

**TOWNSHIP OF FRANKLIN  
WARREN COUNTY, NEW JERSEY  
ORDINANCE NO. 2022-11**

**AN ORDINANCE REPEALING CHAPTER 97 OF THE CODE OF THE TOWNSHIP OF FRANKLIN ENTITLED, “MAINTENANCE OF VACANT/ABANDONED PROPERTY,” AND REPLACING WITH A NEW CHAPTER 97 ENTITLED, “REGISTRATION AND MAINTENANCE OF CERTAIN REAL PROPERTY BY MORTGAGEES”**

**WHEREAS**, pursuant to P.L. 2021, c. 444, the State Legislature and government have revised, standardized and limited the authority of municipalities to regulate vacant and abandoned properties and require registration and fees with respect thereto.

**NOW, THEREFORE, BE IT RESOLVED**, by the Township Committee of the Township of Franklin, County of Warren, State of New Jersey that existing Chapter 97 of the Code of the Township of Franklin be and hereby is repealed and replaced with a new Chapter 97 entitled, “Registration And Maintenance of Certain Real Property By Mortgagees” with the following provisions.

**SECTION I:**

**CHAPTER 97  
“REGISTRATION AND MAINTENANCE OF CERTAIN REAL PROPERTY BY  
MORTGAGEES”**

**97-1. PURPOSE AND INTENT**

It is the intent of this Chapter, as further detailed within its enabling Ordinance, to enable the Township of Franklin to engage in the identification, registration, monitoring, and migration of properties that are or may become vacant and abandoned to the fullest extent permitted by P.L. 2021, c. 444, in order to combat the immeasurable and deleterious effects of blight arising from residential and commercial properties that become vacant or abandoned during the foreclosure process.

**97-2. DEFINITIONS**

- (a) All words, terms, and phrases used within this Article shall be defined and interpreted consistent with their meanings as outlined within P.L. 2021, c. 444 as may be amended from time to time.

- (b) A “creditor” shall mean: a State chartered bank, savings bank, savings and loan association or credit union, any person required to be licensed under the provisions of the “New Jersey Residential Mortgage Lending Act,” sections 1 through 21 39 of P.L. 2009, c. 53 (C.17:11C-51 through C.17:11C-89), and any entity, agent, or assignee acting on behalf of the creditor named in the debt obligation including, but not limited to, servicers, who has filed a complaint in the Superior Court seeking to foreclose upon a residential or commercial mortgage. A creditor shall not include the State, a political subdivision of the State, or a State, county, or local government entity, or their agent or assignee, such as the servicer.
- (c) A property shall be deemed “vacant and abandoned” for purpose of this Article if:
- (1) The property is not legally occupied by a mortgagor or tenant, and
  - (2) The property is not legally reoccupied, because of at least two (2) of the following conditions:
    - (a) overgrown or neglected vegetation;
    - (b) the accumulation of newspapers, circulars, flyers, or mail on the property;
    - (c) disconnected gas, electric, or water utility services to the property;
    - (d) the accumulation of hazardous, noxious, or unhealthy substances or materials on the property;
    - (e) the accumulation of junk, litter, trash or debris on the property;
    - (f) the absence of window treatments such as blinds, curtains or shutters;
    - (g) the absence of furnishings and personal items;
    - (h) statements of neighbors, delivery persons, or government employees indicating that the property is vacant and abandoned;
    - (i) windows or entrances to the property that are boarded up or closed off, or multiple window panes that are damaged, broken and unrepaired;
    - (j) doors to the property that are smashed through, broken off, unhinged, or continuously unlocked;
    - (k) a risk to the health, safety or welfare of the public or any adjoining or adjacent property owners due to acts of vandalism, loitering, criminal conduct, or the physical destruction or deterioration of the property;

- (l) 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;
- (m) 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;
- (n) a written statement issued by a mortgagor expressing the clear intent of all mortgagors to abandon the property; or
- (o) any other reasonable indicia of abandonment.

