value of the receiver’s lien to avoid losing the property, or if the receiver sees value in foreclosing on its lien and taking title to the property. Absent such circumstances, it is unlikely a capable and experienced receiver will be willing to serve as receiver.

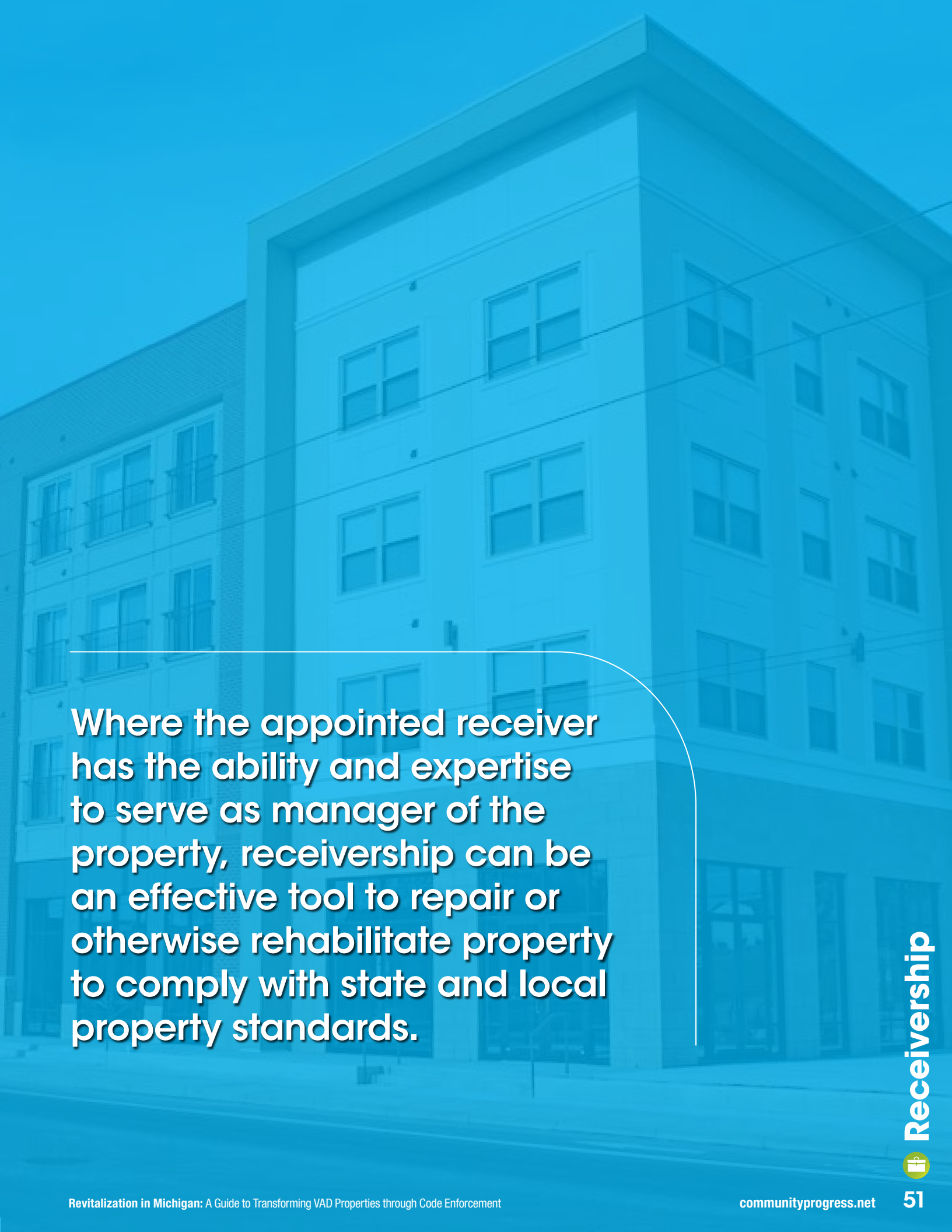
Local Application

Receivership is not a commonly used tool across Michigan.

⁷⁹ MCLA 125.535. Note receivership is a tool that is also generally available across the country as an equitable remedy in court actions. For the purposes of this tool description, we will focus on the specific form of receivership outlined in the HLM. Unless otherwise indicated in a footnote, the information in this tool description is drawn from MCLA 125.535.

⁸⁰ MCLA 125.401 *et seq.*

⁸¹ See also MCLA 125.534.



Where the appointed receiver has the ability and expertise to serve as manager of the property, receivership can be an effective tool to repair or otherwise rehabilitate property to comply with state and local property standards.



TAKING ACTION



Additional Enforcement Tools

Accelerated Tax Forfeiture and Foreclosure

The General Property Tax Act (GPTA) allows Michigan local governments to pursue an accelerated tax foreclosure process for abandoned properties that are also tax delinquent. This process reduces the amount of time it takes the county to acquire such properties through the GPTA by an entire year — from three years to two years.

