

ORDINANCE 625-19

AN ORDINANCE OF THE BOROUGH OF OCEAN GATE, COUNTY OF OCEAN, STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING ORDINANCE NOS. 590-14 AND 607-17 REGARDING THE CARE, MAINTENANCE, SECURITY, AND UPKEEP OF VACANT AND ABANDONED RESIDENTIAL PROPERTIES

WHEREAS, the Borough Council desires to protect the public health, safety, and welfare of the citizens of the incorporated area of Borough of Ocean Gate and maintain a high quality of life for the citizens of the Borough of Ocean Gate through the maintenance of structures and properties in the Borough of Ocean Gate; and

WHEREAS, the Borough Council recognizes properties with defaulted mortgages and subject to foreclosure action or foreclosed upon and vacant properties (hereinafter referred to as “Registrable Properties”) located throughout the Borough of Ocean Gate lead to a decline in community and property value; create nuisances; lead to a general decrease in neighborhood and community aesthetic; create conditions that invite criminal activity; and foster an unsafe and unhealthy environment; and

WHEREAS, the Borough Council has already adopted property maintenance codes to regulate building standards for the exterior of structures and the condition of the property as a whole; and

WHEREAS, the Borough Council recognizes in the best interest of the public health, safety, and welfare a more regulated method is needed to discourage Registrable Property Owners and Mortgagees from allowing their properties to be abandoned, neglected or left unsupervised; and

WHEREAS, the Borough Council has a vested interest in protecting neighborhoods against decay caused by Registrable Property and concludes that it is in the best interests of the health, safety, and welfare of its citizens and residents to impose registration requirements of Registrable Property located within the Borough of Ocean Gate to discourage Registrable Property Owners and Mortgagees from allowing their properties to be abandoned, neglected or left unsupervised.

THEREFORE, BE IT ORDAINED by the Mayor and Borough Council of the Borough of Ocean Gate, State of New Jersey, as follows:

SECTION I. Ordinance Numbers 590-14 and 607-17 of the Borough of Ocean Gate, finally adopted by the Mayor and Borough Council on December 20, 2014, and amended on April 12, 2017, setting forth the rules and regulations for the care, maintenance, security, and upkeep of vacant and abandoned residential properties, shall be and hereby is amended and supplemented to read as follow:

625-19 UPKEEP OF VACANT AND ABANDONED RESIDENTIAL PROPERTIES.

625-19.1 PURPOSE.

It is the purpose and intent of the Borough Council to establish a process to address the deterioration, crime, and decline in value of Borough of Ocean Gate neighborhoods caused by

property with defaulted mortgages located within the Borough, and to identify, regulate, limit and reduce the number of these properties located within the Borough. 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 Council'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 Default or Defaulted, and to provide a mechanism to avert foreclosure actions through timely intervention, education, or counseling of property Owners.

625-19.2 DEFINITIONS.

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

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 shall mean any law enforcement officer, building official, zoning inspector, code enforcement officer, fire inspector, building inspector, or other person authorized by the Borough to enforce the applicable code(s).

EVIDENCE OF VACANCY shall mean 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, passers-by, 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 shall mean 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 non-related bona fide purchaser in an arm's length transaction to satisfy the debt or lien.

MORTGAGEE shall mean 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 shall mean every person, entity, or Mortgagee, who alone or severally with others, has legal or equitable title to any Real Property as defined by this Ordinance ; has legal care, charge, or control of any such property; is in possession or control of any such property; and/or is vested with possession or control of any such property. The Property Manager shall not be considered the Owner.

PROPERTY MANAGER shall mean any party designated by the Owner as responsible for inspecting, maintaining and securing the property as required in this Ordinance.

REAL PROPERTY shall mean 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 Borough limits.

REGISTRABLE PROPERTY shall mean:

(a) Any Real Property located in the Borough, whether vacant or occupied, that is encumbered by a mortgage in Default, is 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 “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; or

(b) Any property that is vacant for more than thirty (30) days or any cancellation of Utility or Service, whichever occurs first.

REGISTRY shall mean a web-based electronic database of searchable real property records, used by the Borough to allow Mortgagees the opportunity to register properties and pay applicable fees as required in this Ordinance.

SEMI-ANNUAL REGISTRATION shall mean six (6) months from the date of the first action that requires registration, as determined by the Borough, or its designee, and every subsequent six (6) months the property is Registrable. The date of the initial registration may be different than the date of the first action that required registration.

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

VACANT shall mean any parcel of land in the Borough that contains any building or structure that is not lawfully occupied.

625-19.3 APPLICABILITY AND JURISDICTION.

This Ordinance applies to Defaulted and Vacant property within the Borough.

625-19.4 ESTABLISHMENT OF REGISTRY.

Pursuant to the provisions of 625-19.2, the Borough, or its designee, shall establish a registry cataloging each registrable property within the Borough, containing the information required by this Ordinance.

625-19.4 INSPECTION AND REGISTRATION OF DEFAULTED MORTGAGE.

(a) Any Mortgagee who holds a mortgage on Real Property located within the Borough shall perform an inspection of the property upon it being in Default or Defaulted by the mortgagor or prior to the issuance of a notice of Default.

(b) Property inspected pursuant to subsection (a) above that remains in Default or Defaulted, shall be inspected every thirty (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 ten (10) days of that inspection, update the occupancy status of the property registration.

(c) Within ten (10) days of the date any Mortgagee declares its mortgage to be in Default or Defaulted, the Mortgagee shall register the Real Property with the Borough 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 in Default or Defaulted. A separate registration is required for each Registrable Property.

