



TOWN CLERK

**PUBLIC HEARING
Town Hall /Board Room
655 Main Street
Islip, NY 11751**

**July 21, 2020
2:00 p.m.**

-
- 1. To enact a Local Law, amending Article III of Chapter 6A,
"Community Preservation and Anti-Blight Enforcement".**

Anyone wishing to address the Board at the conclusion of these hearings may do so. Please clearly print your full name and address by registering with the Aide in the lobby. Any disabled person who needs a sign language interpreter or special accommodations to attend this meeting, is asked to please contact Constituent Services at 631-224-5380 as early as possible in order for the Town to accommodate.

**Dated at Islip, NY
TOWN OF ISLIP
July 9, 2020
Published
OHM/tb**

TOWN BOARD,

**By: OLGA H. MURRAY
TOWN CLERK**

WHEREAS, a Request for Proposals (“RFP”) was advertised by the Town of Islip entitled “Creating and Maintaining a Mortgage in Default Registry”, seeking a qualified firm to develop and maintain both an ordinance and a registry for properties within the Town of Islip that have defaulted mortgages; and

WHEREAS, following a comprehensive review, the Committee recommended that the Town enter into an Agreement with Property Registration Champions, LLC dba PROCHAMPS (“PROCHAMPS”) to provide the requested services of developing and maintaining an ordinance and a mortgage in default registry; and

WHEREAS, on May 12, 2020 the Town Board passed a resolution that authorized the Supervisor to execute an Agreement with PROCHAMPS; and

WHEREAS, in order to implement the new ordinance that the Town and PROCHAMPS has developed, the Town Board wishes to amend Article III of Chapter 6A of the Islip Town Code; and

WHEREAS, a public hearing was held on July 21, 2020.

NOW, THEREFORE, on motion of Councilperson _____,
seconded by Councilperson _____, be it

RESOLVED, that the Town Board of the Town of Islip hereby amends Chapter 6A, Article III of the Islip Town Code, “Community Preservation and Anti-Blight Enforcement” as follows:

SEE ATTACHED

Additions are indicated by UNDERLINING

DELETIONS are indicated by STRIKEOUTS

Upon a vote being taken, the result was:

Chapter 6A. Property Maintenance

Article III. Community Preservation and Anti-Blight Enforcement

§ 6A-9. Title.

This article shall be known as the "Community Preservation and Anti-Blight Enforcement Local Law."

§ 6A-10. Legislative intent.

It is hereby found and declared that there may exist within the Town of Islip a number of real properties which are vacant and/or in a blighted condition that are subject to a mortgage in default, and that the continued existence of such properties negatively affects the economic well-being of the Town of Islip; adds to the decline of neighborhoods; and affects the overall health, safety and welfare of its residents. It is the Town Board's intent to establish a defaulted mortgage registration program as a mechanism to protect neighborhoods from becoming blighted through the lack of adequate maintenance and security of vacant properties subject to a mortgage or properties subject to mortgages which are in default. ~~It is further found that many of these properties can be rehabilitated, reconstructed, and reused so as to provide decent, safe, sanitary housing or commercial facilities, and that such rehabilitation, reconstruction and reuse would eliminate, remedy and/or prevent the adverse conditions that are outlined above. It is further found that the abatement of the blight of poorly maintained properties and/or vacant parcels is a benefit to the health, safety and welfare of the residents of the Town of Islip.~~

§ 6A-11. Scope; applicability.

- A. Scope. The provisions of this article shall apply to all properties in the Town of Islip, residential and otherwise, and constitute the requirements and standards for the maintenance of such premises.
- B. Applicability. The provisions of this article shall be deemed to supplement applicable state and local laws, ordinances, codes and regulations. Nothing in this article shall be deemed to abolish, impair, supersede or replace existing remedies of the Town, county or state or existing requirements of any other provision of local laws or ordinances of the Town or county or state laws and regulations. In case of conflict between any provisions of this article and any

applicable state or local law, ordinance, code or regulation, the more restrictive or stringent provision or requirement shall prevail.

§ 6A-12. Definitions and word usage.

- A. Word usage. Whenever used in this article, words in the singular include the plural and vice versa.
- B. Definitions. As used in this chapter, the following terms shall have the meanings indicated:

REAL PROPERTY IN DEFAULT

Any real property that is under a current notice of default and/or notice of mortgagee's sale, pending tax lien sale and/or properties that have been the subject of a foreclosure sale where the title was retained by the beneficiary of a mortgage involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure or sale.

