

ORDINANCE No. 2022:19

AN ORDINANCE TO AMEND CHAPTER 244 THE CODE OF THE TOWNSHIP OF PENNSAUKEN, ENTITLED “PROPERTY, VACANT, FORECLOSED AND ABANDONED; VACANT PROPERTIES NOT IN DEFAULT”

WHEREAS, Chapter 244 of the Township of Pennsauken of Code requires registration of vacant and abandoned properties to prevent blight and the associated negative impacts that surround them; and

WHEREAS, New Jersey recently adopted P.L. 2021, c.444, explicitly authorizing municipalities to adopt ordinances to address blight through registration of vacant and abandoned properties; and

WHEREAS, P.L. 2021, c.444 allows municipalities, by ordinance, to require commercial lenders foreclosing on properties to register with the municipality and provide notice of pending foreclosures to the municipality; and

WHEREAS, this legislation defines “vacant and abandoned” and permits an annual registration fee of \$500 per property plus \$2,000 per property if it is vacant and abandoned or becomes vacant and abandoned at any time after the foreclosure is filed; and

WHEREAS, P.L. 2021, c.444 also allows municipalities to administer the registration program by contracting with third-parties or other public entities; and

WHEREAS, the Township Committee of the Township of Pennsauken (“Township Committee”) has determined it is in the Township of Pennsauken’s (“Township”) best interest to amend, repeal, and replace certain sections of Chapter 244 to conform to P.L. 2021, c.444; and

NOW, THEREFOR, BE IT ORDAINED, by the Township Committee of the Township of Pennsauken, County of Camden, State of New Jersey, that the following Ordinance is hereby adopted so as to amend, repeal, and replace certain sections of Chapter 244 of the Code of the Township of Pennsauken to read as follows (underlined text illustrates additions, strikethrough text illustrates deletions):

ARTICLE I.

Chapter 244 of the Township Code, entitled “Property, Vacant, Foreclosed, and Abandoned; Vacant Properties Not in Default,” shall be renamed to read as follows:

“~~Property, Vacant, Foreclosed, and Abandoned~~ Properties.; ~~Vacant Properties Not in Default~~”

ARTICLE II.

Article I, Section 244-1 of the Township Code, entitled “Definitions,” shall be amended to read as follows:

“As used in this chapter, the following terms shall have the meanings indicated:

ABANDONED PROPERTY — Any property that is determined to be abandoned pursuant to P.L. 2003, c. 210 (N.J.S.A. 55:19-78 et seq.), as follows:

- A. Property must not have been legally occupied for six months and must meet any one of the following criteria:
 - (1) Property is in need of rehabilitation, in the reasonable judgment of the public officer, and no rehabilitation has taken place during that six month period.
 - (2) Construction was initiated and discontinued prior to completion, leaving the building unsuitable for occupancy, and no construction has taken place for at least six months as of the date of determination that the building is abandoned.
 - (3) At least one installment of property tax remains unpaid and delinquent as of the date of determination.
 - (4) The property has been determined to be a nuisance by the public officer as defined in this section.

- B. Exceptions to abandoned property.
 - (1) A property on which an entity other than the Township holds a tax sale certificate is not deemed to be abandoned if the owner of the certificate:
 - (a) Continues to pay all municipal taxes and liens when due; and
 - (b) Initiates foreclosure proceedings within six months after the property is eligible for foreclosure.
 - (2) A property used on a seasonal basis is deemed to be abandoned only if it meets any two of the criteria set forth in N.J.S.A. 55:19-81.

- C. A property which contains both residential and nonresidential space may be considered abandoned pursuant to N.J.S.A. 55:19-78 et seq. so long as 2/3 or more of the total net square footage of the building was previously legally occupied as residential space and none of the residential space has been legally occupied for at least six months at the time of the determination of abandonment by the public officer.

ABANDONED PROPERTY LIST — The list of abandoned properties established and maintained by the Township’s public officer pursuant to Article III of this Chapter, which shall only include properties that fit the criteria for “abandoned property” as defined in this Article I.

~~ACCESSIBLE PROPERTY/STRUCTURE — A property that is accessible through a 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.~~

APPLICABLE CODES — Includes, but is not limited to, the following Township of Pennsauken Codes: zoning, property rehabilitation and maintenance code, along with the state and county building and fire codes.

