

**TOWN OF NEW HARTFORD**  
**LOCAL LAW 1 of 2024**

CREATING CHAPTER 94A OF THE CODE OF THE TOWN OF NEW HARTFORD TO BE ENTITLED “REGISTRATION OF FORECLOSURE OF MORTGAGES AND VACANT PROPERTIES”

**§ 94A-1. Purpose; intent.**

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 property with foreclosing or foreclosed mortgages located within the Town and otherwise abandoned properties, and to identify, regulate, limit and reduce the number of these properties located within the Town. It has been determined that owner-occupied structures are generally better maintained when compared to vacant structures, even with a diligent off-site property owner. 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 contribute to blight, declined 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 in foreclosure or foreclosed, or otherwise abandoned properties; and to provide a mechanism to avert foreclosure actions through timely intervention, education, or counseling of property owners.

**§ 94A-2. Definitions.**

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

**CODE ENFORCEMENT OFFICER**

A person certified by the State of New York as a Code Enforcement Officer, and a duly authorized representative of the Town of New Hartford.

**DEFAULT**

Shall mean that the 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**

Any law enforcement officer, building official, zoning inspector, code enforcement officer, fire inspector, building inspector, or other person authorized by the Town to enforce the applicable code(s).

**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 and/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; statements by neighbors, passersby, delivery agents or government agents; and/or the presence of boards over doors, windows or other openings in violation of applicable code.

## **FORECLOSURE or FORECLOSURE ACTION**

The legal process by which a mortgagee, or other lien holder, terminates or attempts to terminate 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. The legal 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 nonrelated bona fide purchaser in an arm's length transaction to satisfy the debt or lien.

## **MORTGAGEE**

The creditor, including but not limited to, trustees; mortgage servicing 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; or any other person or entity with the legal right to foreclose on the real property, excluding governmental entities.

## **OWNER**

Every person, entity, or mortgagee, who alone or severally with others, has legal or equitable title to any real property as defined by this article; has legal care, charge, or control of any such property; is in possession or control of any such property; is shown to be the owner or owners on the record of the Town of New Hartford Assessor's office; and/or is vested with possession or control of any such property. The property manager shall not be considered the owner.

## **PROPERTY MANAGER**

Any party designated by the owner as responsible for inspecting, maintaining and securing the property as required in this article.

## **REAL PROPERTY**

Any residential or commercial land and/or buildings, leasehold improvements and anything affixed to the land, or portion thereof, identified by a property parcel identification number, located in the Town limits.

## **REGISTRABLE PROPERTY**

- A.** Any real property located in the Town, whether vacant or occupied, that is 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 judgement 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 nonrelated bona fide purchaser in an arm's length transaction or the foreclosure action has been dismissed; or
- B.** Any property that is vacant for more than 30 days or has been subject to any cancellation of utility or service, whichever occurs first.

## **REGISTRY**

A web-based electronic database of searchable real property records, used by the Town to allow mortgagees and owners the opportunity to register properties and pay applicable fees as required in this article.

## **SEMIANNUAL REGISTRATION**

Shall mean six months from the date of the first action that requires registration, as determined by the Town, or its designee, and every subsequent six months. The date of the initial registration may be different than the date of the first action that required registration.

## **UTILITIES AND SERVICES**

Any utility and/or service that is essential for a building to be habitable and/or perform a service necessary to comply with all Town codes. This includes, but is not limited to, electrical, gas, water, sewer, lawn maintenance, pool maintenance, and snow removal.

## **VACANT**

Any parcel of land in the Town that contains any building or structure that is not lawfully occupied.

### **§ 94A-3. Applicability; jurisdiction.**

This article applies to foreclosing, foreclosed, and vacant property within the Town of New Hartford.

### **§ 94A-4. Establishment of registry.**

In accordance with the provisions of § 94A-6, the Town, or its designee, shall establish a registry cataloging each registrable property within the Town, containing the information required by this article.

