

**TOWNSHIP OF WATERFORD
COUNTY OF CAMDEN
STATE OF NEW JERSEY**

ORDINANCE # 2017 - 10

**ORDINANCE OF THE TOWNSHIP OF WATERFORD
AMENDING, REVISING AND/OR SUPPLEMENTING CHAPTER 220
OF THE CODE OF THE TOWNSHIP OF WATERFORD, CAPTIONED
“PROPERTY MAINTENANCE”**

WHEREAS, the Township of Waterford adopted Ordinance 2015-18 on October 28, 2015 captioned “An Ordinance of the Township of Waterford Governing the Maintenance of Vacant and Abandoned Properties, Establishing Registrations Requirements and Levying a Registration Fee on Owners of Vacant Property”; and

WHEREAS, said Ordinance has now been codified as Article II of Chapter 220 of the Township Code captioned “Property Maintenance”; and

WHEREAS, it has now been determined necessary to amend Chapter 220 to revise the Fee Schedule, the Registration Time Period and to include a new Article III to be captioned **“Defaulted Mortgage Property”**.

WHEREAS, the Mayor and Township Committee of the Township of Waterford recognizes there are a large number of properties located throughout the State of New Jersey and within the Township that are encumbered by defaulted mortgages and/or which are subject to foreclosure actions or have been foreclosed upon (hereinafter the “Defaulted Mortgage Properties”); and

WHEREAS, the Governing Body further recognizes that Defaulted Mortgage Properties have a tendency to become neglected and can contain unsecured, accessible structures which can have a negative impact on community value, create conditions that invite criminal activity, foster

an unsafe and unhealthy environment for residents, create nuisances and lead to a great decrease in neighborhood and community aesthetics; and

WHEREAS, often times, the foreclosing party and/or owners of Defaulted Mortgage Properties are located out of state or no longer reside at the property and have left no local contact information, thereby making it difficult to provide notice the proper party of any violations of the Township Code relating to maintaining the requisite level of maintenance and security on such structures and/or properties; and

WHEREAS, it is the purpose and intent of the Mayor and Township Committee to establish a process to address the deterioration, crime and decline in value of Township neighborhoods caused by the conditions associated with Defaulted Mortgage Properties and to identify, regulate, limit and reduce the number of these properties located within the Township; and

WHEREAS, it is the further intent of the Mayor and Township Committee 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 multiple parties and their contact person(s) for each property responsible for this protection; and

WHEREAS, the Mayor and Township Committee of the Township of Waterford have determined it to be in the best interest of residents of the Township to provide for the registration of Defaulted Mortgage Properties located within the Township; and

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Township Committee of the Township of Waterford, County of Camden and State of New Jersey, it hereby amends

Chapter 220 of the Code of the Township of Waterford captioned “Property Maintenance” as follows:

SECTION 1.

A. Section 220-19 shall be amended as to the definition of “vacant property” as follows:

Vacant Property – Vacant property shall mean any building used or to be used as a residence or a commercial use not legally occupied or which substantially all lawful construction operations or residential or commercial occupancy has ceased, and which is in such condition that it cannot legally be occupied without repair or rehabilitation, including but not limited to any property meeting the definition of abandoned property in N.J.S.A. 55:19-80; provided, however, that any property where all building systems are in working order, where the building and grounds are maintained in good order, or where the building is in a habitable condition and where the building is being actively marketed by its owner for sale or rental, shall not be deemed a vacant property for purposes of this Chapter.

B. Section 220-20, Paragraph D shall be amended to read as follows:

“The registration shall remain valid for a six month time period from the date of registration. The owner shall be required to renew the registration semi-annually every six months as long as the building remains a vacant property and shall pay a registration or renewal fee in the amount prescribed in Section 220-23 of this Chapter for each vacant property registered”.

SECTION 220-20 Paragraph E shall be amended to read as follows:

“The semi-annual renewal shall be completed every six months”.

C. Section 220-23 captioned “Fee Schedule” shall be amended to read as follows:

a) The registration fee for each building shall be \$850.00 for the initial registration and for each subsequent renewal.

SECTION 2.

Chapter 220 of the Code of the Township of Waterford entitled “Abandoned and Vacant Properties” is hereby amended, revised and supplemented to add a new Article III entitled “Defaulted Mortgage Properties” which shall read as follows:

Article III – Defaulted Mortgage Properties

Public nuisance declared.

All registrable property is hereby declared to be a public nuisance, the abatement of which pursuant to the police power is hereby declared to be necessary for the health, welfare and safety of the residents of the Township of Waterford.