(d) Initial registration pursuant to this section shall contain at a minimum the name of the Mortgagee, the mailing address of the Mortgagee, e-mail address, telephone number and name of the Property Manager and said person's address, e-mail address, and telephone number.

(e) At the time of initial registration each registrant shall pay a non-refundable Semi-Annual Registration fee of \$500 for each Registrable Property. Subsequent Semi-Annual Registrations of Defaulted properties and fees in the amount of \$500 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 Ordinance. Said fees shall be deposited to a special account in the Borough's Department dedicated to the cost of implementation and enforcement of this Ordinance, and fulfilling the purpose and intent of this Ordinance. None of the funds provided for in this section shall be utilized for the legal defense of Foreclosure Actions.

(f) Each individual property on the Registry that has been registered for twelve (12) months or more prior to the Effective Date shall have thirty (30) days to renew the registration and pay the \$500 Semi-Annual Registration fee. Properties registered less than twelve (12) months prior to the Effective Date shall renew the registration every six (6) months from the

expiration of the original registration renewal date and shall pay the \$500 Semi-Annual Registration fee.

(g) If the Defaulted mortgage and/or servicing on a property is sold or transferred, the new Mortgagee is subject to all the terms of this Ordinance. Within ten (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.

(h) 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 Ordinance. Within ten (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 Registrable Property.

(i) If the Defaulted 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-day period (30), or portion thereof, the property is not registered and shall be due and payable with the registration.

(j) 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.

(k) 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 Registrable.

(l) 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 ordinance is a violation of this Ordinance and shall be subject to enforcement by any of the enforcement means available to the Borough.

(m) If any property is in violation of this Ordinance the Borough 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 the property into compliance.

625-19.5 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 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 Ordinance 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 Borough. Pursuant to a finding and determination by the Police Chief, Municipal Court, or a court of competent jurisdiction, the Borough may take the necessary action to ensure compliance with this section.

(h) In addition to the above, the property is required to be maintained in accordance with the applicable code(s) of the Borough.

625-19.6 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 re-glazing 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 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 Ordinance, 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 Borough.

(e) When a property subject to this Ordinance becomes Vacant, 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 Borough, 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 _____.

(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 Ordinance, 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 Borough. The Borough may take the necessary action to ensure compliance with this section, and recover costs and expenses in support thereof.

625-19.7 PROVISIONS SUPPLEMENTAL.

The provisions of this Ordinance are cumulative with and in addition to other available remedies. Nothing contained in this Ordinance shall prohibit the Borough 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 ordinance.

625-19.8 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 Borough.

625-19.9 ADDITIONAL AUTHORITY.

(a) If the Enforcement Officer has reason to believe that a property subject to the provisions of this Ordinance 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 Code Enforcement Officer, Borough Council, or Municipal Court as soon as possible to address the conditions of the property. Nothing herein shall limit the Borough from abating any nuisance or unsafe condition by any other legal means available to it.

(b) The Code Enforcement Officer, Borough Council, or Municipal 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 Code Enforcement Officer, Borough Council, or Municipal Court may direct the Borough 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 Borough for the cost of temporarily securing the property, or of any abatement directed by the Code Enforcement Officer, Borough Council, or Municipal Court, within thirty (30) days of the Borough sending the Mortgagee or Owner the invoice then the Borough may lien the property with such cost, along with an administrative fee as determined in the Borough's fee ordinance to recover the administrative personnel services. In addition to filing a lien the Borough may pursue financial penalties against the Mortgagee or Owner.

(e) The Borough may contract with an entity to implement this Ordinance, and, if so, any reference to the Enforcement Officer herein shall include the entity the Borough contract with for that purpose.

625-19.10 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 Ordinance shall be punishable as provided in the applicable code(s) or a court of competent jurisdiction.

625-19.11 IMMUNITY OF ENFORCEMENT OFFICER.

Any Enforcement Officer or any person authorized by the Borough 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 Ordinance.

625-19.12 PENALTIES

Unless otherwise provided for in this Ordinance, a violation of this Ordinance is declared unlawful.

SECTION II

All ordinances or parts of ordinances inconsistent with the provision of this Ordinance are hereby repealed.

SECTION III

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed as separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION IV

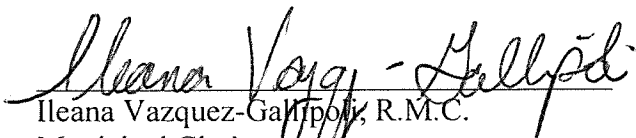
This Ordinance shall take effect on May 13, 2019.

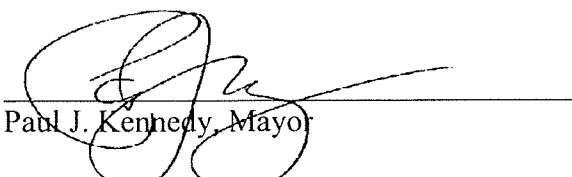
NOTICE

PUBLIC NOTICE is hereby given that the foregoing ordinance was introduced and passed on first reading of the Borough Council of Ocean Gate, in the County of Ocean, State of New Jersey, held on February 27, 2019, and will come on for a second reading, public hearing and final passage at a regular meeting of said Borough Council to be held on March 13, 2019, at Borough Council Chambers, 801 Ocean Gate Avenue, Ocean Gate, New Jersey, at 7:00 P.M., or as soon thereafter as the matter can be reached, at which last mentioned date, hour and place any person desiring to be heard either for or against the adoption of the within ordinance will be given an opportunity to be so heard.

INTRODUCED: February 27, 2019

ADOPTED: March 13, 2019


Ileana Vazquez-Gallipoli, R.M.C.
Municipal Clerk


Paul J. Kennedy, Mayor