

BOROUGH OF WHITE OAK
ALLEGHENY COUNTY, PENNSYLVANIA

ORDINANCE NO. 2023-13

**AN ORDINANCE OF THE BOROUGH OF WHITE OAK,
COUNTY OF ALLEGHENY, COMMONWEALTH OF
PENNSYLVANIA, ADDING ARTICLE 1782 ENTITLED AS
“REGISTRATION OF FORECLOSED PROPERTY” TO
THE BOROUGH CODE**

WHEREAS, the present mortgage foreclosure crisis has serious negative implications for all communities trying to manage the consequences of property vacancies; and

WHEREAS, the Borough Council of the Borough of White Oak recognizes an increase in the number of foreclosed properties located throughout the Borough of White Oak; and

WHEREAS, the Borough of White Oak is challenged to identify and locate owners or parties who can maintain the properties that are in the foreclosure process or have been foreclosed upon; and

WHEREAS, to protect both the property values and the health, safety and welfare of the residents of the Borough, Borough Council desires to implement an ordinance providing for registration of foreclosed property within the Borough of White Oak; and

NOW THEREFORE, BE IT ORDAINED AND ENACTED and IT IS HEREBY ORDAINED AND ENACTED by the Council for the Borough of White Oak, Allegheny County, Pennsylvania, as follows:

SECTION 1

§1782.01 Title.

This Chapter shall be referred to as “Registration and Foreclosed Property.”

§1782.02 Purpose and Intent.

1. It is the purpose and intent of the Council of the Borough of White Oak to establish a process to address the deterioration, crime and decline in value of White Oak neighborhoods caused by foreclosed property located within the Borough of White Oak, and to identify, regulate, limit and reduce the number of these properties located within the Borough of White Oak. It is Borough Council’s intent to establish a registration requirement as a mechanism to protect neighborhoods from the negative impact and conditions that occur as a result of vacancy, absentee ownership, lack of adequate maintenance and security, and to provide a method to expeditiously identify contact persons for each property responsible for this protection.

2. It is not the intent of this Chapter to determine the rights and liabilities of persons under agreements to which the Borough of White Oak is not a party. This Chapter shall not be construed to alter the terms of any lease or other agreement between a landlord and a tenant or others relating to property that is the subject of this chapter, provided that no provision of any lease or other agreement shall be construed to excuse compliance with this chapter. Additionally, a violation of this chapter shall not in and of itself create a negligence per se standard or otherwise expand existing liability in tort for either a landlord or a tenant.

§1782.03 Definitions.

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

ACCESSIBLE PROPERTY/STRUCTURE - A property that is accessible through a compromised/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.

APPLICABLE CODES - To include, but not be limited to, White Oak Borough's adopted Property Maintenance Code and White Oak Borough Ordinances.

DEFAULT - When the mortgagor has not complied with the terms of the mortgage on the property, or the promissory note.

ENFORCEMENT OFFICER - Any law enforcement officer, Building Official, Zoning Inspector, Code Enforcement Officer, Fire Inspector or Building Inspector, or other person authorized by Council of the Borough of White Oak to enforce the applicable code(s).

FORECLOSED PROPERTY - Any real property located in the Borough, whether vacant or occupied that is in default on a mortgage, has had a lis pendens filed against it by the mortgagee, is subject to an application for a tax deed or pending tax assessors lien sale, or has been transferred to the mortgagee under a deed in lieu of foreclosure. The designation of a property as "foreclosed" shall remain in place until such time as the property is sold or transferred to a new owner, the foreclosure action has been dismissed, or any default on the mortgage has been cured.

FORECLOSURE - The legal process by which a mortgagee, or other lienholder, terminates 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. This definition shall include, but is not limited to, public notice of default, a deed in lieu of foreclosure, sale to the mortgagee or lienholder, certificate of title and all other processes, activities and actions, by whatever name, associated with the described process. The process is not concluded until the property obtained by the mortgagee, lienholder, 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, excluding governmental agencies

OWNER - Any person, firm, corporation or other legal entity who, individually or jointly or severally with others, holds the legal or beneficial title to any building, facilities, equipment or premises subject to the provisions of this chapter.

REAL PROPERTY - Any improved residential and/or commercial land, buildings, leasehold improvements and anything affixed to the land, or portion thereof identified by a property parcel identification number, located in the Borough of White Oak limits. Developed lots are considered improved land.

REGISTRABLE PROPERTY -

1. Any real property located in the Borough of White Oak, whether vacant or occupied that 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 judgment 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.
2. The designation of a 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 and any default on the mortgage has been cured.

SEMIANNUAL REGISTRATION - Six months from the date of the first action that requires registration, as determined by the Borough of White Oak, 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.

VACANT - Any structure thereon a parcel of land in the Borough of White Oak that is not legally occupied.

§1782.04 Applicability.

These sections shall be considered cumulative and not superseding or subject to any other law or provision for same, but rather be an additional remedy available to the Borough of White Oak.

§1782.05 Establishment of a Registry.

The Borough of White Oak, or its designee, shall establish a registry cataloging each registrable property within the Borough of White Oak, containing the information required by this chapter.