Applicability.

The requirements of this Article shall be considered cumulative to and not superseding or subordinate to any other law or provision regarding the registration of vacant, deteriorated and/or abandoned property, it being the express intent of the Township that the requirements of this Article shall be a further remedy available to the Township in addition to any other applicable laws relating to same.

Definitions.

As used in this Article, the following terms shall have the meanings indicated notwithstanding any meaning to the contrary elsewhere in this Chapter:

ACCESSIBLE PROPERTY and/or ACCESSIBLE 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.

ARM'S LENGTH TRANSACTION

The sale of real property to an independent third-party purchaser, who is unrelated to the transferor, for fair market value as determined by an independent appraiser not hired or retained by the transferor.

APPLICABLE LAWS

The Code of the Township of Waterford, as it may be amended from time to time, and any and all ordinances and/or resolutions adopted by the Township which govern property maintenance and are not codified therein, together with all other laws, rules and regulations of the County of Camden and/or State of New Jersey applicable to construction, maintenance and/or use of real property, including but not limited to State and/or County Construction, Building and Fire Codes.

DETERIORATED PROPERTY

Property located within the Township of Waterford upon which is found any one or more of the following conditions:

- a) Properties that have broken or severely damaged windows, doors, walls or roofs which create hazardous conditions and/or encourage trespassing; or
- b) Properties whose maintenance is not in conformance with the maintenance of other neighboring properties; or
- c) Properties cited under the property maintenance provisions of the Waterford Township Code and/or as a public nuisance pursuant to applicable laws; or
- d) Properties that endanger the public's health, safety, or welfare because the properties or improvements thereon are so dilapidated, deteriorated and/or so

violative of basic property maintenance requirements that they violate minimum health and safety standards.

ENFORCING OFFICER

Any Police Officer, Construction Code Official, Zoning Inspector, Code Enforcement Officer, Fire Inspector or Building Inspector or other person authorized by the Township and/or the State of New Jersey to enforce the applicable laws.

DEFAULT

The event, action and/or inaction, and the continuing situation arising therefrom, where a mortgagor, owner and/or borrower has not complied with any one or more terms of the mortgage encumbering the mortgagor's property as said property is identified in the mortgage, has not paid current all real property taxes and/or applicable municipal charges, or has otherwise failed to comply with the provisions of a loan or other agreement wherein the borrower has used the borrower's real property as collateral therefor. For the purpose of this definition, the term "mortgage" shall also mean and/or refer to the promissory note executed with the mortgage and/or such other valid written evidence of the debt as recognized by law.

EVIDENCE OF VACANCY

As used in this Article, "Evidence of Vacancy" shall mean any condition that on its own, or combined with other conditions present, would lead a reasonable person to believe that a property is vacant, including but 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 automotive 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; statements by neighbors, passers-by, delivery agents or government agents as to suspected vacancy; or the presence of boards over doors, windows or other openings in violation of applicable laws.

FORECLOSURE

The legal process by which a mortgagee or other creditor terminates a property owner's ownership of and/or equitable right of redemption in real property in order to obtain legal and equitable title to the real property which was pledged as security for a debt.

This definition shall include, but is not limited to, public notice of default, recording of a lis pendens, filing of a foreclosure complaint in the Superior Court of New Jersey, delivery and recording of a deed-in-lieu of foreclosure, sale of the real property to the foreclosing mortgagee or creditor, entry of a judgment of foreclosure and/or all other processes, activities and actions, by whatever name, associated with the foreclosure process. For purposes of this Article, the foreclosure process shall not be deemed concluded until the property that is obtained by the mortgagee, creditor and/or their designee by deed or judgment of foreclosure or any other means is sold to a non-related bona fide third-party purchaser in an arm's-length transaction.

LOCAL PROPERTY MANAGEMENT COMPANY

A property management company located within 20 driving miles of any municipal border of the Township or a non-local property manager approved by the Township Administrator upon the Administrator's review and consideration of reasonably reliable credentials.

MORTGAGEE

The creditor identified in the mortgage documents as the lender and/or financing institution which lent money to a property owner thereunder and encumbered the property owner's real property as collateral therefor, including but not limited to any trustees, mortgage service companies, and/or any agent, servant, or employee thereof, and/or any successor in interest or assignee of the said mortgagee's rights, interests or obligations under the mortgage agreement, which assignment and/or transfer was made, in part, for the purpose of substituting one mortgagee for another.

OWNER

Any person, firm, corporation or their legal entity who, individually or jointly with one or more others, holds the legal or beneficial title to any real property located within the Township.