(d) Enforcement Officer - means any law enforcement officer, building official, zoning officer, code enforcement officer, fire inspector or building inspector, or other person authorized by Franklin Township.

### **97-3. ESTABLISHMENT AND ADMINISTRATION OF REGISTRY**

- (a) The Township of Franklin shall create and maintain a registry of all commercial and/or residential properties within its municipal boundary for which a summons and complaint in an action to foreclose has been filed with the New Jersey Superior Court, pursuant to its authority granted by P.L. 2021, c. 444. This registry will be formed and maintained to assist the Township with regulating the maintenance, security, and upkeep of properties which may become vacant and abandoned during the foreclosure process, in order to prevent the deleterious effects of blight associated with vacant and abandoned properties that are not maintained.
- (b) The Township of Franklin may, at its discretion, create, maintain and administer this registry independently, retain the professional services of a third party pursuant to the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq., or participate in a Shared Services Agreement with other local units, counties, and/or County Improvement Authorities for the creation, maintenance and administration of the registry pursuant to the Uniform Shared Services and Consolidation Act, N.J.S.A. 40A:65-1 et seq.
- (c) Any third parties retained to create, maintain, and/or administer the registry shall have the authority, on behalf of the Township to:
  - (1) Identify properties subject to the registration requirement;
  - (2) Maintain and update the registration list;
  - (3) Communicate with creditors and/or in-state representatives;
  - (4) Invoice and collect payment of fees;

- (5) Monitor compliance; and
  - (6) Such other functions, within the scope of P.L. 2021, c. 444, which may be deemed necessary to carry out its function on behalf of the Township.
- (d) Any third parties retained to create, maintain, and/or administer the registry shall be required to comply with the following reporting and payment requirements:
- (1) Any and all amounts collected by the third party as part of its administration of the Township's registry, including registration fees, interest, and penalties, shall be paid, in full directly to the Township or Warren County, and/or Warren County Improvement Authority as applicable, not less than once per year, or as otherwise directed by the Township. No fees, payments, expenses, or other deductions shall be made from this payment; payment for any third party's services under this Article shall be made by the Township, or as applicable, the County/County Improvement Authority, directly to the third party, under the terms and conditions outlined within the contract for professional services.
  - (2) Not less than once per year on the first business day of each calendar year, or as otherwise may be requested by the Tax Collector, any third party administering the Township's registry shall file with the Tax Collector a certification identifying:
    - (a) The address, block, lot and contact information of any property for which registration fees under this Article are due and owing at the time of the certification;
    - (b) The amount of the registration fees, and separately, any interest, fines, and other penalties due and owing at the time of the certification; and,
    - (c) The date on which the property became eligibility for inclusion on the Township's registry.
- (e) The Township's Clerk or his or her designee shall serve as the municipal official responsible for notifying creditors, establishing and maintaining the registry, determining eligibility for designation as a vacant and abandoned property under this Article, and for imposing fees, penalties, and/or violations. The responsibilities herein may be designated to a third party, pursuant to the terms and conditions of a contract for professional services consistent with P.L. 20201, c. 444.

#### **97-4. REGISTRATION, NOTICE, AND OTHER CREDITOR REQUIREMENTS**

- (a) Within 30 days of the effective date of this Ordinance, any creditor who has initiated a summons and complaint with the New Jersey Superior Court in an action to foreclose on a commercial and/or residential mortgage for a property located within the Township of Franklin: (i) prior to the effective date of this Ordinance, and (ii) which is pending as of

the effective date of this Ordinance, shall provide notice in accordance with subsection (b) of this Section.