Applicable Property Types:

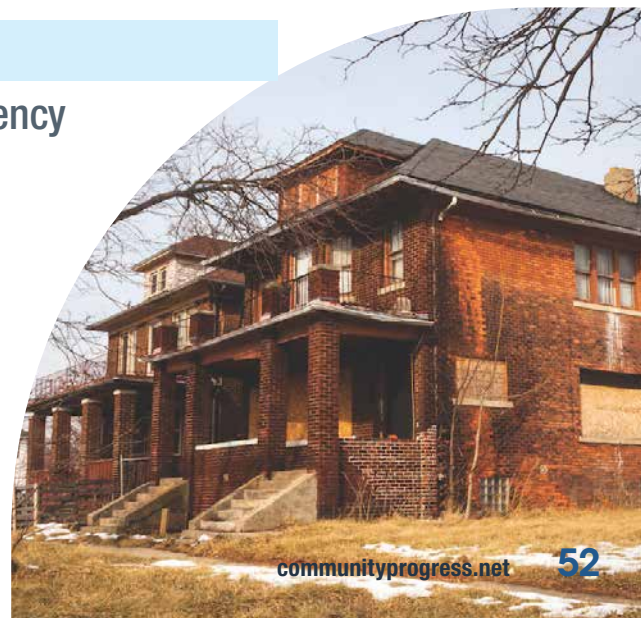
Vacant, tax delinquent properties (structures)

Penalty:

Loss of property and additional fees and interest

Timeframe:

~2 years (property tax delinquency to property transfer)



Accelerated Tax Forfeiture and Foreclosure Process Steps

NOTE: Only available to local governments that have adopted a declaration of accelerated forfeiture of abandoned property.

Tax Forfeiture

Local government passes a resolution by October 1 declaring it will pursue accelerated tax forfeiture of abandoned property.

Property Inspection

Local government inspects property by February 1 and determines property is abandoned.

Notice

At the time of inspection:

1. Post notice on the property
2. Mail notice of the determination to owner and parties with an interest in the property;
3. Notice must state that, if the taxes are delinquent on March 1 of the same year, the property will be subject to accelerated tax forfeiture.

Property Forfeiture

If the owner or other interested party does not file an affidavit claiming the property is not abandoned **AND** if property taxes are delinquent on March 1, property is immediately forfeited to county.

Hearing

After providing the owner an interested parties with a series of notices, a foreclosure hearing (also called a “show cause” hearing) is held prior to April 1 of the following year.

Foreclosure

If the owner or person with a legal interest in the property does not file an affidavit with the county treasurer claiming the property is not abandoned prior to the foreclosure hearing, the court will enter an order of foreclosure.

Title Transfer to County

By April 1, the foreclosure is finalized and title is transferred to county.

Title Transferor Public Auction

The county may transfer title to the local government, to the land bank, or offer the property for sale at public auction.

Additional Enforcement Tools



Accelerated Tax Forfeiture and Foreclosure⁸²

The GPTA allows Michigan local governments to pursue an accelerated tax foreclosure process for abandoned properties that are also tax delinquent. This process reduces the amount of time it takes the county to acquire such properties through the GPTA by an entire year — from three years to two years.

ELEMENTS OF THE TOOL

Authorized Local Governments

Any local government may decide to use accelerated tax forfeiture and foreclosure.

Property Standards

Property must be certified by the local government as “abandoned property,” which means the property is tax delinquent, contains a structure that is vacant or dilapidated, and is open to entrance or trespass.

Establishing the Authority to Enforce Locally

The local government must make a “declaration of accelerated forfeiture of abandoned property” by adopting a resolution at a public meeting, such as a city council meeting. Among other required language, the resolution adopted by the local government must state that abandoned, tax delinquent property will be “identified and inspected and may be certified as certified abandoned property under the certification of abandoned property for accelerated forfeiture act and subject to accelerated forfeiture and foreclosure under the general property tax act.” The resolution must be passed before October 1 (the first day of the state’s fiscal tax year) if the local government wishes to identify, certify, and pursue accelerated foreclosure of abandoned property in the subsequent fiscal year.

Notice Requirements

The local government must inspect and identify property as “abandoned” by February 1 following passage of the resolution. At the time of inspection, the local government must post on the property and mail to the property owner notice that if the taxes are still delinquent on March 1, the property will be certified as abandoned and subject to accelerated tax foreclosure.

Summary of Enforcement

The local government certifies property as abandoned if it follows the procedures to identify the property as abandoned, provides proper notice to the owner, and if the taxes are delinquent on March 1. Certified abandoned property is forfeited to the county treasurer on March 1, as long as the taxes, penalties, interest, and fees on the property have been unpaid for the previous 12 months. Property that is tax delinquent but is not certified abandoned, in contrast, is also forfeited to the county treasurer on March 1, but only after it has been tax delinquent for 24 months. The local government may foreclose on certified abandoned property forfeited to the county treasurer in the way in which it normally conducts its annual foreclosure process under the GPTA. If the property is not redeemed, the county treasurer may take possession of the property on April 1 following the entry of a judgment of foreclosure, or “22 days after the entry of a judgment foreclosing the property (in a contested foreclosure hearing) under section (MCLA 211.78k).”

