

ORDINANCE NO. 4 of 2018

AN ORDINANCE OF THE BOROUGH OF PLYMOUTH ESTABLISHING A FORECLOSURE PROPERTY REGISTRY AND MAINTENANCE REQUIREMENTS OF REAL PROPERTIES BY MORTGAGEES, PROVIDING FOR ENFORCEMENT AND PENALTIES AS WELL AS REGISTRATION FOR THE REDUCTION OF BLIGHT WITHIN THE BOROUGH OF PLYMOUTH

WHEREAS, the Borough is experiencing serious negative implications as a result of mortgage foreclosures resulting in vacancies and lack of maintenance pertaining to those properties;

WHEREAS, the Borough is challenged to identify and locate owners or foreclosing parties to maintain the properties during the course of foreclosure proceedings;

WHEREAS, the Borough finds that the presence of foreclosure properties can lead to a decline in property value, create attractive nuisances and lead to a decline in neighborhood and community aesthetics;

WHEREAS, the Borough has a vested interest and duty to protect neighborhoods against decay, including the consequences of neglected foreclosed properties and concludes it is in the best interest of the residents of the borough to establish registration and certification requirements on properties subject to mortgage foreclosure within the Borough;

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Plymouth Borough Council, for the reasons set forth above and incorporated herein, that the "Foreclosure Property Registry and Maintenance Ordinance is hereby established as hereinafter set forth:

§1.101 Purpose and intent.

It is the purpose and intent of the Borough to establish a process to address the deterioration and blight of Borough neighborhoods caused by the increasing number of properties that are subject to foreclosure within the Borough and to establish a registry as a mechanism to protect the neighborhoods of the Borough from becoming blighted due to lack of adequate maintenance of foreclosure properties.

§1.102 DEFINITIONS. – The following words, terms, and phrases when used herein, shall have the meanings ascribed to them in this section, except when the context clearly indicates a different meaning:

ABANDONED REAL PROPERTY

Any real property located within the Borough, whether vacant or occupied, that is in default on a mortgage, has had a lis pendens filed against it by the lender holding a mortgage on the property, is subject to ongoing foreclosure action by the lender, is subject to an application for a

tax deed or pending tax lien sale or has been transferred to a lender under a deed in lieu of foreclosure. The designation of a property as "abandoned" shall remain in place until such time as the property is sold or transferred to a new owner, the foreclosure action has been dismissed, and any default on the mortgage has been cured.

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.

BLIGHTED PROPERTY.

Shall include: A. Properties that have broken or severely damaged windows, doors, walls or roofs which create hazardous conditions and encourage trespassing; B. Properties whose maintenance is not in conformity with other neighboring properties causing a decrease in the value of the neighboring properties; C. Properties cited for a public nuisance pursuant to any Borough ordinance; D. 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 lack maintenance as required by any Borough ordinance.

BOROUGH ORDINANCE

All ordinances of the Borough that are adopted and applicable to the intent and meaning of this ordinance, whether standing alone or in the future become codified by the Borough into a codified code of Plymouth Borough.

ENFORCEMENT OFFICER

Any lawful enforcement officer, building official, zoning inspector, code enforcement officer, fire inspector or chief, or other person authorized by any borough ordinance or by a resolution of the Borough Council to enforce this ordinance.

FORECLOSURE ACTION

A legal action of mortgage foreclosure filed by a lender, including an assignee of a lender, in a court of competent jurisdiction.

FORECLOSURE PROPERTY

Any real property located in the Borough, whether vacant or occupied, that is subject to a mortgage foreclosure action filed by a lender in a court of competent jurisdiction or where the title to the property has been transferred to a lender under a deed in lieu of foreclosure or other such conveyance of title to a lender. The designation as a "Foreclosure Property" shall remain in place until such time as the property is sold or transferred to a new owner, other than a lender, or when the foreclosure action has been withdrawn or concluded in favor of the mortgagor as evidenced by court records.

LENDER

Any person, bank, trust company, credit union, trust, or any other legal entity or other party that holds a mortgage or security interest, including an assignment of the same, against real property located within the Borough.

MORTGAGE FORECLOSURE ACTION

A legal action of mortgage foreclosure filed by a lender in a court of competent jurisdiction.

OWNER

Any person, legal entity or other party having an ownership interest, whether legal or equitable, in real property. This term shall apply to any person, legal entity or agent responsible for the construction, maintenance or operation of the property involved.

PROPERTY MANAGEMENT COMPANY

A local property manager, property maintenance company or similar entity responsible for the maintenance of a foreclosure property.