ENFORCEMENT OFFICER

Any full-time law enforcement officer, building inspector, fire marshal, zoning inspector, town investigator and/or code enforcement officer employed within the Town.

EVIDENCE OF VACANCY

Any condition that, on its own or combined with other conditions, would lead a reasonable person to believe that the property is vacant. Such conditions may include, but not be limited to, overgrown and/or dead vegetation; electricity; water or other utilities turned off; stagnant swimming pool; and/or statements by neighbors, passers-by, delivery agents or government agents, among other evidence that the property is vacant.

FORECLOSURE

The process by which a property, placed as security for a mortgage loan, after a judicial process is to be sold at an auction to satisfy a debt upon which the borrower has defaulted.

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.

VACANT

~~Any building or structure shall be deemed to be vacant if no person or persons actually currently conducts a lawfully licensed business, or lawfully resides or lives in any part of the building as the legal or equitable owner(s) or tenant-occupant(s), or owner-occupant(s), or tenant(s) on a permanent, nontransient basis.~~

CODE ENFORCEMENT OFFICIAL

~~The official who is charged with the administration and enforcement of this article, or any duly authorized representative of such person.~~

DEFACEMENT

~~Any mark on the face or surface of, disfigurement, injury or alteration to the appearance of property without the consent and express permission of the owner or proprietor thereof, or in the case of public property, of the person having charge, custody or control thereof.~~

DERELICT VEHICLE/VESSEL

~~A motor vehicle or vessel not suitable for operation.~~

DILAPIDATED

~~Any building or structure or part thereof that would not qualify for a certificate of use and occupancy, or which is deemed an unsafe structure, and any dwelling or unit which is designated as unfit for habitation as defined in the state basic building code and the revised ordinances of the Town of Islip.~~

GRAFFITI

~~Any inscription, mark or design which is written, etched, scratched, painted, drawn or applied to property.~~

LEGAL OCCUPANCY

~~Occupancy that is legal by virtue of fee ownership, a bona fide lease agreement, a rent receipt or, if necessary, a utility statement, and which occupancy is in compliance with federal laws, state building codes, state firesafety codes, local zoning, local housing, and all other pertinent rules, regulations and codes.~~

NEIGHBORHOOD

~~An area of the Town of Islip defined by its residents and its distinctive characteristics.~~

VACANT PARCEL

A parcel of land with no structure(s) thereon.

VACANT STRUCTURE

A building or structure or part thereof or land that is not legally occupied for a period of 30 days.

UNIT

Any space within a building that is or can be rented by or to a single person or entity for his/her/its sole use, and is intended to be a single and distinct space.

**§ 6A-13. Registration of real property with mortgage-in-default.
Creation or maintenance of blighted premises prohibited.**

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.

A.B. Within ten (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 in Foreclosure. A separate registration is required for each Registrable Property.

B.C. If the property is occupied but remains in default, it shall be inspected by the mortgagee, or said mortgagee's designee, monthly until the mortgagor or other party remedies the default.

D. Mortgage-in-default registration. Registration pursuant to this section shall contain the name of the mortgagee and mortgage servicer; the direct mailing address of the mortgagee and servicer, e-mail address and telephone number; the name and address, e-mail, and telephone number of a local property manager who shall be responsible for the inspection, security and maintenance of the property. The local property manager named in the registration shall be located and available within Suffolk and Nassau Counties Monday through Friday between 9:00 a.m. and 5:00 p.m., holidays and lunch hours excepted, to be contacted by the Town.

E. A semiannual nonrefundable registration fee in the amount of \$500 per property shall accompany the mortgage-in-default registration form(s). Subsequent semiannual registrations of defaulted properties and fees in the amount of \$500 are due within ten (10) days of the expiration of the previous registration.

G-F. If the Foreclosing or Foreclosed 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 (30) period

G. If the mortgage and/or servicing on a property is sold or transferred, the new Mortgagee is subject to all the terms of this Chapter. 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. This section shall also apply to properties that have been the subject of 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.

I. Properties subject to this section shall remain under the semiannual mortgage-in-default registration requirement, inspection, security, and maintenance standards of this section as long as they remain in default.

J. Any person or other 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.

K. Failure of the mortgagee and/or property owner of record to properly register and/or update the information of the registered property in accordance with (J) of this article is a violation of the Town Code.