Timeline

The accelerated tax forfeiture process allows the county to acquire title to abandoned, tax delinquent property two years from the date the property initially becomes delinquent.

Penalties

The amount of delinquent property taxes continues to accrue interest at a “noncompounded” rate of 1.5 percent per month until the property is redeemed.⁸³ Nonpayment of the full amount required to redeem prior to the entry of a judgment of foreclosure results in the loss of the property.

Post Judgment or Lien Enforcement

If the property is not redeemed by the owner (making full payment of the delinquent property taxes and interest), title is transferred to the county on April 1 following the entry of a judgment of foreclosure.

ADVANTAGES AND DISADVANTAGES OF THE TOOL

Advantages

Accelerated tax forfeiture is a fairly efficient tool that does not appear to impose procedural burdens on a local government that are difficult to address. Accelerated tax forfeiture offers a more expedient

⁸² The Certification of Abandoned Property for Accelerated Forfeiture Act, MCLA 211.961 to MCLA 211.966, pertains to the use of an accelerated tax forfeiture and foreclosure process for abandoned buildings. Unless otherwise indicated in a footnote, the information contained in this tool description can be found in this act.

⁸³ See MCLA 211.78a and MCLA 211.78g(3)(b).

mechanism to compel the transfer of vacant, abandoned, and tax delinquent property to a new owner than most other tools available in Michigan law. The process also results in clear, marketable title. The process of declaring and certifying property as abandoned is not overly cumbersome and does not require the local government to seek a separate court order. Also, because properties must be vacant for the tool to be used, it will not cause unintended displacement of an occupant.

Disadvantages

Because accelerated tax forfeiture is tied directly to the tax foreclosure process, the property must not only be certified abandoned but must also be tax delinquent. This limits the applicability of the tool to certain properties. Many times, a property owner will pay the property taxes to keep it out of foreclosure, but make no attempts to repair or maintain the property. Accelerated tax forfeiture would not apply in that situation.

The accelerated tax forfeiture process also takes approximately two years, whereas another method, such as nuisance abatement might resolve the problem much more quickly.

Local Application

Few Michigan communities leverage the accelerated tax forfeiture tool. Midland County is an example of a community that, in partnership with its local townships, has been using this tool to expedite the transfer of abandoned and deteriorated property to new, more responsible ownership. The City of Detroit also began using the tool in recent years to address abandoned, tax delinquent property.



For help matching code enforcement tools with different property types, see [page 60](#).



General Code Lien Enforcement

If a property owner fails to pay penalties, costs, and fees imposed by a local government or a court for a civil infraction (see pg. 14), blight violation (see pg. 18), abatement of high grass and weeds (see pg. 34), nuisance abatement (see pg. 38), or dangerous buildings abatement/enforcement (see pg. 44) within 30 days, the local government or court may seek to recover those fines or fees by enforcing a code lien. This general code lien enforcement process is outlined below. Alternatively, the charter or ordinances of the local government may allow the local government to file a court action against the owner to personally collect the amount due under the lien, which may include an attempt to garnish the owner's wages.

General Code Lien Enforcement Process Steps	
Property Lien	If the owner fails to pay penalties, costs, and fees imposed by an local government or a court for a municipal civil infraction, blight violation, nuisance abatement, abatement of high grass and weeds, or dangerous buildings abatement/enforcement within 30 days, the local government or court may seek to recover those fines or fees by filing a lien against the property.
Notice	The local government is generally required to record the order approving the penalty, cost, and fee with the county register of deeds and mail notice of the lien to the owner.
Hearing, Ruling, & Order	If the owner appeals, another hearing will take place within 30 days before the local government's legislative body or appeals board, if one has been established.
Lien Enforcement	The local government may seek payment of the lien by adding the amount to the property tax bill. If the taxes go unpaid, the full amount of the unpaid taxes and code enforcement lien(s) are subject to the tax forfeiture and foreclosure process.
Demolition	If property is demolished, local government may also file a court action to recover the costs of the demolition.

Learn more about
Michigan Code Enforcement
and Revitalization at
communityprogress.net



What's Missing From Michigan's Toolbox?



This guide outlines the various code enforcement tools available to Michigan communities under state law. It summarizes each of these tools and their uses, recognizing the significant nuances that exist at the local level. While a number of different tools exist for Michigan communities to address vacant, abandoned and deteriorated properties, we recognize that additional tools or strengthened tools, like super-priority code liens (see Figure 3, below), do not currently exist under Michigan law. It's possible that changes in state law could help strengthen the enforcement ability of all Michigan communities trying to address vacant and abandoned properties. While those policies exist in other states, an analysis of their potential impact in Michigan was beyond the scope of this guide.