VACANT

Any building or structure that is not legally occupied.

§103. Applicability

These sections shall be considered cumulative and nor superseding or subject to any other law or provision of the same, but rather be an additional remedy available to the Borough above and beyond any other state, county or borough ordinance applicable to any violation or condition that is covered under this ordinance.

§104. Establishment of a registry.

The Borough or its designee shall establish a registry cataloging each foreclosure property within the Borough, containing the information required by this ordinance.

§105. Registration of Foreclosure property.

- A. Any lender who holds a mortgage or other security interest on real property located within the Borough shall perform an inspection of the property to determine vacancy or occupancy, upon the filing of a mortgage foreclosure action against the property/owner. The lender shall within ten (10) days of the inspection register the property with the office of code enforcement or the Borough, or its designee, on the required forms and indicate whether the property is vacant or occupied. A separate registration is required for each foreclosure property, whether it is found to be vacant or occupied.
- B. If the property is occupied, it shall be inspected monthly by the lender or its designee to verify continued occupancy. If the property becomes vacant or shows evidence of vacancy, the lender shall, within ten (10) days of that inspection, update the property registration to vacancy status on forms provided by the Borough.
- C. Registration pursuant to this section shall contain the name of the lender and mortgage servicer, the physical mailing address of the lender and mortgage servicer (not P.O. Box), a direct contact name and telephone number for both parties, a facsimile number and email address for both parties, the tax number, and the name and twenty-four (24)

hour contact phone number of the property management company responsible for the security and maintenance of the property.

- D. A nonrefundable registration fee in the amount of \$300.00 per foreclosure property shall accompany the registration form and said amount shall be paid by the lender every six months thereafter until the property is no longer subject to registration as set forth in §105 G below.
- E. All registration fees must be paid directly by the lender or its designated mortgage servicer. Third-party registration fees are prohibited without the prior written consent of the Borough or its authorized designee.
- F. This section shall apply to all properties where title to the property has been transferred to a lender under a deed in lieu of foreclosure or other such conveyance of title to a lender.
- G. Properties subject to this section shall remain under registration and fee requirement and the inspection, security, and maintenance standards of this ordinance until such time as the property is sold or transferred to a new owner, other than the lender, or when the foreclosure action has been withdrawn or concluded in favor of the mortgagor as evidenced by court records.
- H. Any lender that has registered a property under this section must report any change of information contained on the registration form within ten (10) days of its occurrence.
- I. Failure of the lender to properly register or to update the registration form to reflect a change of circumstances as required under this section shall be considered as a violation of this section and be subject to enforcement and penalties as set forth under this ordinance.
- J. Pursuant to any administrative or judicial finding and determination that any property is in violation of this section, the Borough may take the necessary action to ensure compliance with and place a lien on the property for the cost of work performed to benefit the property and/or to bring it in compliance with this ordinance.

§106. Maintenance requirements.

- A. Properties subject to this ordinance shall be kept free of weeds, overgrown brush, dead vegetation, trash, junk debris, building materials, any accumulation of newspapers, circulars, flyers, notices, except those required by federal, state, or local laws, 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 all borough ordinances.
- 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 that water remains free and clear of pollutants and debris and shall comply with regulations under other applicable Borough ordinances.
- G. Failure of the lender to properly maintain the property may result in a violation of other Borough ordinances and the issuance of a citation or notice of violation. In accordance with the findings of the enforcement officer or any person designated under any borough ordinance or court of competent jurisdiction, the Borough may take the necessary action to ensure compliance with this ordinance.
- H. In addition to the above, the property must be maintained in compliance with all other applicable Borough ordinances.

§107. Security Requirements

- A. Properties subject to this ordinance shall be maintained in a secure manner so as not to be accessible to unauthorized persons. B. 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. C. If a foreclosure property has become vacant, a property manager shall be designated by the lender to perform the work necessary to bring the property into compliance with the Borough Code or any property maintenance codes that have been adopted by the Borough, and the property manager must perform regular inspections to verify compliance with the requirements of this ordinance and any other applicable laws or ordinances.

§108. Public Nuisance.

All blighted real property is hereby declared to be a public nuisance, the abatement of which pursuant to the police power of the Borough is hereby declared to be necessary for the health, welfare, and safety of the residents of the Borough. Nothing herein shall be deemed to alter or otherwise supersede the terms “public nuisance” or “nuisance” as used elsewhere in this ordinance.

§109. Inspections for violations.