APPLICABLE ORDINANCES — Includes, but is not limited to, the Township of Pennsauken's Neighborhood Improvement Ordinance, Solid Waste Ordinance, as well as Residential and Commercial Recycling Ordinance.

CREDITOR — 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.

DEFAULT — That the mortgagor has not complied with the terms of the mortgage on the property, or the promissory note, or the evidence of the debt, referred to in the mortgage.

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 code(s).

~~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, mail and/or mail being returned, or statement by neighbors, passersby, delivery agents or government agents; or the presence of boards over doors, windows or other openings in violation of applicable codes.~~

FORECLOSURE — Legal process by which a mortgagee, or other lienholder, 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 lienholder, 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, lienholder, or their designee, by certificate of title, or any

other means, is sold to a nonrelated bona fide purchaser in an arm's length transaction to satisfy the debt or lien.

LIENHOLDER or MORTGAGE HOLDER — Any person or entity holding a note, mortgage or other interest secured by the building or any part thereof.

MORTGAGEE — The creditor, including but not limited to trustees, mortgage service companies, and 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. The definition for “mortgagee” shall only apply to Article III of Chapter 244.

NUISANCE — Any property that is determined by the public officer to be a nuisance if any one of the following applies:

- A. The property is found to be unfit for human habitation, occupancy or use pursuant to N.J.S.A. 40:48-2.3;
- B. The condition and vacancy of the property materially increases the risk of fire to the property and adjacent properties;
- C. The property is subject to unauthorized entry leading to potential health and safety hazards; the owner has failed to take reasonable and necessary measures to secure the property; or the Township has secured the property in order to prevent such hazards after the owner has failed to do so;
- D. The presence of vermin or the accumulation of debris, uncut vegetation or physical deterioration of the structure or grounds has created potential health and safety hazards and the owner has failed to take reasonable and necessary measures to remove the hazards; or
- E. The dilapidated appearance or other condition of the property materially affects, including the economic welfare of, the residents of the area in close proximity to the property and the owner has failed to take reasonable and necessary measures to remedy the conditions.

OWNER — Includes the title holder, any agent of the title holder having authority to act with respect to a vacant property, any holder of legal or beneficial title, any foreclosing entity subject to the provisions of N.J.S.A. 46:10B-51 (P.L. 2008, c. 127, § 17) or any other entity determined by the Township of Pennsauken; also means the holder or holders of title to an abandoned property. The definition for “owner” shall only apply to Article III of Chapter 244.

~~**PROPERTY MANAGEMENT COMPANY** — A property manager, property management company or similar entity responsible for the maintenance and security of registrable real property within 20 driving miles of the Township of Pennsauken limits. Upon review of~~

~~credentials the Township of Pennsauken, or its designee, may allow a nonlocal property manager to be listed.~~

PUBLIC OFFICER — The compliance officer, or such other public officer designated or appointed by the Township Committee pursuant to N.J.S.A. 40:48-2.5.

QUALIFIED REHABILITATION ENTITY — An entity organized or authorized to do business under the New Jersey Statutes which shall have as one of its purposes the construction or rehabilitation of residential or nonresidential buildings, the provision of affordable housing, the restoration of abandoned property, the revitalization and improvement of urban neighborhoods, or similar purpose, and which shall be well-qualified by virtue of its staff, professional consultants, financial resources, and prior activities set forth in P.L. 2003, c. 10 (N.J.S.A. 55:19-78 et seq.), to carry out the rehabilitation of vacant buildings in urban areas.

REAL PROPERTY — Any improved residential or commercial land, buildings, leasehold improvements and anything affixed to the land or portion thereof identified by a block and lot number, located in the Township of Pennsauken are considered improved land.

REGISTRABLE PROPERTY

~~A. — Any real property located in the Township of Pennsauken, whether vacant or occupied, that is encumbered by a mortgage in default, is subject to an ongoing foreclosure action, is subject to an application for a tax deed or pending tax assessor's lien sale, 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 nonrelated 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.~~

~~B. — Any property that is vacant for more than 30 days or any cancellation of utility or service, whichever occurs first.~~

~~**SEMIANNUAL REGISTRATION** — Six months from the date of the first action that required registration, as determined by the Township of Pennsauken, or its designee, and every subsequent six months. The date of the initial registration may be different than the date of the first action that required registration.~~

TOWNSHIP — The Township of Pennsauken, County of Camden, State of New Jersey.