FIGURE 3:

Prioritizing the Status of Code Liens on Vacant and Abandoned Properties



Prioritizing the status of code liens on vacant and abandoned properties provides local leaders another opportunity to transfer ownership of a property to more responsible hands when an owner is unwilling to comply.



Legislation passed in Alabama in 2017, applicable only to the City of Mobile, grants certain housing and building code liens superior priority over all other liens except for tax liens.

The legislation also authorizes Mobile to enforce those liens by filing a judicial *in rem* foreclosure of the lien on non-owner occupied properties. This tool allows Mobile to foreclose on all outstanding liens, plus unpaid taxes, if any, and seek the transfer of the property to a new, more responsible owner with title that is insurable and marketable. The fact that this tool is *in rem* is significant because the action itself is against the property, not the person or owner. In other words, enforcement is focused solely on ensuring either that the harm the property is imposing is mitigated, or the property is transferred to a new owner — not imposing personal fines.⁸⁴

⁸⁴ See Ala. Code 1975 Sec. 11-40-60 *et seq.* (Westlaw 2020).

TABLE 1:
AT A GLANCE: Code Enforcement Tools Your Community Can Use







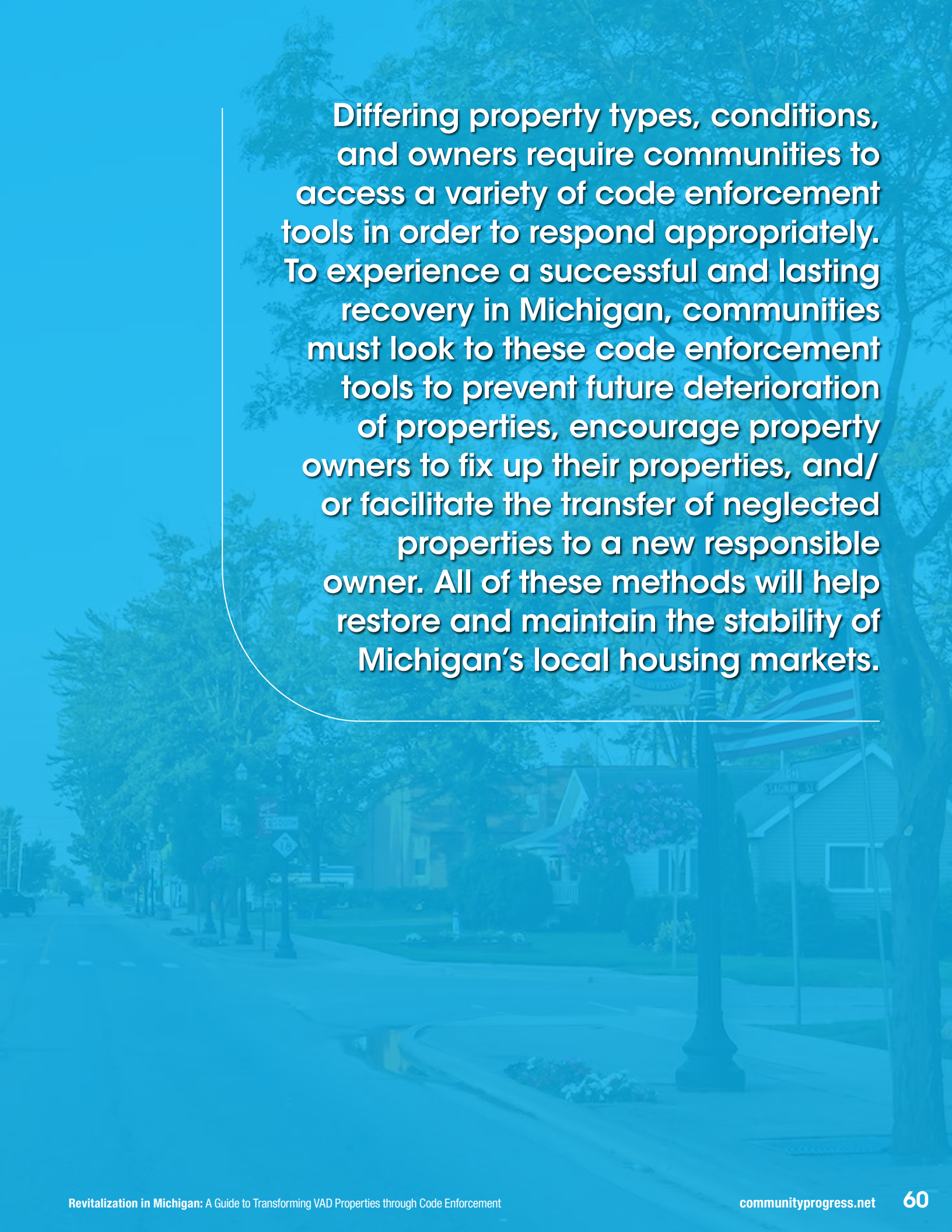
	Authorized Local Govts	Property Type Application	Establishing Authority	Notice Requirement	Timeline	Maximum Penalty to Owner	If Penalty/Fine is Unpaid	Special Notes
 Compelling Compliance: Traditional Enforcement Tools								
Civil Infraction	All	Any property that is in violation of state or local property standards	Adoption of local ordinance	Mail notice to owner and post on property	Varies	No specific cap on fine	Nonpayment of civil fine could result in lien. Lien enforcement could result in loss of property (if taxes are also unpaid) or action to personally collect the debt	1. May not be criminally enforced or enforced as blight violation
Blight Violation	Home rule charter cities with a population of (a) 7,500 or more, or (b) 3,300 or more if the city is located in Wayne County	Any property where a violation of an ordinance designated as blight violation exists	Adoption of local ordinance and creation of administrative hearings bureau	Personally serve or mail notice to owner	Varies, but likely shorter since administrative	\$10,000 Or jail time	Nonpayment of fines can be a lien. Lien enforcement could result in loss of property or action to personally collect the debt	1. Enforced administratively unlike civil infractions, criminal misdemeanors, nuisance abatement and receivership 2. For commercial and rental properties, increased authority to enforce blight violation lien against the property (in rem) by adding to tax bill
Criminal Enforcement	All	Any property that is in violation of state or local property standards	Adoption of local ordinance or violation of HLM or SCC	Personally serve to owner	Varies	Varies. Violation of HLM is \$1,000, up to 120 days jail, or both. Violation of SCC have no broadly applicable limits. Noncompliance with court order is \$5,000, up to 1 year jail, or both	Nonpayment of criminal fine can result in lien against the property. Lien enforcement could include an action to personally collect the debt	1. May not be enforced as blight violation or civil infraction
 Preventing Neglect: Proactive Regulation of Specific Property Types								
