

TOWNSHIP OF NORTH BERGEN
COUNTY OF HUDSON

AN ORDINANCE REQUIRING THE REGISTRATION
AND MAINTENANCE OF CERTAIN REAL
PROPERTY BY MORTGAGEES, PROVIDING FOR
PENALTIES AND ENFORCEMENT, AS WELL AS THE
REGULATION, LIMITATION AND REDUCTION OF
ABANDONED REAL PROPERTY WITHIN THE
TOWNSHIP OF NORTH BERGEN

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE
TOWNSHIP OF NORTH BERGEN as follows:

SECTION 1. BACKGROUND AND FINDINGS.

- A. The Township of North Bergen (the "Township") desires to protect the public health, safety and welfare of its citizens and maintain a high quality of life for the citizens of the Township through the maintenance of structures and properties in the Township; and
- B. Properties that are neglected and have unsecured, accessible structures have a negative impact on community value, create conditions that invite criminal activity, and foster an unsafe and unhealthy environment for children; and
- C. Mortgage foreclosure has serious negative implications for all communities attempting to manage the consequences of properties that have defaulted mortgages, are in the foreclosure process, foreclosed upon and/or mortgagee owned; and
- D. Often times, the foreclosing party or property owners are an absentee responsible party, and there is no local contact for said property, which makes it difficult to notice the proper party of violations of the Township ordinances, and to maintain the requisite level of maintenance and security of such structures or lots; and
- E. The Township recognizes an increase in the number of properties with defaulted mortgages and subject to foreclosure action or foreclosed upon, (hereinafter referred to as "registrable properties") located throughout the Township which lead to a decline in property value, create nuisances and lead to a general decrease in neighborhood and community aesthetics; and
- F. The Township has previously adopted property maintenance codes to regulate building standards for the exterior of structures and the condition of the property within the Township as a whole; and
- G. The Township recognizes that 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 unattended in order to best serve the interests of the public health, safety and welfare; and
- H. The Township has a vested interest in protecting neighborhoods against decay caused by registrable properties and concludes that it is in the best interests of the health, safety, and welfare of its citizens and residents to impose registration requirements for registrable properties located within the Township to discourage registrable property owners and mortgagees from allowing their properties to be abandoned, neglected or left unsupervised.

SECTION 2. PURPOSE AND INTENT.

It is the purpose and intent of the Township to establish a process to address the deterioration, crime and decline in value of its neighborhoods caused by properties with defaulted mortgages located within the Township. It is the Township's further 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, lack of adequate maintenance and security and will provide a method to expeditiously identify a contact person for each property responsible for this protection.

It is not the Township's intent to determine the rights and liabilities of persons under agreements to which the Township is not a party. This Ordinance 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 Ordinance; provided that no provision of any lease or other agreement shall be construed to excuse compliance with this Ordinance. Additionally, a violation of this Ordinance shall not in and of itself establish negligence on a *per se* standard or otherwise expand existing liability in tort for either a landlord or a tenant.

SECTION 3. 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.

- A. **Accessible Property/Structure:** A property that is accessible through comprised/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.
- B. **Applicable Codes:** Includes, but is not limited to, the Township's zoning ordinances, the Township's ordinances controlling property maintenance, the Township's ordinance requiring foreclosure notices and the Township's health and safety ordinances (collectively the "Township Code"), and the New Jersey Building Code.
- C. **Blighted Property:**
1. Properties that have broken or severely damaged windows, doors, walls, or roofs which create hazardous conditions and encourage trespassing; or
 2. Properties whose maintenance is not in conformance with the maintenance of other neighboring properties causing a decrease in value of the neighboring properties; or
 3. Properties cited for a public nuisance pursuant to any Township Code; or
 4. Properties that endanger the public's health, safety, or welfare because the properties or improvements thereon are dilapidated, deteriorated, or violate minimum health and safety standards or lack maintenance as required by the applicable Township codes and regulations.
- D. **Enforcement Officer:** Any law enforcement officer, building official, zoning inspector, code enforcement officer, fire inspector or building inspector, or other person authorized by the Township to enforce the applicable Township codes and regulations.
- E. **Evidence of Vacancy:** 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 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, or statements by neighbors, passers-by, delivery agents or government agents; or the presence of boards over doors, windows or other openings in violation of applicable Township codes and regulations.
- F. **Default:** 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.

- G. **Foreclosure:** The legal process by which a mortgagee, or other lien holder, 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 lien holder, 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, 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.
- H. **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.
- I. **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 Ordinance.
- J. **Mortgage Servicer:** Any firm, corporation or other legal entity to which some borrowers pay their mortgage loan and which performs other services in connection with mortgages and mortgage-backed securities. The Mortgage Servicer may be the entity that originated the mortgage, or it may have purchased the mortgage servicing right from the original mortgage lender. The duties of a mortgage service may include, but are not limited to, the acceptance and recording of mortgage payments, calculating variable interest rates on adjustable rate loans, payment of taxes and insurance from borrower escrow accounts, negotiations of workouts and modifications of mortgages upon default, and conducting or supervising the foreclosure process when necessary.
- K. **Real Property:** Any improved residential 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 Township limits. Developed lots are considered improved land.
- L. **Registerable Property:** Any real property located in the Township, 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.

