

NOTICE OF PUBLIC HEARING
TOWN OF SMITHTOWN

NOTICE IS HEREBY GIVEN, that the Town Board of the Town of Smithtown, Suffolk County, State of New York, will meet at the Town of Smithtown Town Hall, Patrick R, Vecchio Building, Victor T. Liss Board Room, 99 West Main Street, Smithtown, New York on the 16th day of February, 2023 at 2:00 p.m. time then in effect to consider proposed Local Law #1-2023, modifying Chapter 221 entitled, "Property Maintenance" as it relates to foreclosures:

**Proposed Local Law # 1-2023
Chapter 221. Property Maintenance**

Additions indicated by underlines.
Deletions indicated by strikeouts.

Article III Registration of ~~Vacant and Abandoned~~, Foreclosing or Foreclosed Property

§221-7 Legislative Intent; definitions.

- A. It is the purpose and intent of the Town Board to establish a process to address the deterioration, crime, and decline in value of Town neighborhoods caused by vacant and abandoned property with foreclosing or foreclosed mortgages located within the Town, and to identify, regulate, limit and reduce the number of these properties located within the Town. Vacant structures or structures owned by individuals who are economically strained and unable to meet their mortgage obligations are often not properly or diligently maintained, which contributes to blight, ~~declined~~ declining property values, and have a negative impact on social perception of the residential areas where they are located. It is the Town Board's further intent to establish a registration program as a mechanism to help protect neighborhoods from becoming blighted through the lack of adequate maintenance of properties that are ~~vacant and abandoned~~, in foreclosure, or foreclosed; ~~and to provide a mechanism to avert foreclosure actions through timely intervention, education, or counseling of property owners.~~
- B. For the purposes of this chapter, the following terms shall be given the meanings as set forth herein:

Evidence of Vacaney shall include, but not be limited to, the following conditions: (i) overgrown or dead vegetation; (ii) accumulation of newspapers, circulars, flyers, or mail; (iii) ~~past due utility notices, disconnected utilities, or utilities not in use;~~ (iv) accumulation of trash, refuse, or other debris; (v) absence of window coverings such as curtains, blinds, or shutters; (vi) one or more boarded, missing, or broken windows; (vii) ~~the property is open to casual entry or trespass; or (viii) the property has a building or structure that is, or appears, structurally unsound or has any other condition that presents a potential hazard or danger to the safety of persons. Residential real property will not be deemed vacant and abandoned if, on the property: (i) there is an unoccupied building that is undergoing construction, renovation, or rehabilitation that is proceeding diligently to~~

~~completion; (ii) there is a building occupied on a seasonal basis, but otherwise secure; (iii) there is a building that is secure, but is the subject of a probate action, action to quiet title, or other ownership dispute of which the servicer has actual notice; (iv) there is a building damaged by a natural disaster and one or more owners intend to repair and reoccupy the property; or (v) there is a building occupied by the mortgagor, a relative of the mortgagor, or a tenant lawfully in possession.~~

Registrable Property shall mean:

- (a) Any Real Property located in the Town that is ~~vacant and abandoned and~~ encumbered by a mortgage subject to an ongoing Foreclosure Action by the Mortgagee or Trustee, has been the subject of a Foreclosure Action by a Mortgagee or Trustee ~~and a~~ matter in which a Judgment of Foreclosure has been entered, 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 “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.

~~**Semi-Annual Registration** shall mean six (6) months from the date of the first action that requires registration, as determined by the Town, or its designee, and every subsequent six (6) months. The date of the initial registration may be different than the date of the first action that required registration.~~

~~**Vacant and Abandoned Residential Real Property** shall be defined as residential real property that has been inspected on at least three consecutive occasions, with each inspection conducted twenty five to thirty five days apart, and at different times of the day, and at each inspection (i) no occupant was present and there was no evidence of occupancy on the property to indicate that any persons are residing there; and (ii) the residential real property was not being maintained in a manner consistent with the standards set forth in this Chapter 221. Residential real property will also be deemed vacant and abandoned if: (i) A court or appropriate state or local governmental entity has formally determined, following due notice to the borrower at the property address and any other known addresses, that such residential property is vacant and abandoned; or (ii) each borrower and owner has separately issued a sworn statement, expressing his or her intent to vacate and abandon the property, and an inspection of the property shows no evidence of occupancy to indicate that any persons are residing there.~~

§221-8. Applicability and Jurisdiction.

This Chapter applies to ~~Vacant, Abandoned, Foreclosing, or Foreclosed~~ property properties within the Town.

§221-10 Inspection and Registration of Real Property.