Rental Registration and Certification	Any local government authorized to enforce the HLM	Rental properties	Adoption of local ordinance	Depends on local ordinances and enforcement mechanisms	Varies. Depends on enforcement mechanism	Depends on enforcement mechanism	Nonpayment of fines assessed through rental regulation could result in a lien. Lien enforcement could result in loss of property or action to personally collect the debt	1. May be criminally enforced, or enforced as a blight violation or civil infraction depending on local authority and local ordinance adoption
Vacant Property Registration	All	Vacant properties	Adoption of local ordinance	Depends on local ordinances and enforcement mechanisms	Varies. Depends on enforcement mechanism	Depends on enforcement mechanism	Nonpayment of VPRO fees could result in lien. Lien enforcement could result in filing an action to personally collect the debt	1. May be criminally enforced, or enforced as a blight violation or civil infraction depending on local authority and local ordinance adoption
 Taking Action: Additional Enforcement Tools								
Abatement of High Weeds and Grass	Any local government	All property that violates state law related to "noxious weeds" and local property maintenance codes	Adoption of local ordinance	Mail notice to owner or post notice in newspaper	Varies. Local government's discretion	All costs of abatement and up to \$100 fine	Nonpayment of abatement costs could result in a lien. Lien enforcement could result in loss of property. The costs of fines are enforced by a municipal civil infraction or blight violation	
Nuisance Abatement	All	All property meeting definition of nuisance under state or local law	Michigan law and/or adoption of local ordinance	Personally serve or mail notice to owner	Varies. Depends on court calendar or hearing officer	Costs of abatement and up to \$5,000 fine	Nonpayment of costs and fines result in a lien. Lien enforcement could result in loss of property	
Dangerous Buildings Enforcement	Any local government authorized to enforce the HLM	All property that violates the HLM	Adoption of local ordinance	Personally serve or mail notice to owner (and any party with interest in property)	Varies. Court's discretion	All costs of abatement	Nonpayment of abatement costs and any fines could result in lien. Lien enforcement could result in loss of property	
Receivership	Any local government authorized to enforce the HLM	All property that violates the HLM	HLM	A receiver is appointed by the court as part of the LGU's existing court action to enforce the HLM. Thus, notice of the court action is sufficient	Varies. Court's discretion	Loss of property and payment of lien	Nonpayment of receiver's costs and any fines could result in lien. Lien enforcement could result in loss of property	
Accelerated Tax Forfeiture and Foreclosure	All	Certified "abandoned" and tax delinquent properties (structures) only	Pass resolution	Mail notice to owner (first class mail) and post notice on property	Approximately 2 years from date of property delinquency	Loss of property. Additional interest (.5%) and fees (\$175) may apply	Loss of property if nonpayment of delinquent property taxes	1. Once the property is certified as abandoned, it is subject to the same foreclosure process and timeline as other property that has been forfeited to the county for delinquent property taxes

TABLE 2:
AT A GLANCE: Matching Code Enforcement Tools with Property Types

This table is a snapshot of which tools *could* apply to common property types that are in violation of local code. It's intended to simplify the application of tools to property types. It does *not* account for all of the varying factors, like neighborhood housing markets, that would impact the precise tool application. For more detail on each code enforcement tool, refer to [Section 3](#) of this guide.

