

Section 12.25 - REGISTRATION AND MAINTENANCE OF ABANDONED AND/OR FORECLOSED AND OR FORECLOSING PROPERTIES.

(a) **Purpose; Enforcement Authority**

(1) It is the purpose and intent of this bylaw to protect and preserve public safety, health, welfare and security, and the quiet enjoyment of occupants, abutters and neighbors, by:

38

a. requiring all residential property owners, including lenders, trustees and service companies, to register abandoned and/or foreclosed residential properties with the Town of Medway; and by

b. regulating the maintenance and security of abandoned and/or foreclosed residential properties to help prevent blighted and unsecured residences.

(2) The Inspector of Buildings/Building Commissioner of the Town of Medway has enforcement authority as to this bylaw.

(b) **Definitions** - When used in this bylaw, the following terms shall have the following meanings, unless a contrary intention clearly appears:

"Abandoned" means a residential property which is not being used or occupied as a residence despite containing a residential building; abandoned does not include a residential building that is unoccupied while undergoing renovations, or while undergoing repairs due to fire or other casualty. "Abandoned" does not apply to accessory buildings or structures on the premises nor does it apply to residential property that is temporarily vacant due to seasonal absences.

"Town" means the Town of Medway

"Commissioner" means the Building Commissioner/Inspector of Buildings of the Town of Medway or his/her designee.

"Days" means consecutive calendar days.

"Foreclosed" means a property, placed as security for a real estate loan, as to which all rights of the mortgagor or his grantee in the property have been terminated as a result of a default of the loan.

"Foreclosing" means the process by which a property, placed as security for a real estate loan, is prepared for sale to satisfy a debt if the borrower of the loan

"Initiation of the foreclosure process" means taking any of the following actions:

- a. Taking possession of property pursuant to Massachusetts General Laws chapter 244, section 1
- b. Publishing the first foreclosure notice pursuant to Ma. General Laws chapter 244, section 14
- c. Delivering the mortgagee's notice of intention to foreclosure pursuant to Ma General Laws chapter 244, section 17B;
- d. Commencing a foreclosure action on a property in either the Land Court or the Superior Court.

"Local" means within twenty miles of the property in question.³⁹

"Mortgagee" means the creditor, including but not limited to service companies, lenders, in a mortgage agreement, or any successor in interest of the mortgagee's rights, interests or obligations under the mortgage agreement.

"Property" means any real property or portion thereof, located in the Town of Medway, which contains a building, structure or other improvement; excepted from this definition is any and all town owned properties.

"Vacant" means any real property which is not being actively used or occupied and which has not been actively used or occupied within the preceding ninety days. This definition shall not apply to property which is undergoing renovations or repaired due to fire or other casualty. For the purpose of this bylaw, "Vacant" also includes abandoned and/or foreclosed or foreclosing property(ies). Excepted from this definition is residential property that is temporarily vacant due to owner(s) seasonal absences.

(c) **Registration**

1. All owners of abandoned and/or foreclosed residential properties shall register such properties with the Commissioner on forms provided by the Commissioner. If the owner is an out of state corporation, person, or other entity, the owner shall appoint an in-state agent authorized to accept service of process and other documents under this bylaw.

a. Each registration must state the owner's or agent's name, telephone number and mailing address located within the Commonwealth of Massachusetts including name of owner, street number, street name, city or town, and zip code ; the mailing address shall not be a post office box.

b. Each registration must also certify that the property has been inspected by the owner and must identify whether the property is abandoned. Each registration must designate a local individual or local property management company responsible for the maintenance and security of this property. This designation must state the individual or company's name, direct telephone number, and local mailing address; the mailing addresses shall not be a post office box.

1. If the owner's inspection determines that the property is abandoned, the registration must be received by the Commissioner within seven days of the owner's inspection.
2. If the owner's inspection determines that the property is not abandoned, but has been foreclosed, the registration must be received by the Commissioner within seven days of the foreclosure.
3. If the Commissioner's inspection pursuant to paragraph (e) determines that the property is abandoned, the registration must be received by the Commissioner within fourteen days of the Commissioner's citation for improper maintenance.
4. If, regardless of any determination as to abandonment, property has been foreclosed, the registration must be received by the Commissioner within seven days of the foreclosure.