- (b) Within 10 days of filing a summons and complaint with the New Jersey Superior Court in an action to foreclose on a commercial and/or residential mortgage for a property located with the Township of Franklin, the creditor shall notify the Township Clerk, or his or her designee, of the action. Such notice shall include:
- (1) The address, block, and lot of the subject property;
  - (2) The date the summons and complaint in an action to foreclose on a mortgage was filed against the subject property, the court in which it was filed, and the docket number of the filing;
  - (3) Whether the property is vacant and abandoned in accordance with the definition in this Article;
  - (4) The full name, address and telephone number for the representative of the creditor who is responsible for receiving notice of complaints of property maintenance and code violations;
  - (5) The full name, address, and telephone number of any person or entity retained by the creditor or a representative of the creditor to be responsible for any care, maintenance, security, or upkeep of the property; and
  - (6) If the creditor is out-of-State, the full name, address, and telephone number of an in-State representative or agent who shall be responsible for any care, maintenance, security or upkeep of the property, and for receiving notice complaints of property maintenance and code violations.
  - (7) The notice requirements herein represent a continuing obligation through the pendency of this foreclosure action. After initial notice to the Township, creditors subject to the notice requirement shall update the Township's property registration program within 10 days of any change in the information contained in the original or any subsequent notices.
- (c) Creditors of any commercial and/or residential mortgage required to notify the Township pursuant to this section shall:
- (1) Register the property with the Township's property registration program as a property in foreclosure, within 30 days of notifying the Township;
  - (2) Be subject to the registration fee, notice requirements and penalties for non-compliance established within this Article;

- (3) Update the property registration within 10 days of any change in the information contained in the original notice to the Township;
  - (4) If an out-of-State creditor, appoint an in-state representative or agent to act for the foreclosing creditor, whose contact information shall be contained within the initial notice to the Township;
  - (5) Within 10 days of the property becoming vacant and abandoned at any time during the pendency of the foreclosure action, the creditor shall:
    - (a) Assume responsibility for the care, maintenance, upkeep and security of the exterior of the property;
    - (b) Secure the property against unauthorized entry;
    - (c) Post a sign on the inside of the property, visible to the public, containing the name, address, and telephone number of the creditor, or an out-of-State creditor's in-State representative or agent, for the purpose of receiving service of process;
    - (d) Acquire and maintain a vacancy insurance policy which covers any damage to any person or any property caused by any physical condition of the property while registered with the Township's property registration program;
    - (e) Provide proof, within 10 days of receiving a request by the Township or its designee, that the above conditions have been satisfied;
    - (f) Cure any violations of the above requirements within 30 days of receiving a notice of violation, or if deemed to present an imminent threat to public health and safety, within 10 days of receiving such notice.
  - (6) Update the property registration within 10 days of the creditor becoming aware that the property is deemed vacant and abandoned as defined herein.
- (d) If at any time the creditor is deemed to be in violation of the above requirements, and/or if the property is deemed to be in violation of any other applicable local or state maintenance, health or safety codes, the Enforcement Officer or his or her designee shall notify the creditor using the contact information provided in the property registry established by this Article.
  - (e) If the Enforcement Officer has reason to believe that a property subject to the provisions of this Chapter is posing a serious threat to the public health safety and welfare, the Enforcement Officer may temporarily secure the property at the expense of the mortgagee and may bring the violations before a Court of competent jurisdiction as soon as possible to address the conditions of the property.

- (f) Any Enforcement Officer or any person authorized by the Township to enforce the Sections here within shall be immune from prosecution, civil or criminal, for reasonable, good faith entry upon real property while in the discharge of duties imposed by this Chapter.