- M. **Semi-Annual Registration:** Six (6) months from the date of the first action that requires registration, as determined by the Township, or its designee, 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
- N. **Vacant:** Any parcel of land within the Township that contains any building or structure that is not lawfully occupied or inhabited by human beings as evidenced by the conditions set forth in the definition of "Evidence of Vacancy" above which is without lawful tenant, or lawful occupant or without a certificate of occupancy.

Vacant property shall not mean property that is temporarily unoccupied while the residents are away on vacation, personal matters or business, or is not intended by the owner to be left vacant, so long as the period does not exceed thirty (30) days.

SECTION 4. APPLICABILITY.

The sections of this Ordinance 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 Township above and beyond any other State or Township provisions for same.

SECTION 5. ESTABLISHMENT OF A REGISTRY.

The Township shall establish or make arrangements for a registry cataloging each Registrable Property within the Township, containing the information required by this Ordinance.

SECTION 6. REGISTRATION OF DEFAULTED MORTGAGE REAL PROPERTY.

- A. Any Mortgagee who holds a mortgage on real property located within the Township shall perform an inspection of the property to determine vacancy or occupancy, upon default by the mortgagor. The Mortgagee shall, within ten (10) days of the inspection, register the property with the Township Building Department, or its designee, on forms or other manner as directed, and indicate whether the property is vacant or occupied. A separate registration shall be required for each property, whether it is found to be vacant or occupied.
- B. Registration pursuant to this section shall contain the name, direct mailing address, a direct contact name, telephone number, and e-mail address for the Mortgagee/Trustee, and the Mortgage Servicer, and where applicable the name and twenty-four (24) 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.
- C. Mortgagees who have existing Registrable Property on the effective date of this Ordinance shall have thirty (30) calendar days from the effective date to register the property with the Township's Building 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.
- D. If the mortgage on a Registrable Property is sold or transferred, the new Mortgagee is subject to all the terms of this Ordinance. Any previous 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. Moreover, the Township's Building Department shall be authorized and empowered to refer the previous Mortgagee's non-payment of previous fees and fines to the appropriate parties for collection or a court of competent jurisdiction for disposition. The provisions of this section are cumulative with and in addition to other available remedies.
- E. 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 Mortgage Servicer information within ten (10) days of the servicing transfer.
- F. If the Mortgagee owner of a foreclosed real property sells or transfers the property to a non-arm's length related person or entity, the transferee is subject to all the terms of this Ordinance and within five (5) days of the transfer register the property. Any previous 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.. Moreover, the Township's Building Department is authorized and

empowered to refer the previous Mortgagee's non-payment of previous fees and fines to the appropriate parties for collection or a court of competent jurisdiction for disposition. The provisions of this section are cumulative with and in addition to other available remedies.

- G. 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.
- H. A non-refundable registration fee of \$500.00 shall accompany each registration pursuant to this section.
- I. If a *lis pendens*, deed-in-lieu of foreclosure, or other public notice of foreclosure is filed on a property and the property was not registered and the registration fee paid at least thirty (30) days prior to the filing date, a late fee of \$100.00 shall be charged per property and shall be due and payable with the registration. This section shall apply to the initial registration and registration renewals. Registrations delinquent greater than thirty (30) days are subject to additional fines as described herein.
- J. All registration fees must be paid directly from the Mortgagee, Trustee, Servicer, or Owner. Third Party Registration fees shall not be permitted without the consent of the Township and/or its authorized designee.
- K. Properties subject to this section shall remain under the semi-annual registration requirement, and the inspection, security and maintenance standards of this section as long as they are registrable.
- L. 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 defaulted mortgage, from all the requirements of this ordinance as long as the borrower is in default.
- M. 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.
- N. The failure of a Mortgagee or Owner to properly register or to modify any required registration information from time to time to reflect a change of circumstances as required by this Ordinance is a violation of the Ordinance and shall be subject to enforcement and any resulting monetary penalties and/or property liens.
- O. Pursuant to any administrative or judicial finding and determination that any property is in violation of this Ordinance, the Township 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.
- P. Properties subject to this section shall exist and be maintained in accordance with all applicable Township codes and regulations.

SECTION 7. SEVERABILITY.

If any section, sub-section, sentence, clause, or phrase of this Ordinance is for any reason deemed to be unconstitutional or invalid by any court of competent jurisdiction, such decision shall not affect the remaining sections, sub-sections, sentences, clauses, or phrases of this Ordinance.

SECTION 8. REPEALER

All ordinances or parts of ordinances in conflict herewith, are and the same are hereby repealed.

SECTION 9. EFFECTIVE DATE.

This Ordinance will take effect upon publication as required by law.

Introduced: January 25, 2017

Published: January 30 & February 13, 2017

Adopted: February 8, 2017

Attest: Erin Barillas
Township Clerk

<u>Comm. Cabrera</u>	<u>YES</u>
<u>Comm. Marengo</u>	<u>YES</u>
<u>Comm. Pascual</u>	<u>YES</u>
<u>President Sacco</u>	<u>YES</u>