1. Any mortgagee who holds a mortgage on registrable property located within the Borough of White Oak shall perform an inspection of the property to determine vacancy or occupancy, upon foreclosure. The Mortgagee shall, within ten (10) days of the inspection, register the property with the Borough Code Enforcement Department, or its designee, on forms or other manner as directed, and indicate whether the property is vacant or occupied. A separate registration is required for each property, whether it is found to be vacant or occupied.
2. Registration pursuant to this section shall contain the following information:

- a. the name, direct mailing address, a direct contact name, telephone number, and e-mail address for the mortgagee/trustee and the mortgage servicer; and
 - b. the name and twenty-four-hour contact phone number of the local property management company responsible for the security and maintenance of the property who has the authority to make decisions concerning the abatement of nuisance conditions at the property, as well as any expenditure in connection therewith.
3. Mortgagees who have existing registrable property on the effective date of this chapter have thirty (30) calendar days from the effective date of this Chapter to register the property with the Code Enforcement Department, or its designee, on forms or other manner as directed, and indicate whether the property is vacant or occupied. A separate registration is required for each property, whether it is vacant or occupied.
4. Any previously unpaid registration fees are the responsibility of the new mortgagee or trustee and are due and payable with their initial registration; except if it is determined that the transferee is exempt from paying fees, then the previous mortgagee will not be released from the responsibility of paying all previous unpaid fees and fines, regardless of who the mortgagee was at the time when registration was required, including but not limited to unregistered periods during the foreclosure process. The provisions of this section are cumulative with and in addition to other available remedies.
5. If the servicing rights for a mortgage on a registrable property are sold or transferred, the registration must be updated to include all the new servicer information within ten (10) days of the servicing transfer.
6. If title to the property is transferred, any previously unpaid registration fees are the responsibility of the new registrable property owner and are due and payable with their initial registration; except if it is determined that the transferee is exempt from paying fees, then the previous mortgagee will not be released from the responsibility of paying all previous unpaid fees and fines, regardless of who the mortgagee was at the time when registration was required, including but not limited to unregistered periods during the foreclosure process. The provisions of this section are cumulative with and in addition to other available remedies.
7. As long as the property is registrable, it shall be inspected by the mortgagee, or designee, monthly. 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.
8. A nonrefundable semiannual registration fee of \$300 shall accompany each registration pursuant to this section. Such fee shall be set by White Oak Borough Council and designated in the Borough Fee Schedule. This fee may be changed from time-to-time by Resolution of Borough Council.
9. If the registerable 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, or portion thereof, the property is not registered and shall be due and payable with the registration.

10. All registration fees must be paid directly from the mortgagee, trustee, servicer, or owner. Third-party registration fees are not allowed without the consent of the Borough of White Oak and/or its authorized designee.
11. Properties subject to this section shall remain under the semiannual registration requirement and the inspection, security and maintenance standards of this section as long as they are registrable.
12. Until the mortgage or lien on the property in question is satisfied, or legally discharged, the desire to no longer pursue foreclosure, the filing of a dismissal of lis pendens and/or summary of final judgment and/or certificate of title, voluntary or otherwise, does not exempt any mortgagee holding the foreclosure mortgage from all the requirements of this article as long as the property remains registrable.
13. Any person or legal entity that has registered a property under this section must report any change of information contained in the registration within ten (10) days of the change.
14. Failure of the mortgagee to properly register or to modify the registration information within ten (10) days of the action requiring the update to reflect a change of circumstances as required by this article is a violation of the article and shall be subject to enforcement and any resulting monetary penalties and/or property liens.
15. Pursuant to any administrative or judicial finding and determination that any property is in violation of this article, the Borough of White Oak may take the necessary action to ensure compliance with and place a lien on the property for the cost of the work performed to benefit the property and bring it into compliance.
16. Mortgagees, shall maintain real property subject to this chapter in accordance with the applicable code(s) of the Borough of White Oak.
17. Registration of foreclosure property does not alleviate the Mortgagee and/or Owner from obtaining all required licenses, permits and inspections required by applicable code or State Statutes. Acquisition of required licenses, permits and inspections or registration of rental property does not alleviate the requirement for the property to be registered under this section. Mortgagee and/or Owner is expected to update the status of the property in the event of a Mortgagee managed rental.

§1782.06 Violations and Penalties.

Mortgagees who shall fail to comply with the provisions of this article shall be guilty of a summary offense, and, upon conviction thereof before the District Judge in the Borough of White Oak, shall be fined not less than \$500 for each offense.

SECTION 2 - REPEALER

As of the effective date of this Ordinance, all ordinances currently in existence are repealed to the extent that such ordinances are inconsistent with the provisions of this Ordinance.

SECTION 3 - SEVERABILITY

The provisions of this Ordinance are severable. If any section, sentence or clause of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining sections, sentences or clauses of this Ordinance.


SECTION 4 - EFFECTIVE DATE

This Ordinance shall become effective upon enactment by the Council of the Borough of White Oak.

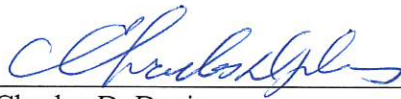
ORDAINED AND ENACTED this 15th day of May, 2023.

ATTEST:

BOROUGH OF WHITE OAK



John Palyo
Borough Manager



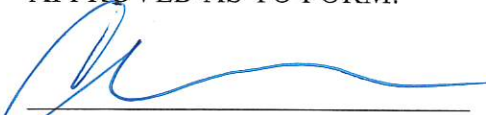
Charles D. Davis
President of Council

EXAMINED AND APPROVED by me this 15th day of May, 2023.



Iha Marton
Mayor

APPROVED AS TO FORM:



Ashley J. Puchalski, Esquire
Solicitor