(2) All property registrations pursuant to paragraph (c) are valid for one calendar year from the date when the registration is received by the Commissioner. An annual registration fee of one hundred dollars (\$100.00) must accompany the registration form. Subsequent registrations and fees are due within thirty days after the date of the expiration of the previous registration. Subsequent registrations must certify whether the property remains abandoned and/or remains in foreclosure, as the case may be.

(3) Any owner that has registered a property under paragraph (c) must report any change in information contained in the registration within ten days of the change.

(4) Once the property is no longer abandoned or is sold, the owner shall provide the Commissioner with written notice of legal occupancy or proof of sale, as the case may be.

(d) **Maintenance and Security Requirements**

(1) Properties subject to this bylaw must be maintained in accordance with the State Building Code. The local owner or local property management company must inspect and maintain the property on at least a monthly basis for as long as the property is abandoned.

(2) In accordance with state law, including but not limited to Massachusetts General Laws chapter 143 Sections 6-10 and 780 CMR 121.0, property that is abandoned must be safe and must be secured

so as not to be accessible to unauthorized persons and exposure to the elements.

(3) Maintain vacant properties subject to this section, including but not limited to maintaining and keeping in good repair any building(s), structures(s), and improvements, the removal of trash and debris, and the regular mowing of lawns, pruning and/or trimming of trees and shrubbery, and upkeep of other landscape features.

(4) Repair or replace broken windows or doors within thirty days of breakage. Boarding up any doors or windows is prohibited except as a temporary measure for no longer than thirty days.

(5) The Building Commissioner may order that a property vacant for six months or more shall have utilities shut off, removed, or cut and capped if any such utilities present a hazard or risk of accident.

(6) Compliance with paragraph (d) does not relieve the owner of any applicable obligations set forth in code regulations, covenant conditions and restrictions, and/or homeowner's association rules and regulations.

(e) **Inspections** - Pursuant to the State Building Code, the Commissioner or his/her designee shall have the authority and the duty to inspect properties subject to this bylaw for compliance with this bylaw and to issue citations for any violations. The Commissioner or his/her designee shall have the discretion to determine when and how such inspections are to be made, provided such determination is reasonably calculated to ensure that this bylaw is enforced.

(f) **Penalties** - In addition to any other means of enforcement available to the Commissioner, the Commissioner may enforce this bylaw by means of noncriminal enforcement pursuant to Massachusetts General Laws chapter 40 Section 21D. The following penalties are established for purposes of said noncriminal disposition:

(1) A failure to initially register with the Commissioner pursuant to paragraph (c): three hundred dollars (\$300.00).

(2) A failure to properly designate the name of the local individual or local property management company responsible for the maintenance and the security of the property pursuant to paragraph (d): three hundred dollars (\$300.00) for each violation, and a like penalty for each day's continuation of such violation.

(3) A failure to maintain and/or to secure the property pursuant to paragraph (d): three hundred dollars (\$300.00) for each week during which the property is not maintained and/or not secured in compliance with paragraph (d).

(4) The penalties provided in paragraph (f) shall not be construed to restrict the Town from pursuing other legal remedies available to the Town. Violation of this bylaw shall be subject to a fine not to exceed three hundred dollars for each violation; each day shall be considered a new violation.

(g) **Appeals** - Any persons aggrieved by the requirements of this bylaw or by a decision issued hereunder may seek relief in any court of competent jurisdiction as provided by the laws of the Commonwealth.⁴²

(h) **Applicability** - If any provisions of this bylaw impose greater restrictions or obligations than those imposed by any general law, special law, regulation, rule, ordinance, order or policy, then the provisions of this bylaw shall control.

(i) **Severability** - If any provision of this bylaw is held to be invalid by a court of competent jurisdiction, then such provisions shall be considered separately and apart from this bylaw's remaining provisions, which shall remain in full force and effect.