### **§ 94A-5 Inspection, registration of real property under foreclosure.**

- A.** Any mortgagee who holds a mortgage on real property located within the Town shall perform an inspection of the property upon default by the mortgagor as evidenced by the filing of a foreclosure action.
- B.** Property inspected pursuant to Subsection A above that remains in foreclosure shall be inspected every 30 days by the mortgagee or mortgagee's designee. 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.
- C.** Within 10 days of the date any mortgagee files a foreclosure action, the mortgagee shall register the real property with the Town registry, and, at the time of registration, indicate whether the property is vacant, and if so shall designate in writing a property manager to inspect, maintain, and secure the real property subject to the mortgage under a foreclosure action. A separate registration is required for each property under a foreclosure action, regardless of whether it is occupied or vacant.
- D.** Initial registration pursuant to this section shall contain, at a minimum, the name of the mortgagee, the mailing address of the mortgagee, email address, telephone number and address of the property manager.
- E.** At the time of initial registration, each registrant shall pay a nonrefundable semiannual registration fee in the amount set by resolution the Town Board, as amended from time to time, for each property. Subsequent nonrefundable semiannual renewal registrations of properties and fees in the amount set by resolution the Town Board, as amended from time to time, are due within 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) for any related purposes as may be adopted in the policy set forth in this article. Said fees shall be deposited to a special account in the Town's Building Department dedicated to the cost of implementation and enforcement of this article and fulfilling the purpose and intent of this article. None of the funds provided for in this section shall be utilized for the legal defense of foreclosure actions.
- F.** If the mortgage and/or servicing on a registrable property is sold or transferred, the new mortgagee is subject to all the terms of this article. Within 10 days of the transfer, the new mortgagee shall register the property or update the existing registration. The previous mortgagee(s) will not be released from the responsibility of paying all previous unpaid fees, fines, and penalties accrued during that mortgagee's involvement with the registrable property.
- G.** If the mortgagee sells or transfers the registrable property in a non-arm's length transaction to a related entity or person, the transferee is subject to all the terms of this article. Within 10 days of the transfer, the transferee shall register the property or update the existing registration. Any and all previous unpaid fees, fines, and penalties, regardless of who the mortgagee was at the time registration was required, including, but not limited to, unregistered periods during the foreclosure process, are the responsibility of the transferee and are due and payable with the updated registration. The previous mortgagee will not be released from the responsibility of paying all previous unpaid fees, fines, and penalties accrued during that mortgagee's involvement with the foreclosed property.

- H. If the foreclosing or foreclosed property is not registered, or the registration fee is not paid within 30 days of when the registration or renewal is required pursuant to this section, a late fee equivalent to 10% of the semiannual registration fee shall be charged for every thirty-day period, or portion thereof, the property is not registered and shall be due and payable with the registration.
- I. This section shall also apply to properties that have been the subject of a foreclosure sale where title is transferred to the mortgagee as well as any properties transferred to the mortgagee under a deed in lieu of foreclosure or by any other legal means.
- J. Properties subject to this section shall remain subject to the semiannual registration requirement, and the inspection, security, and maintenance standards of this section as long as the property remains registrable property.
- K. Failure of the mortgagee and/or property owner of record to properly register or to modify the registration to reflect a change of circumstances as required by this article is a violation of this article and shall be subject to enforcement by any of the enforcement means available to the Town.
- L. If any property is in violation of this article the Town may take the necessary action to ensure compliance with and/or place a lien on the property for the cost of the outstanding obligation and any additional cost incurred to bring the property into compliance.

**§ 94A-6. Inspection, registration of real property not subject to mortgage in foreclosure.**

- A. Any owner of vacant property located within the Town shall, within 10 days after the property becomes vacant, register the real property with the Town registry.
- B. Initial registration pursuant to this section shall contain, at a minimum the name of the owner, the mailing address of the owner, email address and telephone number of the owner, and if applicable, the name and telephone number of the property manager and said person's address, email address, and telephone number.
- C. At the time of initial registration each registrant shall pay a nonrefundable semiannual registration fee the amount set by resolution the Town Board, as amended from time to time, for each vacant property. Subsequent nonrefundable semiannual renewal registrations of vacant properties and fees in the amount set by resolution the Town Board, as amended from time to time, are due within 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 vacant properties, and; 3) for any related purposes as may be adopted in the policy set forth in this article. Said fees shall be deposited to a special account in the Town's department dedicated to the cost of implementation and enforcement of this article, and fulfilling the purpose and intent of this article.
- D. If the property is sold or transferred, the new owner is subject to all the terms of this article. Within 10 days of the transfer, the new owner shall register the vacant property or update the existing registration. The previous owner(s) will not be released from the responsibility of paying all previous unpaid fees, fines, and penalties accrued during that owner's involvement with the vacant property.
- E. If the vacant property is not registered, or either the registration fee or the semiannual registration fee is not paid within 30 days of when the registration or semiannual registration is required pursuant to this section, a late fee shall be equivalent to 10% of the semiannual registration fee shall be charged for every thirty-day period, or portion thereof, the property is not registered and shall be due and payable with the registration. This section shall apply to the initial registration and registrations required by subsequent owners of the vacant property.
- F. Properties subject to this section shall remain subject to the semiannual registration requirement, and the inspection, security, and maintenance standards of this section as long as the property is vacant.
- G. Failure of the owner to properly register or to modify the registration to reflect a change of circumstances as required by this local law is a violation of this article and shall be subject to enforcement by any of the enforcement means available to the Town.

- H. If any property is in violation of this article the Town may take the necessary action to ensure compliance with and place a lien on the property for the cost of the outstanding obligation and any additional cost incurred to bring the property into compliance.
- I. Properties registered as a result of this section are not required to be registered again pursuant to the foreclosure mortgage property section unless such property shall subsequently become subject to a mortgage in foreclosure.