PROPERTY MANAGEMENT COMPANY

A property manager, property maintenance company or similar entity responsible for the maintenance and security of registrable property and who has the authority to make decisions concerning maintenance of said property and/or the abatement of nuisance conditions at the property, including without limitation the authority to make expenditures in connection therewith.

REAL PROPERTY

Any improved residential or commercial land located within the Township limits, together with the buildings, fixtures, equipment and leasehold improvements thereon and/or affixed thereto, or any part or portion thereof, which is identified by a property parcel and/or tax identification numbering system. For purposes of this Chapter, all

developed lots are considered improved land.

REGISTRABLE PROPERTY

Any and all real property located within the Township, whether vacant or occupied, that satisfies any one or more of the following criteria: (i) is encumbered by a mortgage in default, (ii) is subject to an ongoing foreclosure action by a mortgagee or other creditor, (iii) is subject to an application for a judgment of foreclosure by a mortgagee or other creditor, (iv) is pending and/or scheduled for tax sale for unpaid property taxes and/or other municipal charges, (v) has been the subject of a foreclosure sale where the title was transferred to the beneficiary of a mortgagee or other creditor involved in the foreclosure and/or (vi) was transferred under a deed in lieu of foreclosure to the mortgagee or other foreclosing creditor. The designation of a “defaulted mortgage/foreclosure property” as “registrable” shall remain in place until such time as the property is sold to an unrelated bona fide third-party purchaser in an arm’s-length transaction or the foreclosure action has been dismissed and any default on the mortgage and/or delinquencies in unpaid property taxes or other municipal charges has been cured.

RENTAL PROPERTY

A property that contains a single-family rental dwelling unit or multi-family rental dwelling units for use by residential tenants, including but not limited to mobile homes, mobile home spaces, townhomes, condominium unit(s) and/or apartments. A rental dwelling unit includes property that is provided to an individual or entity for residential purposes upon payment of rent or any other consideration in lieu of rent, regardless of the nature of the relationship between lessor and lessee.

SEMI-ANNUAL REGISTRATION

The 6 month period of registration commencing from the date of the first action that required registration, as determined by the Township and/or its designee, and including every subsequent 6 month registration period thereafter. The date of the initial registration may be different than the date of the first action that required registration.

TRANSFeree

The person, mortgagee, trustee and/or entity to which legal title of real property is transferred as a result of a judgment of foreclosure, sheriff's sale after foreclosure, deed in lieu of foreclosure, non-arm's length sale or transfer and/or any other type of non-arm's-length transaction.

UNAUTHORIZED PERSON

Any person who does not have the permission of the property owner and/or property management company, as the case may be, to use, reside in, live in or otherwise occupy, on a temporary or permanent basis, any real property.

VACANT

As used in this Article, the term "vacant" shall mean any parcel of land situated 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, and/or which is occupied without a valid, unexpired certificate of occupancy or other written authorization for occupancy as may be required by applicable laws.

Establishment of a Registry

- 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 immediately upon default by the mortgagor. The Mortgagee shall, within ten (10) days of the inspection, register the property with the Registrar on designated forms or in such other manner as directed, and shall indicate thereon whether the property is vacant or occupied. A separate registration is 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, including the direct dial telephone number and direct e-mail address thereof, and a valid telephone number and e-mail address for the Mortgagee and the Mortgagee's servicer, if any, as well as the name and twenty-four (24) hour contact telephone/cellular phone number of the local property management company responsible for the property.
- c) Mortgagees who have existing registrable property on the effective date of this Ordinance have 30 calendar days from the effective date hereof to register the property as required herein and to 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 the Registrable Property is sold or transferred, other than via an arm's-length transaction, the new Mortgagee and/or transferee shall be subject to all of the requirements of this Article and, within 5 business days of such sale or transfer, the new Mortgagee shall register the property as required herein.

- e) If a Mortgagee who obtains title to a Registrable Property as a result of a foreclosure process subsequently sells or transfers the property, other than via an arm's-length transaction, the said transferee shall be subject to all the requirements of this Article and, within 5 business days of the transfer, the transferee shall register the property as required herein.
- f) As long as the property constitutes a Registrable Property as defined herein it shall be the responsibility of the registered mortgagee, independently or by and through a local property management company to inspect the property 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 with the Registrar.
- g) Every property registration required by this Article shall be accompanied by a non-refundable semi-annual registration fee in the amount of \$850.00. Notwithstanding anything else herein to the contrary, every semi-annual registration shall terminate upon the sale or other transfer of a Registrable Property such that the purchaser and/or transferee thereof, other than an unrelated third-party purchaser in an arm's-length transaction, shall pay a new semi-annual registration fee at the time of the new purchaser/transferee's registration of the Registrable Property as otherwise required in this Article. Any previous unpaid semi-annual registration fees are the responsibility of the new Mortgagee or transferee and are due and payable with the initial registration filed by same.
- h) All registration fees must be paid directly by and/or from the mortgagee, transferee or other non-arm's-length purchaser of a Registrable Property and cannot be paid by a third-party on behalf thereof without the express written consent of the Township.