~~No owner, agent, tenant, firm, business entity, voluntary association, nonprofit organization, or person in control of real property located within the Town of Islip shall allow, create, maintain or cause to be created or maintained, any blighted premises.~~

~~§ 6A-14. Maintenance requirements. Prohibited conditions.~~

A. Properties subject to this article shall maintain the minimum maintenance standards as set forth in Article IV of this Chapter.

B. The property shall also 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. Pools and spas shall be kept in working order so that pool and spa water remains free and clear of pollutants and debris. Pools and spas shall comply with the enclosure requirements and any other requirements of this Code found in Chapter 68 Article XXVIII and the New York State Building Code and New York State Property Maintenance Code, as amended from time to time.

D. Failure of the mortgagee and/or property owner of record to properly maintain the property is a violation of the Town Code.

Prohibited conditions:

~~A. — Broken or unsecured windows.~~

~~B. — Broken or unsecured doors, exits or entryways.~~

~~C. — Excessive litter and debris.~~

~~D. — Overgrown grass or vegetation of at least 10 inches in length or otherwise excessively grown noncultivated vegetation.~~

~~E. — Storage of derelict motor vehicles/vessel.~~

~~F. — Broken or unsecured:~~

~~(1) — Roof.~~

~~(2) — Gutters.~~

~~(3) — Siding/shingles.~~

~~(4) — Chimney.~~

~~(5) — Shutters.~~

~~(6) — Fencing.~~

~~(7) Outdoor lighting fixtures.~~

~~(8) Pools or spas.~~

~~G. Broken or unsecured accessory structures, including, but not limited to, decks, sheds, porches, pools, pool houses, garages, carports, storage units, front porches, outside statuary, fish ponds.~~

~~H. Damaged, unsightly, unsecured or unpermitted signage or awnings.~~

~~I. Presence of graffiti.~~

~~J. Broken or exposed electrical wires, electrical equipment or extension cords.~~

~~K. Unfinished abandoned construction which is not issued a current valid Building Division permit.~~

~~L. Broken or fallen trees.~~

~~M. Evidence of unresolved fire damage.~~

~~N. Peeling or deteriorated paint.~~

~~O. Presence of stagnant water.~~

~~P. Unsecured or open wells, cesspools or cisterns.~~

~~Q. Presence of vermin, rodent harborage and infestation.~~

~~R. Presence in any outdoor area of any refrigerator, washing machine, sink, stove, heater, boiler, tank or any other household equipment, machinery, furniture, or item, appliance or appliances, boxes, lumber, dirt or debris, trash, garbage or refuse cans, or any items other than those commonly stored outdoors, or any parts of such items, for a period of time in excess of 72 consecutive hours. This subsection does not prohibit machinery installed in the rear setback areas for household or recreational use, furniture designed and used for outdoor activities, trash cans in the front yard during the twenty-four hour period allowed for garbage pickup and garbage or recycle bins or debris boxes allowed by the Town.~~

§ 6A-15. Security requirements. Vacant property registration.

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 and/or structure. In the event the property is vacant, windows and doors should be boarded to HUD standards, to wit: 5/8 inch plywood, painted gray and bolted from the interior.

C. If a mortgage on property is in default and has become vacant, the local property manager or mortgagee must perform weekly inspections to verify compliance with the requirements of this section and the property shall be posted with the name and twenty-four (24) hour contact telephone number of the Property Manager. The sign shall be placed in a window facing the street and shall be visible from the street. The posting shall contain the following language with supporting information:

THIS PROPERTY IS MANAGED BY: _____.
TELEPHONE NUMBER: _____.
EMAIL: _____.

D. Failure of the mortgagee and/or property owner of record to properly inspect and secure the property, and post and maintain the signage noted in this section, is a violation of this Code.

~~A. Once a property has been determined to be vacant, notification letters shall be delivered to a property owner. Such notice shall be served by personal service upon the owner or person in charge of the affected building or structure; or if no such person can be reasonably found, by mailing said owner such notice by means of certified mail, return receipt requested, to the last known address as shown by the records of the Town Assessor; and by securely affixing a copy of such notice upon the door of the affected building or structure.~~

~~B. The notice shall contain a statement of the date or dates upon which an inspection was conducted on the property to determine the vacant status, the address of the vacant property, the specific nature of the prohibited conditions, a copy of this article and a vacant property registration application.~~

C. ~~Vacant property registration fees are to be established by the Commissioner of the Department of Public Safety Enforcement.~~

D. ~~Vacant property registration applications shall include but not be limited to the property owner's contact telephone number, residence or place of business, and designated property maintenance contractor.~~

§ 6A-16. Failure to register vacant property.