Adherence to this ordinance does not relieve any person, legal entity or agent from any other obligations set forth in the Borough Code, any other Borough ordinances or any other applicable, federal, state or county law. Which may apply to the property. Upon transfer of title of a foreclosure property to a new owner, other than a lender, the owner shall be responsible for all violations of this ordinance or any other applicable borough ordinance, and the owner shall be responsible for meeting with the Borough Code Enforcement Officer within twenty (20) days of the date of transfer for a final inspection report and the

owner shall abate all violations cited in the inspection report within forty-five (45) days of the date of the report.

§110 Additional Authority.

- A. If the enforcement officer or any person or entity designated by the Borough to enforce this ordinance has reason to believe that a property subject to this ordinance is posing a serious threat to the public health, safety or welfare, the enforcement officer may temporally secure the property at the expense of the lender or new owner.
- B. The enforcement officer or Borough designee shall have the authority to require the lender or new owner of record of any property covered by this ordinance to implement additional maintenance and/or security measures. Including but not limited to, securing any and all doors, windows or other openings, employment of an on-site security guard or other measures as may be reasonably required to help prevent further decline of the property.
- C. If the enforcement officer or Borough designee has reason to believe that a property subject to this ordinance is posing a serious threat to the public health, safety or welfare, then the enforcement officer or Borough designee may recommend to the Borough to abate the violations, and the Borough may abate the violations and charge the lender or new owner with the cost of abatement and take any and all lawful steps to collect the same, including but not limited to placing a lien on the property.
- D. If the lender or new owner does not reimburse the Borough for the cost of temporarily securing the property or of any abatement thereof within thirty (30) days of the date of the Borough invoice, then the Borough may lien the property with such costs along with an administration fee of five hundred (\$500.00) dollars to recover the administrative costs and fees connected with the filing of the lien.

§111. Opposing, obstructing enforcement officer; penalty.

Whoever opposes, obstructs or resists any enforcement officer or any person authorized by the enforcement officer or Borough in the discharge of duties provided for in this ordinance shall be subject to punishment for any crimes committed covered under state or federal law in addition to being subject to a summary offense to be filed with a District Justice/Magistrate having jurisdiction over matters occurring in the Borough. Upon conviction of the offense be subject to a minimum fine of \$300.00 and a maximum fine of \$1,000 for each offense and/or up to ninety days imprisonment, plus pay all filing fees and the cost of prosecution.

§112. Immunity of enforcement officer.

Any enforcement officer or any person authorized by the Borough to enforce the provisions of this ordinance shall be immune from prosecution, civil or criminal, for reasonable, good-faith entry upon real property while in the discharge of duties imposed and/or performed under this ordinance.

§113. Fees and Penalties

- a. A non-refundable registration fee of three hundred (\$300.00) per property shall accompany the registration form as specified in §105(D).
- b. Any person who shall violate the provisions of this ordinance may be cited and fined as follows: Failure to register foreclosures upon or abandoned real property on annual basis and/or any violation of §105 of this ordinance. Fine is \$500.00, plus all costs and fees associated with enforcement of the violation.

Failure to maintain foreclosed upon or abandoned real property as described in §106 of this ordinance. \$150.00 for the first offense; \$300.00 for the second offense; \$1,000.00 for the third and subsequent offense, plus all costs and fees associated with the enforcement of any violation. A violation is considered a subsequent offense if the violation occurs at the same property as the former violation and ownership has not changed since the former violation.

Failure to secure foreclosed upon or abandoned real property or failure to designate a property manager as described in §107 of this ordinance.

All actions involving fines shall be filed with a District Justice/Magistrate having jurisdiction over matters occurring in the Borough.

- c. Registration fees, penalties and any other charge or fee fixed under this ordinance can be modified by a Resolution of Council, passed and adopted in accordance with the Borough Code of the Commonwealth of Pennsylvania.
- d. The above enforcement procedure is cumulative in nature and does not limit the Borough to utilize any and all other available actions in law or equity to enforce compliance with this ordinance or to file other actions applicable to address violations thereof.

§114. Repealer.

If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said ruling shall in no way affect the validity of the remaining portions of this ordinance.

This Ordinance shall become effective as specified in the Borough Code.

ENACTED AND ORDAINED the 9th day of October 2018 at a duly authorized regular meeting of the Plymouth Borough Council.

BOROUGH OF PLYMOUTH

By: Frank Coughlin
Frank Coughlin, Acting President of Council

ATTEST:

Holly Spece
Holly Spece, Secretary

SEAL

APPROVED BY THE MAYOR

Thomas McTague
Thomas McTague, Mayor

Dated: 10-10-18