- i) Properties subject to this Article shall remain subject hereto, including without limitation the semi-annual registration requirement, inspection, security and maintenance standards of this Article, for as long as the property meets the definition of a Registrable Property.
- j) Until the mortgage or lien on a property registered under this Article is satisfied or legally discharged, the Mortgagee's intent to no longer pursue foreclosure as evidenced by any action in further thereof, including without limitation the filing of a dismissal of lis pendens, entry of a Court Order vacating a Final Judgment of foreclosure and/or the dismissal or withdrawal of pending foreclosure proceedings, whether voluntary or otherwise, shall not exempt any Mortgagee from the obligation to comply with all of the requirements of this Article for any period of time during which a property meets the definition of a Registrable Property.
- k) 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 date such change occurs.
- l) Failure of the Mortgagee to properly register a Registrable Property, or to fail to modify the registration as required herein to reflect a change of circumstances, shall be deemed a violation of this Article and the Mortgagee shall be subject to enforcement hereunder, including any monetary penalties set forth in of this Chapter.
- m) Pursuant to any administrative or judicial finding and/or determination that any property is in violation of this Article, the Township may take any and all necessary action to ensure compliance with the applicable laws and may place a lien on the property for the cost of any work performed to bring the property into compliance with all applicable laws.

Maintenance requirements

Each and every property registered pursuant to the requirements of this Article shall be maintained by the Mortgagee to the following standards and/or conditions:

- a) The property shall be kept free of weeds, overgrown brush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspaper circulars, flyers, notices (except those required by federal, state or local laws and/or court orders), discarded personal items, including but not limited to furniture, clothing and large or small appliances, printed material or any other items that give the appearance that the property is vacant.
- b) The property shall be maintained free of graffiti or similar markings which shall be removed or painted over with an exterior grade paint that matches the color of the exterior of the structure.
- c) The front, side, and rear yards of the property, including landscaping, shall be maintained in accordance with all applicable laws.
- d) The mortgagee shall perform yard maintenance, including but not limited to property and appropriate maintenance of grass, ground coverings, bushes, shrubs, hedges or similar plantings so as to prevent overgrowth thereof, including removal of all such trimmings, together with maintenance of decorative rock or bark, artificial turf/sod and/or such other items of hardscape designed specifically for residential installation. Any overgrowth of weeds, grass, ground coverings, bushes, shrubs, hedges and/or similar plantings and/or any accumulation of gravel, broken concrete, asphalt or similar material shall not be considered proper yard maintenance as required hereunder.

- e) The Mortgagee shall perform standard and/or routine year-round maintenance including, but not limited to, maintaining, repairing and winterizing existing irrigation systems, pools and spas. Pools and spas shall be maintained so the water remains free and clear of pollutants and debris and complies with all applicable Department of Health regulations and any other applicable laws.
- f) The Mortgagee shall further comply with any property maintenance requirements set forth in all other applicable laws.

Security Requirements

All registrable properties shall be maintained in a secure manner so as not to be accessible to unauthorized persons, in accordance with the following minimum standards:

- a) 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 any unauthorized person to access the interior of the property or structure. Broken windows, doors, gates and other openings of such size that may allow any unauthorized person to access the interior of the property or structure must be repaired. Broken windows shall be secured by re-glazing of the window.
- b) If a property is registrable, and the property has become vacant or deteriorated, a local property manager shall be designated by the Mortgagee or Owner to perform the work necessary to bring the property into compliance with all applicable laws, and the property manager must perform regular inspections to verify continued compliance with the requirements of this Article and any other applicable codes.

Inspections for Violations

Compliance with the registration, maintenance and security requirements of this Article does not relieve any person, legal entity or agent thereof from any other obligations set forth in any applicable laws which may apply to the property and/or govern the use thereof.

