

§ 277-1. Purpose and intent.

The purpose and intent of this chapter is to establish a process to address the deterioration, crime and decline in value of the Town of Ogden neighborhoods caused by vacant properties and properties with defaulted mortgages located within the Town, and to identify, regulate, limit and reduce the number of these properties located within the Town. It is the further intent of this chapter to establish a registration requirement as a mechanism to protect neighborhoods from the negative impact and conditions that occur as a result of vacancy, absentee ownership, lack of adequate maintenance and security and will provide a method to expeditiously identify multiple parties and their contact person(s) for each property responsible for this protection.

§ 277-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ACCESSIBLE PROPERTY/STRUCTURE — A property that is accessible through a comprised/breached gate, fence, wall, etc., or a structure that is unsecured and/or breached in such a way as to allow access to the interior space by unauthorized persons.

ANNUAL REGISTRATION — Twelve months from the date of the first action that required registration, as determined by the Town, or its designee, and every subsequent 12 months. The date of the initial registration may be different than the date of the first action that required registration.

APPLICABLE CODES — Includes, but is not limited to, the Town's Zoning Code, the Town's Property Maintenance Code, and the New York State Fire Prevention and Building Codes, as currently in effect and hereafter amended from time to time.

BLIGHTED PROPERTY — Properties that have broken or severely damaged windows, doors, walls, or roofs which create hazardous conditions and encourage trespassing; or properties whose maintenance is not in conformance with the maintenance of other neighboring properties causing a decrease in value of the neighboring properties; or properties cited for a public nuisance; or properties that endanger the public's health, safety, or welfare because the properties or improvements thereon are dilapidated, deteriorated, or violate minimum health and safety standards or lacks maintenance as required by the applicable codes.

DEFAULT — When a mortgagor has not complied with the terms of the mortgage on the property, or the promissory note, or other evidence of the debt, referred to in the mortgage.

ENFORCEMENT OFFICER — Includes the Building Inspector and all certified code enforcement officials.

EVIDENCE OF VACANCY — Any condition that on its own, or combined with other conditions present, would lead a reasonable person to believe that the property is vacant. Such conditions may include, but are not limited to: overgrown and/or dead vegetation; past due utility notices and/or disconnected utilities; accumulation of trash junk or debris; abandoned vehicles auto parts or materials; the absence of furnishings and/or personal items consistent with habitation or occupancy; the presence of an unsanitary, stagnant swimming pool; the accumulation of newspapers, circulars, flyers and/or mail, or statements by neighbors, passers-by, delivery agents or government agents; or the presence of boards over doors, windows or other openings in violation of applicable code.

FORECLOSURE — The legal process by which a mortgagee, or other lien holder, terminates a property owner's equitable right of redemption to obtain legal and equitable title to the real property pledged as security for a debt or the real property subject to the lien. This definition shall include, but is not limited to, public notice of default, a deed-in-lieu of foreclosure, sale to the mortgagee or lien holder, certificate of title and all other processes, activities and actions, by whatever name, associated with the described process. The process is not concluded until the property obtained by the mortgagee, lien holder, or their designee, by certificate of title, or any other means, is sold to a non-related bona fide purchaser in an arm's length transaction to satisfy the debt or lien.

LOCAL PROPERTY MANAGEMENT COMPANY — A property manager, property management company or similar entity responsible for the maintenance and security of registrable real property within 20 driving miles of the Town limits. Upon review of credentials the Town, or its designee, may allow a non-local property manager to be listed.

MORTGAGEE — The creditor, including but not limited to trustees; mortgage service companies; lenders in a mortgage agreement; any agent, servant, or employee of the creditor; any successor in interest; or any assignee of the creditor's rights, interests or obligations under the mortgage agreement.

OWNER — Any person, firm, corporation or other legal entity who, individually or jointly or severally with others, holds the legal or

beneficial title to any building, facilities, equipment or premises subject to the provisions of this chapter.

PROPERTY MANAGEMENT COMPANY — A local property manager, property maintenance company or similar entity responsible for the maintenance of registrable real property.

REAL PROPERTY — Any improved residential or commercial land, buildings, leasehold improvements and anything affixed to the land, or portion thereof identified by a property parcel identification number, located in the Town limits. Developed lots are considered improved land.

REGISTRABLE PROPERTY — Any real property located in the Town that is vacant as defined herein, and any real property located in the Town, whether vacant or occupied, that is encumbered by a mortgage in default, is subject to an ongoing foreclosure action by the mortgagee or trustee, is subject to an application for a tax deed or pending Tax Assessor's lien sale, or has been the subject of a foreclosure sale where the title was transferred to the beneficiary of a mortgage involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure/sale. The designation of a "default/foreclosure" property as "registrable" shall remain in place until such time as the property is sold to a non-related bona fide purchaser in an arm's length transaction or the foreclosure action has been dismissed and any default on the mortgage has been cured.

RENTAL PROPERTY — Property that contains a single-family rental dwelling unit or multifamily rental dwelling units for use by residential tenants, including but not limited to the following: mobile homes, mobile home spaces, townhomes and condominium unit(s). A rental dwelling unit includes property that is provided to an individual or entity for residential purposes upon payment of rent or any other consideration in lieu of rent, regardless of relationship between lessor and lessee.