- A. ~~Any Mortgagee who holds a mortgage on Real Property located within the Town shall perform an exterior inspection of the property within ninety days of a borrower's delinquency to determine occupancy. Thereafter, throughout the delinquency of the loan, the Mortgagee shall conduct an exterior inspection of the property every twenty-five to thirty-five days, at different times of the day.~~

- B. ~~If the Mortgagee determines that the property has become vacant and abandoned, the Mortgagee shall, within seven (7) days, post a notice containing the Mortgagee or its designee's contact information, on an easily accessible part of the property that would be reasonably visible to the borrower, property owner, or occupant, and monitor the property for any change in occupancy or contact with the borrower, property owner, or occupant, and monitor to ensure that the notice remains posted so long as the duty to maintain applies.~~

- C. ~~If the posted notice is not responded to or persists for seven (7) consecutive calendar days without contact with the borrower, owner, or occupant, indicating that the property is not vacant or abandoned, the Mortgagee shall register the Real Property with the Town Registry, and designate in writing a Property Manager to inspect, maintain, and secure the Real Property. A separate registration is required for each property that becomes Vacant and Abandoned.~~

- D. ~~When a property subject to this Chapter becomes Vacant and Abandoned, it shall be posted with the name and twenty-four (24) hour contact telephone number of the Property Manager. The Property Manager shall be available to be contacted by the Town Monday through Friday between 9:00 a.m. and 5:00 p.m., legal holidays excepted. The sign shall be placed in a window facing the street and shall be visible from the street. The posting shall be no less than eighteen (18) inches by twenty-four (24) inches and shall be of a font that is legible from a distance of forty-five (45) feet. The posting shall contain the following language with supporting information:~~

~~THIS PROPERTY IS MANAGED BY _____~~
~~AND IS INSPECTED ON A REGULAR BASIS. THE PROPERTY MANAGER CAN~~
~~BE CONTACTED BY TELEPHONE AT _____~~
~~OR BY EMAIL AT _____~~

- E. ~~The posting required in subsection (D) above shall be placed on the interior of a window facing the street to the front of the property so that it is visible from the street, or secured to the exterior of the building/structure facing the street to the front of the property so that it is visible from the street or, if no such area exists, on a stake of sufficient size to support the posting in a location that is at all times visible from the street to the front of the property but not readily accessible to vandals. Exterior posting shall be constructed of and printed with weather-resistant materials.~~

- G.

- H ~~B.~~ At the time of initial registration, each registrant shall pay a non-refundable ~~Semi~~ Annual Registration fee of seventy-five ~~five hundred~~ dollars (\$75.00 ~~500.00~~) for each property. Subsequent non-refundable ~~Semi~~-Annual renewal registrations of properties and fees in the amount of seventy-five ~~five hundred~~ dollars (\$75.00 ~~500.00~~) are due within ten (10) days of the expiration of the previous registration. Said fees shall be used to offset the costs of: (1) registration and registration enforcement, (2) code enforcement and mitigation related to Defaulted properties, (3) post-closing counseling and Foreclosure intervention limited to owner-occupied persons in Default, which may not include cash and mortgage modification assistance, and (4) for any related purposes as may be adopted in the policy set forth in this Chapter. Said fees shall be deposited to a special account in the Town's Department dedicated to the cost of implementation and enforcement of this Ordinance, and fulfilling the purpose and intent of this Chapter. None of the funds provided for in this section shall be utilized for the legal defense of Foreclosure Actions.
- I ~~C.~~ If the Registrable ~~Vacant and Abandoned~~ Property is not registered, or the registration fee is not paid within thirty (30) days of when the registration or renewal is required pursuant to this section, a late fee equivalent to ten percent (10%) of the ~~Semi~~-Annual Registration fee shall be charged for every thirty (30) day period, or portion thereof, the property is not registered and shall be due and payable with the registration.
- M ~~D.~~ Properties subject to this section shall remain subject to the ~~Semi~~-Annual Registration requirement, and the inspection, security, and maintenance standards of this section as long as the property remains a Registrable Property.

Re-letter N and O as E and F.

§221-12 Maintenance Requirements.

- A. Properties subject to this chapter shall be kept free of weeds, overgrown brush, dead vegetation, trash, junk, debris, building materials, and any accumulation of newspaper circulars, flyers, or 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.
- D. Registrable property 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. Acceptable maintenance of yards and/or landscape shall not include weeds, gravel, broken concrete, asphalt, or similar material.

§221-13 Security requirements.

- C. If a property is Registrable, and the property has become blighted, a Property Manager shall be designated by the Mortgagee 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. The name and contact telephone number of the Property Manager shall be posted in a window facing the street and shall be visible from the street. The posting shall be no less than eighteen (18) inches by twenty-four (24) inches and shall be a font that is legible from a distance of forty-five (45) feet.

§221-16 Additional authority.

- A. If the Enforcement Officer has reason to believe that a property subject to the provisions of this Chapter is posing a serious threat to the public health, safety, and welfare, the ~~code~~ Code Enforcement Officer may temporarily secure the property at the expense of the Mortgagee, and may bring the violations before the Town Board as soon as possible to address the conditions of the property. Nothing herein shall limit the Town from abating any nuisance or unsafe condition by any other legal means available to it.

Dated: January 19, 2023
BY ORDER OF THE TOWN BOARD
OF THE TOWN OF SMITHTOWN
SUSAN DEHAVEN
DEPUTY TOWN CLERK