

TOWNSHIP OF HAMILTON

ORDINANCE NO. 1853-2017

**AN ORDINANCE AMENDING ARTICLE II OF CHAPTER 238, PROPERTY
MAINTENANCE.**

**BE IT ORDAINED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF
HAMILTON:**

SECTION I. That Hamilton Township Committee hereby amends Hamilton Township Code, Chapter 238, Article II, entitled "Abandoned Real Property," by changing its title to "Registration of Residential Properties in Foreclosure" and amending the text to read as follows:

**CHAPTER 238, ARTICLE II. REGISTRATION OF RESIDENTIAL
PROPERTIES IN FORECLOSURE**

SECTION 238-10. PURPOSE AND INTENT

It is the purpose and intent of the Township to remedy the deterioration, crime, and decline in value of Hamilton Township's neighborhoods by identifying, regulating, and reducing the number of vacant or abandoned properties in the Township undergoing foreclosure. It is the Township's further intent to protect neighborhoods from the negative impact of abandonment, vacancy, and lack of adequate maintenance and security by establishing a registration requirement, which will provide an efficient method to contact the member of a foreclosing entity who is authorized to implement the protection this Article contemplates.

It is not the intent of this Article to determine the rights and liabilities of persons under agreements to which the Township is not a party. This Article shall not be construed to alter the terms of any lease or other agreement between the owner of property subject to this Article and any other party, except that it shall be unlawful for a lease or other such agreement to excuse compliance with this Article. Additionally, a violation of this Article shall not be considered negligence per se and shall not expand existing liability in tort for landlords or tenants.

SECTION 238-11. 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. This Section, to the extent applicable, is an operational section of this Article.

Accessible Property/Structure – means a property that is accessible through a compromised or breached gate, fence, wall, window, or other opening, or a structure that is incomplete, unsecure, or breached in such a way as to allow access to the interior space by unauthorized persons. Interior space shall include the interior of a dwelling, garage, barn, shed, or other structure typically constructed with three or four walls.

Applicable Codes – include, but are not limited to, the following portions of the Township Code and all standards and other codes referenced in such portions: Chapter 130 - Buildings, Unfit; Chapter 133 - Buildings, Unsafe; Chapter 144 - Uniform Construction Code; Chapter 170 - Fire Prevention; Chapter 203 - Land Use and Development; and Chapter 217 - Nuisance; and Article 1 of Chapter 238 - Property Maintenance.

Blighted Property – means:

- a) Properties with broken or severely damaged windows, doors, walls, or roofs which create hazardous conditions or facilitate trespassing;
- b) Properties cited for a public nuisance relating to their appearance or lack of safety pursuant to the Township Code; or
- c) Properties that endanger the public's health, safety, or welfare because they, or improvements thereon, are dilapidated, deteriorated, violate minimum health and safety standards, or lack maintenance as required by the Applicable Codes.

Enforcement Officer – means any law enforcement officer, building official, zoning inspector, code enforcement officer, fire inspector, building inspector, or other person authorized by the Township to enforce any Applicable Code(s).

Evidence of Vacancy or Abandonment – means any condition that, on its own or combined with other conditions present, would lead a reasonable person to believe that a property is vacant. Such conditions include:

- (1) overgrown or neglected vegetation;
- (2) the accumulation of newspapers, circulars, flyers, or mail on the property;
- (3) disconnected gas, electric, or water utility services to the property;
- (4) the accumulation of hazardous, noxious, or unhealthy substances or materials on the property;
- (5) the accumulation of junk, litter, trash, or debris on the property;
- (6) the absence of window treatments such as blinds, curtains, or shutters;
- (7) the absence of furnishings and personal items;
- (8) statements of neighbors, delivery persons, or government employees indicating that the residence is vacant and abandoned;
- (9) windows or entrances to the property that are boarded up or closed off or multiple window panes that are damaged, broken and unrepaired;
- (10) doors to the property that are smashed through, broken off, unhinged, or continuously unlocked;
- (11) a risk to the health, safety, or welfare of the public, or of any adjoining or adjacent property owner, that exists due to vandalism, loitering, criminal conduct, or the physical destruction or deterioration of the property;
- (12) an uncorrected violation of a municipal building, housing, or similar code during the preceding year, or an order by municipal authorities declaring the property to be unfit for occupancy and to remain vacant and unoccupied;
- (13) the Mortgagee or other authorized party has secured or winterized the property due to the property being deemed vacant and unprotected or in danger of freezing;
- (14) a written statement issued by any mortgagor expressing the clear intent of all mortgagors to abandon the property; and
- (15) any other reasonable indicia of abandonment.