VACANT — Any parcel of land in the Town that contains any building or structure that is not lawfully occupied or inhabited by human beings as evidenced by the conditions set forth in the definition of "evidence of vacancy" above which is without lawful tenant, or lawful occupant or without a certificate of occupancy.

§ 277-3. Applicability.

These sections shall be considered cumulative and not superseding or subject to any other law or provision for same, but rather be an additional remedy available to the Town above and beyond any other state, county, or Town provisions for same.

§ 277-4. Establishment of registry.

Pursuant to the provisions of this chapter, the Town, or its designee, shall establish a registry cataloging each registrable property within the Town containing the information required by this chapter.

§ 277-5. Registration of vacant and/or defaulted mortgage real property.

- A. Any owner of any vacant residential structure located within the Town shall, within 45 days of the structure becoming vacant, register said residential structure with the office of the Building Inspector, or its designee, on forms or other manner as directed. A separate registration is required for each vacant residential structure.
- B. Any mortgagee who holds a mortgage on real property located within the Town shall perform an inspection of the property to determine vacancy or occupancy, upon default by the mortgagor. The mortgagee shall, within 10 days of the inspection, register the property with the office of the Building Inspector, or its designee, on forms or other manner as directed, and indicate whether the property is vacant or occupied. A separate registration is required for each property, whether it is found to be vacant or occupied.
- C. Registration pursuant to § 227-5A shall contain the name, direct mailing address, telephone number, and any e-mail address for the owner of the vacant residential structure. Registration pursuant to § 227-5B shall contain the name, direct mailing address, a direct contact name, telephone number, and e-mail address for the mortgagee/trustee, and the servicer, and the name and twenty-four-hour contact phone number of the local property management company responsible for the security and maintenance of the property who has the authority to make decisions concerning the abatement of nuisance conditions at the property, as well as any expenditure in connection therewith.
- D. Owners or mortgagees who have existing registrable property on the effective date of this chapter have 30 calendar days from the effective date to register the property with the office of the Building Inspector, or its designee, on forms or other manner as directed. A separate registration is required for each registrable property.
- E. If the mortgage on a registrable property is sold or transferred, the new mortgagee is subject to all the terms of this chapter and, within five days of the transfer, shall register the property and pay a registration fee in accordance with this chapter. Any previous unpaid annual registration fees are the responsibility of the new

- mortgagee or trustee and are due and payable with their initial registration.
- F. If the mortgagee owner of a foreclosed real property sells or transfers the property to a non-arm's length related person or entity, the transferee is subject to all the terms of this chapter and, within five days of the transfer, shall register the property and pay a registration fee in accordance with this chapter. Any previous unpaid annual registration fees are the responsibility of the new registrable property owner and are due and payable with their initial registration.
 - G. As long as the property is registrable, it shall be inspected by the owner, mortgagee, or designee, monthly. If an inspection shows a change in the property's occupancy status, the mortgagee shall, within 10 days of that inspection, update the occupancy status of the property registration.
 - H. A nonrefundable annual registration fee established by resolution by the Town Board shall accompany each registration pursuant to this chapter.
 - I. All registration fees must be paid directly from the mortgagee, trustee, servicer, or owner. Third-party registration fees are not allowed without the consent of the Town and/or its authorized designee.
 - J. Properties subject to this chapter shall remain under the annual registration requirement, and the inspection, security and maintenance standards of this chapter as long as they are registrable.
 - K. Until the mortgage or lien on the property in question is satisfied, or legally discharged, the desire to no longer pursue foreclosure, the filing of a dismissal of lis pendens and/or summary of final judgment and/or certificate of title, voluntary or otherwise, does not exempt any mortgagee holding the defaulted mortgage from all the requirements of this chapter as long as the borrower is in default.
 - L. Any person or legal entity that has registered a property under this chapter must report any change of information contained in the registration within 10 days of the change.
 - M. Failure of an owner or mortgagee to properly register or to modify the registration form from time to time to reflect a change of circumstances as required by this chapter is a violation of this chapter and shall be subject to enforcement and any resulting monetary penalties.
 - N. Pursuant to any administrative or judicial finding and determination that any property is in violation of this chapter, the Town may take the necessary action to ensure compliance

with and place a lien on the property for the cost of the work performed to benefit the property and bring it into compliance.

§ 277-6. Maintenance requirements.