	Vacant Lot (Tax Current)	Vacant Residential Structure (Tax Current)	Vacant Commercial/ Industrial Structure (Tax Current)	Owner- occupied Structure (Tax Current)	Renter- occupied Structure (Tax Current)	Vacant Structure (Tax Delinquent)
 Compelling Compliance: Traditional Enforcement Tools						
Civil Infraction	●	●	●	●	●	●
Blight Violation	●	●	●	●	●	●
Criminal Enforcement	●	●	●	●	●	●
 Preventing Neglect: Proactive Regulation of Specific Property Types						
Rental Registration and Certification					●	
Vacant Property Registration	●	●	●			●
 Taking Action: Additional Enforcement Tools						
Abatement of High Weeds and Grass	●	●	●	●	●	●
Nuisance Abatement	●	●	●	●	●	●
Dangerous Buildings Enforcement		●	●			●
Receivership		●	●	●	●	●
Accelerated Tax Forfeiture and Forfeiture						●



Differing property types, conditions, and owners require communities to access a variety of code enforcement tools in order to respond appropriately. To experience a successful and lasting recovery in Michigan, communities must look to these code enforcement tools to prevent future deterioration of properties, encourage property owners to fix up their properties, and/or facilitate the transfer of neglected properties to a new responsible owner. All of these methods will help restore and maintain the stability of Michigan's local housing markets.

SECTION 4



Compliance Essentials:

7 STRATEGIES FOR AN EQUITABLE, EFFICIENT, AND EFFECTIVE CODE ENFORCEMENT PROGRAM

The most successful code enforcement programs also proactively encourage responsible property ownership by incorporating regulation, policy, cost recovery, and incentives into a comprehensive strategy. A successful code enforcement system offers incentives for responsible ownership along with disincentives or penalties for irresponsible behavior or property abandonment.

It is important to remember that code enforcement can only accomplish so much. The ability to gain compliance is more a function of the economics of the property and the community as of the effectiveness of the code enforcement system. No system can substitute for a healthy local economy and housing market.⁸⁵

While each code enforcement program differs based on a community's specific needs, the most effective programs:

- Develop a strong data collection and tracking system;
- Build adequate staffing capacity and resources;
- Encourage voluntary compliance through outreach, education and incentives;
- Recognize issues of physical and financial hardship and offer programming to support compliance;
- Break down silos with an interagency approach;
- Deploy strategic and market-informed code enforcement;
- Communicate effectively with the public.

What does this look like in practice? On the following pages is more information about what each of these strategies usually entails.

⁸⁵ Some of the content in this section was taken from Center for Community Progress' Building American Cities Toolkit, <https://www.communityprogress.net/strategic-code-enforcement-pages-204.php>

Develop a Strong Data Collection and Tracking System

Having regular access to accurate property data, and continuously tracking the status of interventions on properties is absolutely critical to any inspections and enforcement effort. It enables staff to work more effectively and efficiently in identifying property owners, regulating properties, and providing needed status updates to hold staff accountable and track overall progress.

Strong data collection and tracking includes having a comprehensive and regularly updated property database with parcel data tracked by a common parcel identifier. A common parcel identifier allows for multiple City and County departments to merge or integrate data in a single, standardized way. This is an important practice in many communities, as it helps to limit future data cleaning and other burdens associated with trying to obtain and work with multiple, disjointed datasets maintained in non-standardized formats. Any local government looking to establish an effective code enforcement program should make the development of such a database a top priority.

Build Adequate Staffing Capacity and Resources

Ordinances are only as good as a community's ability to enforce them. Whether staffing capacity is built internally or enhanced with third-party inspection services, appropriately staffing a code enforcement program is crucial to that program's ability to meet a community's needs. While there is no magic number for inspectors and other departmental staffing capacity, a local government must be realistic about what can be accomplished with available staff and resources, and be willing to invest in the necessary capacity to meet the scale of housing challenges. For example, cities can identify the number of inspectors and administrative support needed based on its workload projections. These projections should include not just conducting initial inspections but also for time educating property owners, re-inspections, and other related departmental responsibilities. Local governments must understand the level of resources needed to run an effective program and also set fines and fees to reflect the true cost

of its services. True costs go beyond the cost to inspect and include administration of the code enforcement program and process.

Limited resources that restrict the level of staff capacity may be addressed by setting geographic priorities or another strategic focus that allows the local government to dedicate its resources in the most effective way. A local government may also need to get creative in utilizing various expertise from other local government departments or explore outsourcing all or parts of its inspection process.

Encourage Voluntary Compliance Through Outreach, Education, and Incentives

While there are certainly property owners who intentionally avoid complying with local property standards, there are also many who may simply be unaware of the requirements. The latter is most likely the larger percentage of owners. This is particularly true for owners of one- to two-family homes who may have inherited the property from a family member, or who simply cannot sell their property so instead rent it out for additional income. Some may also be new or inexperienced property owners who are not aware or do not understand the local requirements. For those property owners, it is important to first prioritize increasing their awareness of the local government's property standards rather than simply seeking punitive measures penalizing them for their lack of awareness. Proactive outreach and education to increase owner awareness and best practices can go a long way in boosting compliance.