Additional Authority

- a) Regardless of whether a Registrable Property has been properly registered as required in this Article, if the Enforcing Officer has reason to believe that a Registrable Property is posing a serious threat to the public health, safety and welfare, the Enforcing Officer may temporarily secure the property at the expense of the Mortgagee or Owner, and/or may issue such Notices of Violation and/or Summonses as may be necessary to ensure the conditions of the property are addressed as soon as possible.
- b) In addition to any other powers, the Enforcing Officer may implement additional maintenance and/or security measures, including but not limited to securing any and all doors, windows or other openings, employment of an on-site security guard and/or other similar measures as may be reasonable required to help prevent further decline of the property.
- c) If the Enforcing Officer finds that the condition of a Registrable Property is posing a serious threat to the public health, safety and welfare, then the Township, upon notice to the Mortgagee and/or Owner, may abate the violations and charge the costs of such abatement to the Mortgagee and/or Owner.
- d) If the Mortgagee or Owner does not reimburse the Township for the cost of temporarily securing the property and/or the costs associated with any abatement undertaken by the Township as permitted herein, within thirty (30) days of the date the Township sent the

Mortgagee or Owner the invoice therefor, then the Township may assess a lien against the property in the manner provided by applicable laws for such costs, along with the Township's administrative costs associated with same. In addition to filing a lien, the Township can pursue reimbursement from the Mortgagee or Owner and/or seek and enforce such other penalties as may be contemplated herein.

Opposing, Obstructing Enforcement Officer; Penalty

Whoever opposes, obstructs or resists any Enforcing Officer in the discharge of his/her duties as provided in this Article shall be punishable as provided by the applicable laws which action shall be cognizable in the Municipal Court of the Township or such other Court of competent jurisdiction as may be applicable.

Immunity of Enforcement Officer

Every Enforcing Officer and such other persons authorized by the Township to implement and/or enforce the provisions of this Article shall be immune from prosecution, whether civil or criminal, for his/her reasonable, good faith entry upon real property while in the discharge of the duties imposed by this Article.

Enforcement and Penalties

A. Violations.

It shall be a violation of this Article and shall be unlawful for any Mortgagee and/or Owner to:

- 1) fail to register a Registrable Property;
- 2) fail to properly maintain and/or secure any Registrable Property in accordance with the requirements of this Article; or

- 3) maintain any Registrable Property in a manner which results in a violation of any other applicable laws.

B. Enforcement.

The requirements of this Ordinance may be enforced as follows:

- 1) By an action for injunctive relief, civil penalties, or both, through a court of competent jurisdiction;
- 2) By revocation or temporary suspension of necessary permits and/or certificates of occupancy and/or licenses related to occupancy and/or use of real property;
- 3) by the nuisance abatement process and/or property maintenance enforcement process established in the Code of the Township of Waterford;
- 4) By issuance of a citation or Notice of Violation in accordance with any applicable laws; and
- 5) By any other process as may be permitted by law or in equity.

C. All such remedies cognizable in and/or subject to the jurisdiction of the Waterford Township Municipal Court shall be subject to a fine of up to \$1,000.00 for each offense.

D. Separate offenses. Each violation of this Article shall constitute a separate offense for each day that such violation continues or reoccurs. Each condition which exists in violation of this Article is a separate violation.

E. Use of one enforcement process or theory shall not preclude the Township from seeking the same, different, or additional relief through other enforcement methods provided for herein at any time in the present or future.

F. Persons responsible for violations. The Owner, Mortgagee, Trustee or Servicer as those terms are defined in this Article, and their duly authorized officers, employees or agents

employed in connection therewith who have assisted in the commission of a violation or failed to perform such actions as are required herein, shall be liable for and/or subject to being found guilty of such violation.

SECTION 3. Except to the extent set forth in Section 1 above, the balance of Chapter 220 of the Code of the Township of Waterford shall not be affected by this Ordinance.

SECTION 4. All Ordinances or parts of Ordinances inconsistent with this Ordinance, are hereby repealed to the extent of such inconsistency only.

SECTION 5. If the provisions of any section, subsection, paragraph, subdivision, or clause of this Ordinance shall be judged invalid by a Court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of this Ordinance.

SECTION 6. This Ordinance shall take effect after final adoption and publication as required by law.

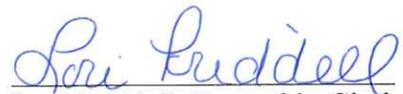

Lori Friddell
Township Clerk


William Richardson, Mayor

Introduced: February 22, 2017
Hearing: March 8, 2017
Adopted: March 8, 2017

Certified to be a true copy of an Ordinance adopted by the Mayor and Township Committee of the Township of Waterford at a regular meeting held on March 8, 2017 at the Waterford Township Municipal Building.

Date: March 8, 2017


Lori Friddell, Township Clerk