It shall be a violation of this chapter to fail to register any vacant property as defined by this article.

§ 6A-17. Penalties. ~~Vacant properties with pools or spas.~~

Any person, association, firm or corporation found to have violated any provision of this article or assists in the violation of any provision of this article shall be guilty of a violation, punishable by:

A. A fine of not less than \$250 and not exceeding \$1,000 or by imprisonment for a period not to exceed five days, or both, for conviction of a first offense.

B. For any second conviction, committed within a period of five years of the first conviction, such violation will be subject to a fine of not less than \$1,000 nor more than \$2,000 or by imprisonment for a period not to exceed 15 days, or both.

C. For any third or subsequent offense, after having been convicted two or more times within a period of five years, such violation shall be prosecuted as an unclassified misdemeanor, with a minimum fine of \$2,000 and a maximum fine of \$5,000 and/or up to one year incarceration, or a period of probation as permitted by law.

~~Any pool or spa contained on a vacant property must be secured to the Town of Islip Code Article XXVIII standards or abated as required by Article XXVIII.^[1]~~

~~[1] *Editor's Note: See Ch. 88, Zoning, Art. XXVIII.*~~

§ 6A-18. Failure to abate ~~prohibited condition~~violations of this article.

In the event that a ~~prohibited condition~~violation is identified, such ~~condition violation~~ shall be reported to the owner of record or his designee, as identified within the ~~vacant property~~

registration application. If the ~~condition-violation~~ is not corrected within 10 days the Town of Islip shall take the necessary action to abate the ~~prohibited-condition~~violation.

- A. Failure to comply with this article. Whenever the owners of a property shall fail to comply with the minimum standards of property maintenance, the Town Board may authorize the work to be done and shall provide for the cost thereof to be paid from general Town funds as directed by resolution of the Town Board, pursuant to the authority provided under §§ 64 and 130 of the Town Law.
- B. Assessment of costs and expenses, liens. All costs and expenses incurred by the Town in connection with the abatement of a violation of this article shall be assessed against the subject premises or lot. An itemization of such costs shall be provided to the Town Board by the ~~Department of Planning and Development~~Law Enforcement Department. The total costs and expenses shall then be determined by the Town Board and shall be reported to the Assessor of the Town as the amount to be assessed against the premises, and the expense so assessed shall constitute a lien and charge on the premises on which it is levied until paid or otherwise satisfied or discharged and shall be collected in the same manner and at the same time as other Town charges.

§ 6A-19. Registry exempt from disclosure.

Under New York State Public Officers Law § 87, the vacant property registry and all vacant property registration forms shall be exempt from disclosure under the Freedom of Information Law on the grounds that such disclosure would constitute an unwarranted invasion of personal privacy. The Commissioner of Public Safety Enforcement shall institute strict policies to ensure that such information is available only to Town personnel engaged in the enforcement of the provisions of this article and, in emergency situations, to members of law enforcement; the fire service; emergency medical services; and public utility companies. The information contained in the ~~vacant-property~~ registry and all ~~vacant~~ property registration forms shall not be disclosed to any party for sale.

Chapter 6A. Property Maintenance

Article III. Community Preservation and Anti-Blight Enforcement

§ 6A-9. Title.

This article shall be known as the "Community Preservation and Anti-Blight Enforcement Local Law."

§ 6A-10. Legislative intent.

It is hereby found and declared that there may exist within the Town of Islip a number of real properties which are vacant and/or in a blighted condition that are subject to a mortgage in default, and that the continued existence of such properties negatively affects the economic well-being of the Town of Islip; adds to the decline of neighborhoods; and affects the overall health, safety and welfare of its residents. It is the Town Board's intent to establish a defaulted mortgage registration program as a mechanism to protect neighborhoods from becoming blighted through the lack of adequate maintenance and security of vacant properties subject to a mortgage or properties subject to mortgages which are in default.