In addition to educating property owners, it is important for local governments to educate their court system about efforts they are taking to address vacant, abandoned, and deteriorated properties through code enforcement. Education efforts may include creating "bench books" and hosting trainings for judges to help them understand the importance of code enforcement and to become more familiar with the local government's ordinances and practices. This can help judges understand the interactions that have taken place with a property owner prior to actions being escalated to a court. Having a court system that can prioritize these concerns will help ensure more effective resolution, including enforcement when necessary.

Recognize Issues of Physical and Financial Hardship and Offer Programming to Support Compliance

It is often the case in communities that some property owners, while willing, do not have the physical or financial means to repair or maintain their properties according to the local government's property maintenance standards. These property owners who are willing to comply should not be punished, but rather have resource or financial assistance they can access to keep their property in compliance and prevent further deterioration that will end up being more costly into the future.

Some communities have provided grants or 0 percent home loan programs to help cover some of the cost to make property repairs. While direct financial support is often the most effective method of support, many municipalities do not have sufficient access to these resources. There are a variety of other ways a community can support compliance, such as working with local vendors to offer free or discounted home improvement supplies or providing a list of nonprofit partners that can provide volunteer assistance or materials.

Break Down Silos with an Interagency Approach

To be successful, a code enforcement program must work with and across other local government departments to ensure there is information sharing and cross-application of departmental resources. There are often many opportunities for program collaboration between departments, particularly between housing, community development, health, public works, and code enforcement. For example, a community development or housing department may be hosting a free paint program that could be offered as an incentive to property owners to clean up and improve their properties. A health department may be administering lead abatement resources that could be extended as an incentive to property owners to address lead concerns on their property. The general services department might host a free large debris pick-up day, or alter their trash pick up schedule to better accommodate property owners and reduce

the likelihood of illegal dumping. Taking an interagency approach allows local governments to find creative ways of encouraging voluntary compliance with property maintenance standards.

Deploy Strategic and Market-Informed Code Enforcement

It is critical to understand the strength of the real estate market in which a code enforcement program will operate. Particularly for larger communities consisting of diverse neighborhoods, this can vary significantly. Without a strong understanding of the local real estate market, a code enforcement effort could have unintended negative outcomes. For example, implementing intense enforcement efforts in a weak market with low property values, where many property owners will not realize the investment of their property improvements, owners are more likely to abandon their properties than continue to be heavily ticketed and fined on a property of limited value. Code enforcement efforts that ignore local market conditions could actually lead to more vacancy and deteriorated properties. It is important to understand the market nuances and apply a strategic application of code enforcement tools accordingly.⁸⁶

Communicate Effectively with the Public

For a local government to successfully implement a code enforcement program, effective communication is important to ensure necessary information reaches the public. Communication may take the form of public announcements, advertisements, written materials, websites, or direct outreach to property owners and occupants. Effective communication does not simply mean making information public. Posting a long, convoluted document on a municipal website is not effective communication. The information that is shared should be written and designed in a way that is clear, concise, and easy to understand. It should readily communicate the most important information. Consider using visual cues to draw attention to particularly important pieces of information, such as code requirements or compliance deadlines. Local governments should also consider translating this information into multiple languages to make sure all residents can understand it.

⁸⁶ For further discussion on applying a varied geographic approach based on market nuances, read Just, Smart: Civil Rights Protections and Market-Sensitive Vacant Property Strategies (September 2014), Center for Community Progress, <https://www.communityprogress.net/just-smart-civil-rights-protections-and-market-sensitive-vacant-property-strategies-pages-457.php>

Local governments can use code enforcement to reduce the prevalence of vacant, abandoned, and deteriorated properties effectively. Local governments in Michigan have a number of useful tools available to address a range of property concerns, though may be limited by budgets, staffing capacity, or local will to implement all of these tools.