Foreclosure – means the legal process by which a Mortgagee terminates a mortgagor's interest in real property either to obtain legal and equitable title to the real property pledged as security for a debt or to force a sale of said property to satisfy a debt. For

purposes of this Article, this process begins upon the service of a summons and complaint on the mortgagor or any interested party. For purposes of this Article, the process is not concluded until the property is sold to a bona fide purchaser not related to the Mortgagee in an arm's length transaction whether by sheriff's sale, private sale following a sheriff's sale, or private sale following the vesting of title in the Mortgagee pursuant to a judgment.

Mortgagee – means the creditor, including but not limited to: 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.

Mortgage Servicer – means an entity authorized by a Mortgagee to receive payments on a mortgage, whether said entity has legal or equitable rights in the mortgaged property.

Owner – means any person, firm, corporation, or other entity who, individually or jointly or severally with others, holds the legal or beneficial title, or part thereof, to any Real Property subject to the provisions of this chapter.

Real Property – means, for purposes of this Article, any land, or part thereof, located in the Township limits that is improved for a residential purpose and the buildings, structures, leasehold improvements, and anything else affixed to such land.

Registrable Property – means any Real Property located in the Township, whether vacant or abandoned or occupied, that is subject to a Foreclosure as defined in this Article.

Property shall remain Registrable Property so long as it is in Foreclosure, as defined by this Article.

Pursuant to N.J.S.A. 446:10B-51.1, property shall also remain Registrable Property if, upon the completion of the Foreclosure, it is owned, by way of sheriff's sale or deed in lieu of foreclosure, by an individual or entity that does not occupy the property

Semi-Annual Registration – means the registration of a Registrable Property six (6) months from the date of the first action that requires registration by the terms of this Article and every subsequent six (6) months. The date of the initial registration may be different than the date of the first action that required registration.

Vacant or Abandoned – means uninhabited by human beings or unlawfully inhabited.

Vacant property does not mean property that is temporarily unoccupied: (a) if it is not intended by the owner to be left vacant and the vacancy does not exceed thirty (30) days; (b) while under repair or renovation so long as such repairs and renovations are moving forwards towards completion in the normal course; or (c) while the residents are away on vacation, personal matters, or business.

Whether a property is Vacant or Abandoned shall be determined in consideration of Evidence of Vacancy as defined in this section and any factors determinant of the lawfulness of occupancy.

SECTION 238-12. APPLICABILITY

These sections shall be considered cumulative and not superseding or subject to any other law or provision for remedy, but rather shall be an additional remedy available to the Township above and beyond any other state, county, or local provision for remedy.

SECTION 238-13. ESTABLISHMENT OF A REGISTRY

Pursuant to the provisions of Section 238-10, the Township or its authorized designee shall establish a registry cataloging each Registrable Property within the Township, containing the information required by this Article.

SECTION 238-14. REGISTRATION OF REGISTRABLE PROPERTY

- (a) The Mortgagee of Registrable Property shall, within ten (10) days from the commencement of Foreclosure, register the property with the Division of Code Enforcement, or other Township designee, on paper forms or by electronic means provided by the Township. The Mortgagee shall indicate whether the property is vacant or abandoned or occupied. A separate registration is required for each Registrable Property within the Township.
- (b) Registration pursuant to this section shall contain the name and direct mailing address of the Mortgagee and Mortgage Servicer; a direct contact name, telephone number, and e-mail address for the Mortgagee and Mortgage Servicer; and the name and twenty-four (24) hour contact telephone number of the Mortgagee's in-state representative that is responsible for the security and maintenance of the property and is authorized to make decisions concerning the abatement of nuisance conditions at the property, as well as any expenditures in connection therewith.
- (c) Mortgagees of property that is Registrable Property on the effective date of this Ordinance shall, within thirty (30) days from the effective date, register the property with the Division of Code Enforcement, or other Township designee, on paper forms or by electronic means provided by the Township. The Mortgagee shall indicate whether the property is vacant or abandoned or occupied. A separate registration is required for each Registrable Property within the Township.
- (d) The Mortgagee of Registrable Property shall re-register Registrable Property no later than ten (10) days after the end of the preceding six (6) month interval and shall do so until the property is no longer Registrable Property.
- (e) A non-refundable semi-annual registration fee of \$500.00 shall accompany each registration pursuant to this section. All registration fees must be paid directly by the Mortgagee or Owner. Third Party Registration fees are not allowed without the consent of the Township and/or its authorized designee.
- (f) Properties subject to this section shall remain under the semi-annual registration and fee requirements and the security and maintenance standards of this Article so long as they are Registrable Property.
- (g) 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. Such changes including, but are not limited to: a change in the identity or contact information of the Mortgage Servicer; a change in the identity or contact information of the Mortgagee's in-state representative responsible for maintenance of the property; or a change in the Mortgagee, Mortgage Servicer, or Mortgagee's in-state representative's belief as to the occupied, vacant, or abandoned status of the Registrable Property.
- (h) If the Mortgagee of a Registrable Property sells or transfers the mortgage or sells or transfers the property in a non-arm's length transaction, the new Mortgagee or the new Owner of the Registrable Property is subject to all the terms of this Article, and within ten (10) days of the sale or transfer of the mortgage or of the property must register the property if it is unregistered or update the existing registration. The new Mortgagee or new Owner, and any previous mortgagee or owner subject to the registration requirements of this section, are each individually liable for any previous unpaid registration fees or fines owed under this Article. Payment of any such previous fees or

finances may be demanded of the new Mortgagee or new Owner upon that party's initial registration under this subsection. The provisions of this section are cumulative with and in addition to other available remedies. Moreover, the Division of Code Enforcement is authorized and empowered to refer the previous mortgagee's or previous owner's non-payment of fees and fines owed under this Article to a court of competent jurisdiction for disposition.