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- B. **Applicability.** The provisions of this article shall be deemed to supplement applicable state and local laws, ordinances, codes and regulations. Nothing in this article shall be deemed to abolish, impair, supersede or replace existing remedies of the Town, county or state or existing requirements of any other provision of local laws or ordinances of the Town or county or state laws and regulations. In case of conflict between any provisions of this article and any applicable state or local law, ordinance, code or regulation, the more restrictive or stringent provision or requirement shall prevail.

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- A. Word usage. Whenever used in this article, words in the singular include the plural and vice versa.
- B. Definitions. As used in this chapter, the following terms shall have the meanings indicated:

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FORECLOSURE

The process by which a property, placed as security for a mortgage loan, after a judicial process is to be sold at an auction to satisfy a debt upon which the borrower has defaulted.

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.

VACANT

Any building or structure shall be deemed to be vacant if no person or persons actually currently conducts a lawfully licensed business, or lawfully resides or lives in any part of the building as the legal or equitable owner(s) or tenant-occupant(s), or owner-occupant(s), or tenant(s) on a permanent, nontransient basis.

§ 6A-13. Registration of real property with mortgage-in-default.

- 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. Within ten (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 in Foreclosure. A separate registration is required for each Registrable Property.
- C. If the property is occupied but remains in default, it shall be inspected by the mortgagee, or said mortgagee's designee, monthly until the mortgagor or other party remedies the default.
- D. Mortgage-in-default registration. Registration pursuant to this section shall contain the name of the mortgagee and mortgage servicer; the direct mailing address of the mortgagee and servicer, e-mail address and telephone number; the name and address, e-mail, and telephone number of a local property manager who shall be responsible for the inspection, security and maintenance of the property. The local property manager named in the registration shall be located and available within Suffolk and Nassau Counties Monday through Friday between 9:00 a.m. and 5:00 p.m., holidays and lunch hours excepted, to be contacted by the Town.
- E. A semiannual nonrefundable registration fee in the amount of \$500 per property shall accompany the mortgage-in-default registration form(s). Subsequent semiannual registrations of defaulted properties and fees in the amount of \$500 are due within ten (10) days of the expiration of the previous registration.
- F. If the Foreclosing or Foreclosed 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 (30) period
- G. If the mortgage and/or servicing on a property is sold or transferred, the new Mortgagee is subject to all the terms of this Chapter. 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. This section shall also apply to properties that have been the subject of 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.
- I. Properties subject to this section shall remain under the semiannual mortgage-in-default registration requirement, inspection, security, and maintenance standards of this section as long as they remain in default.
- J. Any person or other 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.
- K. Failure of the mortgagee and/or property owner of record to properly register and/or update the information of the registered property in accordance with (J) of this article is a violation of the Town Code.

§ 6A-14. Maintenance requirements.

- A. Properties subject to this article shall maintain the minimum maintenance standards as set forth in Article IV of this Chapter.
- B. The property shall also 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. Pools and spas shall be kept in working order so that pool and spa water remains free and clear of pollutants and debris. Pools and spas shall comply with the enclosure requirements and any other requirements of this Code found in Chapter 68 Article XXVIII and the New York State Building Code and New York State Property Maintenance Code, as amended from time to time.
- D. Failure of the mortgagee and/or property owner of record to properly maintain the property is a violation of the Town Code.

§ 6A-15. 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 and/or structure. In the event the property is vacant, windows and doors should be boarded to HUD standards, to wit: 5/8 inch plywood, painted gray and bolted from the interior.
- C. If a mortgage on property is in default and has become vacant, the local property manager or mortgagee must perform weekly inspections to verify compliance with the requirements of this section and the property shall be posted with the name and twenty-four (24) hour contact telephone number of the Property Manager. The sign shall be placed in a window facing the street and shall be visible from the street. The posting shall contain the following language with supporting information:

THIS PROPERTY IS MANAGED BY: _____
TELEPHONE NUMBER: _____
EMAIL: _____

- D. Failure of the mortgagee and/or property owner of record to properly inspect and secure the property, and post and maintain the signage noted in this section, is a violation of this Code.

§ 6A-16. Failure to register vacant property.

It shall be a violation of this chapter to fail to register any property as defined by this article.

§ 6A-17. Penalties.

Any person, association, firm or corporation found to have violated any provision of this article or assists in the violation of any provision of this article shall be guilty of a violation, punishable by:

- A. A fine of not less than \$250 and not exceeding \$1,000 or by imprisonment for a period not to exceed five days, or both, for conviction of a first offense.