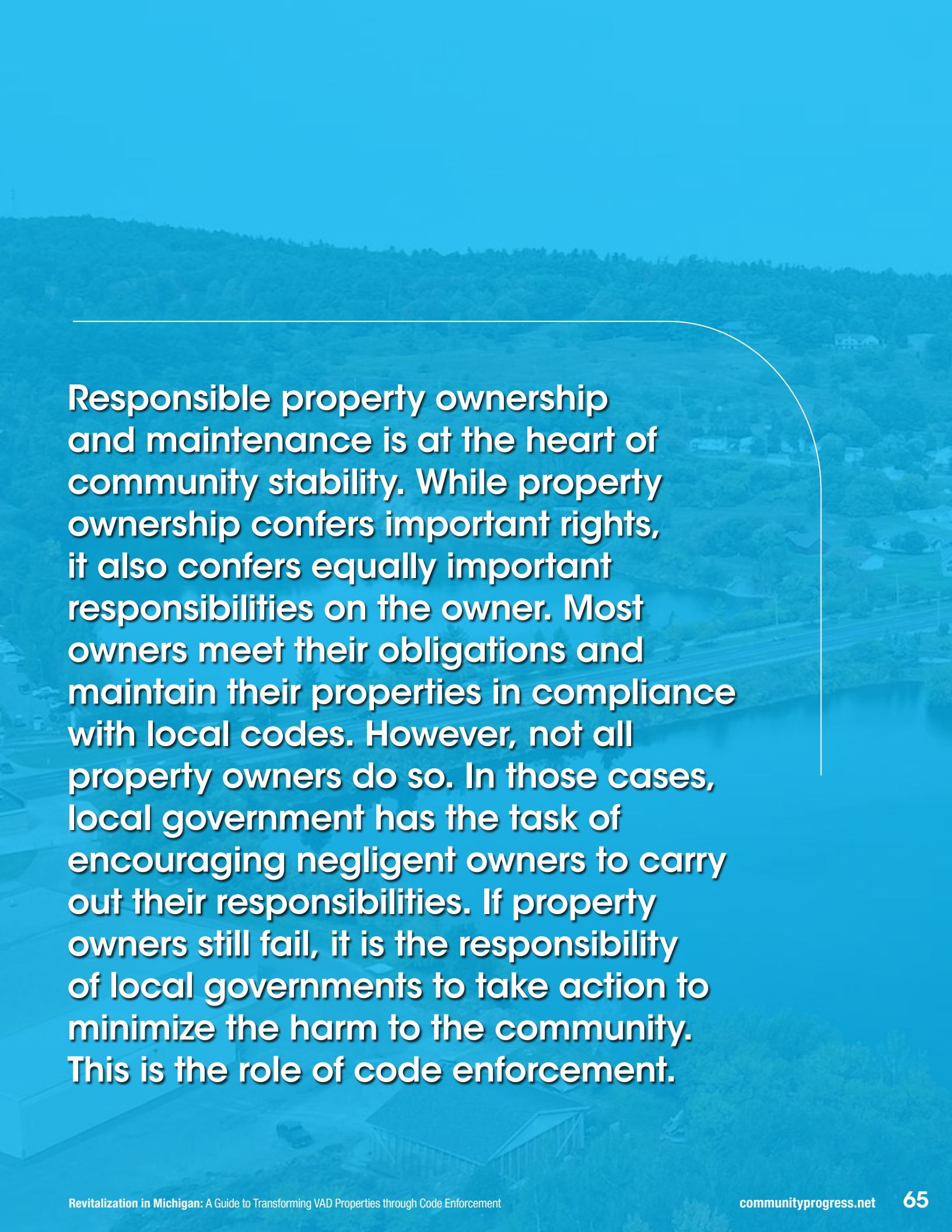
Section 1 of this guide highlighted the importance of code enforcement and how to ensure it is equitable, efficient, and effective. In Section 2 we examined how Michigan local governments have fairly strong local authority that allows for wide variation in local code enforcement policies and practices. This is an important opportunity local leaders can use in their work to reduce vacant, abandoned, and deteriorated properties. The Housing Law of Michigan, State Construction Code, and a variety of other state statutes all include opportunities that local leaders working on vacant properties should consider as part of their work.

Section 3 of the guide highlights what many of those opportunities look like, what some of the advantages and disadvantages are for using them, and examples of communities in Michigan that have used them. For example, traditional enforcement options including municipal civil infractions, criminal misdemeanors, and blight violations can motivate property owners in certain


circumstances to take action. Proactive regulations of specific property types — including rental registration and certification, and vacant property registration — can help communities track some of their most challenging properties and be used as preventative measures. And additional enforcement options like nuisance abatement, dangerous buildings ordinances, receivership, and accelerated tax forfeiture can give municipalities power to intervene more substantially.

Finally, enforcement is only one part of what local governments can use to help address vacant, abandoned, and deteriorated properties. Section 4 describes how the most robust efforts also prioritize proactive approaches including data collection, developing market-informed approaches, encouraging property owner compliance, identifying ways to mitigate unintended harm to vulnerable property owners, and communicating with the public effectively.

The equitable, efficient, and effective use of code enforcement is among one of the most promising approaches to vacant, abandoned, and deteriorated properties at work in the United States today. Michigan communities have a number of valuable tools at their disposal. We hope this guide can help more communities put them into practice and identify where additional tools may be needed to more effectively address all property concerns.



Responsible property ownership and maintenance is at the heart of community stability. While property ownership confers important rights, it also confers equally important responsibilities on the owner. Most owners meet their obligations and maintain their properties in compliance with local codes. However, not all property owners do so. In those cases, local government has the task of encouraging negligent owners to carry out their responsibilities. If property owners still fail, it is the responsibility of local governments to take action to minimize the harm to the community. This is the role of code enforcement.



**Learn more about
Michigan Code Enforcement
and Revitalization at
communityprogress.net**

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