#### **97-5. FEES, VIOLATIONS AND PENALTIES**

- (a) All fees, penalties, and/or fines established within this Article and assessable pursuant to the Township's authority outlined within P.L. 2021, c. 444 shall be deemed a municipal charge in accordance with N.J.S.A. 54:5-1 et seq.
- (b) Creditors required to notify the Township and register a property as one in foreclosure shall be required to pay the following annual registration fee, per property, due at the time of registration of \$500.00.
- (c) If a property registered with the Township's registration program as a property in foreclosure is vacant and abandoned at the time of registration, or becomes vacant and abandoned at any time during the pendency of the foreclosure proceeding, the creditor shall pay an additional annual registration fee, per property, due at the time the determination that the property is vacant and abandoned is made, of \$2,000.00.
- (d) Violations
  - (1) An out-of-State creditor subject to the notice and registration requirements of this Article, found to be in violation of the requirement to appoint an in-State representative or agent, shall be subject to a fine of \$2,500 for each day of the violation. The violation shall be deemed to commence on the day after the creditor's initial 10 or 30-day requirement to notify the Township of applicable foreclosure actions.
  - (2) A creditor subject to the notice and registration requirements of this Article found to be in violation of any part of this Ordinance (with the exception of a violation pursuant to subsection (d)(1) of this Section, shall be subject to a fine of \$1,500 for each day of the violation. The violation shall be deemed to commence on the 31<sup>st</sup> day following the creditor's receipt of a notice of violation, or if deemed to present an imminent threat to public health and safety, on the 11<sup>th</sup> day following the creditor's receipt of such notice.
- (e) If the Township expends public funds in order to abate a nuisance or correct a violation on a commercial property in situations in which the creditor was given notice pursuant to this Article, but failed to abate the nuisance or correct the violation as directed, the Township shall have the same resource against the creditor as it would have against the title owner of the property, including but not limited to the recourse provided under N.J.S.A. 55:19-100, et seq.

SECTION II: Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid for any reason by any Court of competent jurisdiction, such provision(s) shall be deemed severable and the remaining portions of this Ordinance shall remain in full force and effect.

SECTION III. Repealer. All ordinances or parts of ordinances or resolutions that are inconsistent with the provisions of this Ordinance are repealed to the extent of such inconsistency.

SECTION IV. Effective Date. This ordinance shall take effect after the second reading, public hearing, adoption and publication, in accordance with the law.

NOTICE IS HEREBY GIVEN that the foregoing Ordinance was introduced at a meeting of the Township Committee of the Township of Franklin in the County of Warren and State of New Jersey, held on September 6, 2022, and will be further considered for final passage after public hearing thereon at a regular meeting of said Township Committee on October 3, 2022.

Dated: \_\_\_\_\_

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Denise L. Becton, Clerk

On motion by Committeeperson Rich Herzer and seconded by Committeeperson David Guth the aforementioned **Ordinance No. 2022-11** be adopted at first reading. Final reading and adoption to take place on **October 3, 2022 at or near 7:00 p.m.**

<b>Roll Call Vote</b>	<b>Yes</b>	<b>No</b>	<b>Absent/Abstain</b>
Bonnie Butler			X
Rich Herzer	X		
David Guth	X		
Michael Toretta	X		
Mike Ferri	X		

X (4) Yes (0) No (1) Absent/Abstained Motion Carried



On motion by Committeeperson Mike Ferri and seconded by Committeeperson Bonnie Butler the aforementioned **Ordinance No. 2022-11** be adopted at final reading.

<b>Roll Call Vote</b>	<b>Yes</b>	<b>No</b>	<b>Absent/Abstain</b>
Bonnie Butler	X		
Rich Herzer	X		
Mike Ferri	X		
Michael Toretta	X		
David Guth	X	(5) Yes (0) No (0) Absent/Abstained	Motion Carried

### **CERTIFICATION**

I, Denise L. Becton, Registered Municipal Clerk of the Township of Franklin, County of Warren, State of New Jersey, do hereby certify that this a true and correct copy of an Ordinance introduced by the Township Committee of the Township of Franklin at their regular meeting held on September 6, 2022. Second reading, public hearing will be held on October 3, 2022, at or near 7:00 PM in the Franklin Township Municipal Building, 2093 Rt. 57, Broadway, New Jersey.

*Denise L. Becton*

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**Denise L. Becton, RMC/CMR**