Properties subject to this chapter shall, at all times, comply with all provisions of the Town's Property Maintenance Code¹ and the following:

- A. Properties subject to this chapter shall be kept free of weeds, overgrown brush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspaper circulars, flyers, notices, except those required by federal, state or local law, discarded personal items, including, but not limited to furniture, clothing, large and small appliances, printed material or any other items that give the appearance that the property is abandoned.
- B. The property shall be maintained free of graffiti or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior structure.
- C. Front, side, and rear yards, including landscaping, shall be maintained in accordance with the applicable code(s) at the time registration was required.
- D. Yard maintenance shall include, but not be limited to, grass, ground covers, bushes, shrubs, hedges or similar plantings, decorative rock or bark or artificial turf/sod designed specifically for residential installation. Acceptable maintenance of yards and/or landscape shall not include weeds, gravel, broken concrete, asphalt or similar material.
- E. Maintenance shall include, but not be limited to, watering, irrigation, cutting and mowing of required ground cover or landscape and removal of all trimmings.
- F. Pools and spas shall be maintained so the water remains free and clear of pollutants and debris and shall comply with the regulations set forth in the applicable code(s).
- G. Failure of the mortgagee and/or owner to properly maintain the property may result in a violation of the applicable code(s) and issuance of a citation or notice of violation in accordance with the applicable code of the Town. Pursuant to a finding and determination by the Town's Code Enforcement Board, Special Magistrate or Hearing Officer, or a court of competent jurisdiction, the Town may take the necessary action to ensure compliance with this chapter.
- H. In addition to the above, the property is required to be maintained in accordance with the applicable code(s) of the Town.

1. Editor's Note: See Ch. 207, Property Maintenance.

- I. Properties subject to this chapter shall be maintained in a secure manner so as not to be accessible to unauthorized persons. A "secure manner" shall include, but not be limited to, the closure and locking of windows, doors, gates and other openings of such size that may allow a child to access the interior of the property or structure. Broken windows, doors, gates and other openings of such size that may allow a child to access the interior of the property or structure must be repaired. Broken windows shall be secured by reglazing of the window.
- J. If a property is registrable, and the property has become vacant or blighted, a local property manager shall be designated by the mortgagee or owner to perform the work necessary to bring the property into compliance with the applicable code(s), and the property manager must perform regular inspections to verify compliance with the requirements of this chapter and any other applicable laws.

§ 277-7. Maintenance secured upon commencement of foreclosure action.

Any mortgagee who commences a foreclosure action against a residential property located in the Town shall, in addition to all other requirements of this chapter, provide cash, a cash bond, or a letter of credit to the Town acceptable to the Building Inspector or his/her designee, in the sum of \$10,000, to secure the continued maintenance of the property throughout the foreclosure proceeding and reimburse the Town for any expenses incurred in inspecting, securing, repairing and/or making said property safe by any legal means, including but not limited to demolition. The cash, cash bond, or letter of credit must be provided to the Town within 45 days of a foreclosure action being commenced. The \$10,000 cash, cash bond, or letter of credit provided to the Town shall remain valid for a period of one year from the date of said cash, cash bond, or letter of credit being provided. A person, business, organization, bank or lender who has commenced a foreclosure action shall, thereafter, annually provide the Town with cash, a cash bond, or a revised letter of credit in an amount that will cause the total sum being held by the Town to equal \$10,000. Such renewal shall be submitted prior the expiration of the one-year period and shall continue annually until the foreclosure action is no longer pending and the structure that is the subject of the foreclosure action is being lawfully occupied for residential purposes. At such time, all sums being held by the Town under this chapter will be released to the mortgagee that provided the cash, cash bond, or letter of credit.

§ 277-8. Administration and enforcement; penalties for offenses.

- A. This chapter shall be administered and enforced by the Building Inspector as set forth in Chapter 207 of the Code of the Town of Ogden, or his/her designee.
- B. The requirements of this chapter may be enforced as follows:
- (1) By taking any and all actions prescribed for correction of violations as set forth in the Town's Property Maintenance Code, Chapter 207.
 - (2) The Building Inspector or his/her designee shall have the following alternative remedies for enforcement of this chapter:
 - (a) Appearance tickets. The Building Inspector or his/her designee shall have the authority, pursuant to New York State Criminal Procedure Law, to issue an appearance ticket subscribed by him/her, directing a designated person to appear in a designated local criminal court at a designated future time in connection with the alleged commission of a designated violation of this chapter or any order made thereunder.
 - (b) Penalties for offenses. Any person who fails to comply with any provision of this chapter or fails to comply with any notice, order or directive of the Building Inspector or his/her representative after expiration of the time for compliance established in accordance with this chapter shall, upon conviction, be punished by a fine of not more than \$1,000 or by imprisonment not to exceed 15 days, or both, for such violation. In the event of any failure to so comply, each and every day that such violation continues shall constitute a separate offense, and the penalties prescribed above shall be applicable to each such separate offense.
 - (c) Penalties for offenses under § 277-7, Maintenance secured upon commencement of foreclosure action. Any person, business, organization, bank or lender who fails to comply with § 277-7 of this chapter shall, upon conviction, be punished by a fine of not more than \$5,000 or by imprisonment not to exceed 15 days, or both, for such violation. In the event of any failure to so comply, each and every day that such violation continues shall constitute a separate offense, and the penalties prescribed above shall be applicable to each such separate offense.

§ 277-9. Immunity of enforcement officer.

Any enforcement officer or any person authorized by the Town to enforce the sections here within shall be immune from prosecution, civil or criminal, for reasonable, good-faith entry upon real property while in the discharge of duties imposed by this chapter.