**§ 94A-7. Exemptions from registration requirements.**

A building which has suffered fire damage or damage caused by extreme weather events shall be exempt from the registration requirement for a period of 180 days (or that time required to settle an active insurance claim) after the date of the fire or extreme weather event, if the property owner submits a request for exemption, in writing, to the Building Inspector. This request shall include the following information supplied by the owner:

- A. A description of the premises.
- B. The names and address of the owner or owners.
- C. A statement of intent to repair and reoccupy the building in an expedient manner, or the intent to demolish the building.

**§ 94A-8. Maintenance requirements.**

- A. In addition to the conditions set forth in Chapter 55A of the Town Code regarding property maintenance, properties subject to this article 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. Registrable 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, of registrable property shall be maintained in accordance with the applicable code(s) at the time registration is required.
- D. Registrable 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.
- 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, owner, and transferees to properly maintain the property as required by this article 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 Codes Enforcement Officer, Town Judge or a court of competent jurisdiction, the Town may take the necessary action to ensure compliance with this section.

**§ 94A-9. Security requirements.**

- A. Properties subject to this article 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 property is registrable, and the property has become vacant or blighted, a property manager shall be designated by the mortgagee and/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 article, and any other applicable laws.
- D. In addition to the above, the property is required to be secured in accordance with the applicable code(s) of the Town.
- E. When a foreclosure property subject to this article becomes vacant, it shall be posted with the name and twenty-four-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 18 inches by 24 inches and shall be of a font that is legible from a distance of 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 A \_\_\_\_\_.
- F. The posting required in Subsection E 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. Failure of the mortgagee and/or property owner of record to properly inspect and secure a property subject to this article, and post and maintain the signage noted in this section, is a violation and shall be subject to enforcement by any of the enforcement means available to the Town. The Town may take the necessary action to ensure compliance with this section, and recover costs and expenses in support thereof.

**§ 94A-10. Provisions supplemental.**

The provisions of this article are cumulative with and in addition to other available remedies. Nothing contained in this article shall prohibit the Town from collecting on fees, fines, and penalties in any lawful manner; or enforcing its codes by any other means, including, but not limited to, injunction, abatement, or as otherwise provided by law or local law.

**§ 94A-11. Public nuisance.**

All registrable property is at risk of being a public nuisance and if vacant or blighted can constitute a public nuisance, the abatement of which pursuant to the police power is hereby declared to be necessary for the health, welfare, and safety of the residents of the Town.

**§ 94A-12. Additional authority.**

- A. If the Enforcement Officer has reason to believe that a property subject to the provisions of this article is posing a serious threat to the public health, safety, and welfare, the Code Enforcement Officer may temporarily secure the property at the expense of the mortgagee or owner, and may bring the violations before the Justice Court 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.

- B. The Town of New Hartford Police Department, Code Enforcement Officer, or Justice Court shall have the authority to require the mortgagee or owner affected by this section 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 there is a finding that the condition of the property is posing a serious threat to the public health, safety, and welfare, then the Town of New Hartford Police Department, Town Board or Justice Court may direct the Town to abate the violations and charge the mortgagee or owner with the cost of the abatement.
- D. If the mortgagee or owner does not reimburse the Town for the cost of temporarily securing the property, or of any abatement directed by the Town of New Hartford Police Department, Code Enforcement Officer, Town Board or Justice Court, within 30 days of the Town sending the mortgagee or owner the invoice, then the Town may lien the property with such cost, along with an administrative fee as determined in the Town's fee local law to recover the administrative personnel services. In addition to filing a lien the Town may pursue financial penalties against the mortgagee or owner. The Town shall maintain a record of the lien against the property in the Building Department records until such lien is satisfied.
- E. The Town may contract with an entity to implement this article, and, if so, any reference to the enforcement officer herein shall include the entity the Town contract with for that purpose.

**§ 94A-13. Opposing, obstructing enforcement officer; penalty.**

Whoever opposes, obstructs or resists any enforcement officer or any person authorized by the enforcement office in the discharge of duties as provided in this article shall be subject to punishment as provided in the applicable code(s) or a court of competent jurisdiction.

**§ 94A-14. 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 article.

**§ 94A-15. Penalties.**

- A. Unless otherwise provided for in this article, a violation of this article is declared unlawful. Any person who commits or permits any act in violation of any provisions of this article shall be deemed to have violated this article and to have committed a misdemeanor against the chapter and, shall be liable to the following penalties, following prosecution consistent with the laws of the State of New York:
  - (1) For each violation of the provisions of this article, the person violating the same shall be subject to a fine consistent with the fine range for misdemeanors set forth in the Penal Law of the State of New York, or imprisonment not to exceed one year, or to both such fine and imprisonment. Each day that the violation continues shall be a separate offense.
- B. In addition to the above-provided penalties, the Town Board may maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this article.

**§ 94A-16. Amendments.**

Registration fees and penalties outlined in this article may be modified by resolution, administrative order, or an amendment to this article, passed and adopted by the Town Board.

This Local Law shall become effective immediately upon filing with the State.