(i) Failure to properly register or to modify a registration from time to time as required by this section is a violation of this Article and shall be subject to enforcement and any resulting monetary penalties and/or property liens.

(j) An Owner who is a bona-fide purchaser, not related to the Mortgagee, of any non-owner occupied Real Property who takes title as a result of a sheriff's sale or deed in lieu of foreclosure, shall register, and maintain the registration of, the Real Property in the manner provided by this Article. Said registration shall include the name and address of the Owner, and if the Owner is not located within this state, the name and address of an in-state designated agent authorized to accept service of process on behalf of the Owner.

(k) Pursuant to an administrative or judicial determination that a property is in violation of the Applicable Code(s), the Township may take all necessary actions to cure such a violation and may place a lien on the property for any costs thereof to the extent, and in the manner, permitted by law.

SECTION 238-15. MAINTENANCE REQUIREMENTS

All Registrable Property is subject to the Applicable Code(s). To the extent that Registrable Property becomes vacant or abandoned, the Mortgagee shall be responsible, to the same extent as the Owner, for complying with the Applicable Code(s) as they relate to the exterior of the property. This obligation shall include, but not be limited to, the following specific requirements:

(a) Registrable Property shall be kept free of weeds, overgrown brush, and dead vegetation; trash, junk, debris, and building materials; any accumulation of newspapers, circulars, flyers, or notices, except those required by federal, state, or local law; discarded personal items including, but not limited to, furniture, clothing, large and small appliances, or printed material; and any other item that gives the appearance that the property is abandoned.

(b) Registrable Property shall be maintained free of graffiti and similar markings through removal or by 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 a manner including, but not be limited to, watering, irrigation, cutting and mowing of required ground cover or landscape, and removal of all trimmings.

(d) Pools and spas on Registrable Property shall be maintained so the water remains free and clear of pollutants and debris and the water is inaccessible to trespassers and animals.

(e) Failure of the Mortgagee of abandoned or vacant Registrable Property to maintain the exterior of the Registrable Property in accordance with the Applicable Code(s) shall subject Mortgagee to the issuance of a citation or Notice of Violation thereunder and the pursuit by the Township of all remedies available to it under the law.

SECTION 238-16. SECURITY REQUIREMENTS

All Registrable Property is subject to the Applicable Code(s). To the extent that Registrable Property becomes vacant or abandoned, the Mortgagee shall be responsible,

to the same extent as the Owner, for complying with the Applicable Code(s) as they relate to the security of the property. This obligation shall include, but not be limited to, the following specific requirements:

- (a) Registrable Properties 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 the window.
- (c) Failure of the Mortgagee of abandoned or vacant Registrable Property to keep the Registrable Property secured in accordance with the Applicable Code(s) shall subject Mortgagee to the issuance of a citation or Notice of Violation thereunder and the pursuit by the Township of all remedies available to it under the law.

SECTION 238-18. PENALTIES FOR FAILURE TO REGISTER; SCHEDULE OF CIVIL PENALTIES.

Any Mortgagee or Owner who fails to register a Registrable Property or violates any provision of this Article may be cited and fined up to \$1,000.00 at the discretion of the Court.

SECTION II. SEVERABILITY. If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, said holding shall in no way affect the validity of the remaining portions of this Ordinance.

SECTION III. REPEALER. All ordinances or parts of ordinances in conflict herewith, are hereby repealed.

SECTION IV. EFFECTIVE DATE. This Ordinance shall become effective upon its final passage, publication, and adoption in the manner prescribed by law.

ATTEST:

TOWNSHIP COMMITTEE OF THE
TOWNSHIP OF HAMILTON,
COUNTY OF ATLANTIC, NJ

RITA MARTINO, RMC, CMR
TOWNSHIP CLERK

JOHN KURTZ, MAYOR

| COMMITTEE MEMBER | MOTION | YES | NO | ABSTAIN | ABSENT |
|------------------|--------|-----|----|---------|--------|
| GUISHARD | | | | | |
| LINK | | | | | |
| SCHENKER | | | | | |
| SILVA | | | | | |
| MAYOR KURTZ | | | | | |

FIRST READING AND INTRODUCTION:

FINAL READING AND ADOPTION: