

**Chapter 236**

**REGISTRATION AND MAINTENANCE OF FORECLOSED PROPERTIES**

**§ 236-1. Purpose; Enforcement Authority.**

**§ 236-2. Definitions.**

**§ 236-3. Registration.**

**§ 236-4. Maintenance and Security Requirements.**

**§ 236-5. Inspections.**

**§ 236-6. Penalties**

**§ 236-7. Appeals.**

**§ 236-8. Applicability.**

**§ 236-9. Severability.**

**[HISTORY: Adopted 5-8-2017 Annual Town Meeting, Art. 50. Amendments noted where applicable.]**

**§ 236-1. Purpose; Enforcement Authority.**

- (1) Unsecured and un-maintained foreclosed properties present a danger to the safety and health of the public, occupants, abutters, neighbors, and public safety officers. 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, and to minimize hazards to public safety personnel inspecting or entering such properties by:
  - a. Requiring all residential, commercial, and industrial property owners, including lenders, trustees and service companies, to register and maintain foreclosed properties with the town; and by
  - b. Regulating the maintenance and security of foreclosed properties to help prevent blighted and unsecured properties.
- (2) The Building Commissioner and/or Building Inspector of the Town of Halifax is empowered to enforce this bylaw.

**§ 236-2 Definitions. [Amended 11-20-17 STM, Art.5]**

When used in this bylaw, the following terms shall have the following meanings, unless a contrary intention clearly appears:

1. "Vacant" means a residential, commercial or industrial property which has not been actively used or occupied within the preceding sixty days. This definition does not include property that is unoccupied while undergoing renovations, or while undergoing repairs due to fire or other casualty, or to residential property that is temporarily vacant due to seasonal absences.
2. "Town" means the Town of Halifax
3. "Commissioner" means the Building Commissioner or the Building Inspector of the Town of Halifax or his/her designee.
4. "Days" means consecutive calendar days.
5. "Foreclosed" means a residential, commercial or industrial 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.
6. "Foreclosing" means the process by which a property, placed as security for a real estate loan, is prepared for sale to satisfy the debt if the borrower defaults.
7. "Local" means within twenty miles of the property in question.
8. "Mortgagee" means the creditor, including but not limited to service companies, lenders in a mortgage agreement, or any successor in interest and/or assignee of the mortgagee's rights, interests or obligations under the mortgage agreement.
9. "Owner" means every person, entity, service company, trustee or nominee, property manager or real estate broker who alone or severally with others has legal or equitable title to any property or has care, charge or control of any property in any capacity, including but not limited to agent, executor, executrix, administrator, administratrix, trustee or guardian of the estate of the holder of legal title; or mortgagee in possession of any such property; or is an agent, trustee or other person appointed by the courts and vested with possession or control of any such property; or is an officer or trustee of the association of unit owners of a condominium. Each such person is bound to comply with the provisions of these minimum standards as if he/she were the owner. However, this bylaw shall not apply to a condominium association created pursuant to M.G.L. c. 183A to the extent that such association forecloses on or initiates the foreclosure process for unpaid assessments due or owing to the association. "Owner" also means every person who operates a rooming house.

10. "Property" means any residential, commercial or industrial property or portion thereof, located in the Town including but not limited to buildings and structures situated on the property; excepted from this definition is any and all property owned by the Town, the state, or the federal government.
11. "Residential Property" means any property that contains one or more units used, intended, or designed to be occupied for living purposes.

**§ 236-3. Registration.**

- (1) All owners of foreclosed properties shall register such properties with the Commissioner on forms provided by the Commissioner within seven days of the date of foreclosure. 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 vacant. Each registration must designate a property manager, who shall be a local individual or local property management company responsible for the maintenance and security of the 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. The property manager shall be available twenty-four hours per day, every day, by telephone and/or electronic mail notification, and shall respond to all notifications from the Commissioner to secure, maintain, inspect or repair the property within 24 hours.
- (2) All property registrations pursuant to this section 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 in foreclosure.
- (3) Any owner that has registered a property under this section must report any change in information contained in the registration within ten days of the change.
- (4) Once the property is sold, the owner shall provide the Commissioner with written proof of sale.

**§ 236-4. Maintenance and Security Requirements.**

- (1) Properties subject to this bylaw must be maintained in accordance with the State Building Code, sanitary code, and town bylaws. The owner or property manager must inspect and maintain the property on at least a monthly basis for as long as the property is vacant.
- (2) The owner shall maintain properties subject to this section, including but not limited to maintaining and keeping in good repair any building(s), structure(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.
- (3) The owner shall repair or replace broken windows or doors within thirty days of breakage. Boarding up doors and windows is prohibited except as a temporary measure for no longer than thirty days.
- (4) In accordance with state law, including but not limited to Massachusetts General Laws Chapter 143, Sections 6 through 10 and the State Building Code, property that is vacant must be safe and must be secured from exposure to the elements and so as not to be accessible to unauthorized persons.
- (5) Compliance with this section does not relieve the owner of any applicable obligations set forth in regulations, covenant conditions and restrictions, and/or homeowner's association rules and regulations.

**§ 236-5. 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.

**§ 236-6. Penalties**

- (1) 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 and Chapter 1 of these bylaws. The following penalties are established for purposes of said noncriminal disposition:
  - a. A failure to initially register with the Commissioner pursuant to Section 3: three hundred dollars (\$300.00).
  - b. 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 Section 5 -903: three hundred dollars (\$300.00) for each violation, and a like penalty for each day's continuation of such violation.
  - c. A failure to maintain and/or to secure the property pursuant to Section 4: three hundred dollars (\$300.00) for each violation and a like penalty for each day's continuation of such violation.

- (2) The penalties provided in this section shall not be construed to restrict the Town from pursuing other legal remedies available to the Town. Where penalty is not specific violation of this bylaw shall be subject to a fine not to exceed three hundred dollars (\$300.00) for each violation; each day shall be considered a new violation. Unpaid penalties shall be subject to the municipal charges lien pursuant to G.L. c. 40, sec. 58.

**§ 236-7. 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.

**§ 236-8. 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.

**§ 236-9. 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.