~~**VACANT PROPERTY** — Any building used or to be used which is not legally occupied as evidenced by the conditions set forth in the definition of "evidence of vacancy" or at which substantially all lawful construction operations or occupancy has ceased; provided, however, that any property that contains all building systems in working order, is fully compliant with our property maintenance codes and is being actively marketed by its owner for sale or rental shall not be deemed vacant. Property determined to be "abandoned property" in accordance with the meaning of such term in the Abandoned Properties Rehabilitation Act, N.J.S.A. 55:19-78 et seq., shall also be deemed to be vacant property for the purposes of this article.~~

VACANT AND ABANDONED — A property shall be deemed “vacant and abandoned” for purposes of Article II, Sections 244-2 to 244-4 if:

- A. The property is not legally occupied by a mortgagor or tenant, and
- B. The property cannot be legally reoccupied, because of at least two (2) of the following conditions:
 - (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 property 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 any adjoining or adjacent property owners due to acts of 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 a mortgagor expressing the clear intent of all mortgagors to abandon the property; or
 - (15) any other reasonable indicia of abandonment.”

ARTICLE III.

Article II, Sections 244-2 to 244-8.1 of the Township Code, entitled “Registration and Maintenance Requirements,” is hereby REPEALED and replaced to read as follows:

§ 244-2 Establishment & Administration of Registry.

- A. The Township of Pennsauken 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 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 Camden County, and/or County Improvement Authority, as applicable, not less than once per year, or as otherwise directed by the Township’s public officer. 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 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 eligible for inclusion on the Township's registry.
- E. The Township's public officer or his/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. 2021, c.444.

§ 244-3 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 Pennsauken: (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 Section 3.
- 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 within the Township of Pennsauken, the creditor shall notify the Township Clerk, or his/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 of "vacant and abandoned" in this Article II, Chapter 244, Section 1 (Definitions);

- (4) The full name, address, telephone number, and email address 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, telephone number, and email address 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 throughout the pendency of the 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 II;
- (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, which shall include:
 - (i) Keeping the property 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 law, discarded personal items including but not limited to furniture, clothing, large and small appliances, printed material or any other items that give the appearance that the property is abandoned;

- (ii) Keeping the property free of graffiti or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior structure;
 - (iii) Keeping all pools and spas free from stagnant water so the water structure remains clear of pollutants and debris.
- (b) Secure the property against unauthorized entry, which 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 of the window;
 - (c) Post a sign on the inside of the property, visible to the public, no smaller than 18 inches by 24 inches, containing the name, address, telephone number, and email address of the creditor, or an out-of-State creditor's in-State representative or agent, for the purpose of receiving service of process;
 - (d) If different than the person receiving service of process, the sign posted inside the property must also include the name, address, telephone number, and email address of the person responsible for day-to-day supervision and management of the building;
 - (e) Post the property with "no trespassing" signs of a nature sufficient to give notice to any person entering upon the property that it is against the law to enter the property without permission of the creditor;
 - (f) 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;
 - (g) Provide proof, within 10 days of receiving a request by the Township or its designee, that the above conditions have been satisfied.
 - (h) 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 Code Official or his/her designee shall notify the creditor using the contact information provided in the property registry established by this Article II.

§ 244-4. Fees, Violations & 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: \$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 II, 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 II, found to be in violation of any part of this ordinance (with the exception of a violation pursuant to sub-section (d)(1) if this Section 4), shall be subject to a fine of \$1,500 for each day of the violation. The violation shall be deemed to commence on the 31st 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 11th 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 II, but failed to abate the nuisance or correct the violation as directed, the Township shall have the same recourse 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.*

ARTICLE IV. Repealer, Severability, and Effective Date.

- A. Repealer. Any and all Ordinances inconsistent with the terms of this Ordinance are hereby repealed to the extent of any such inconsistencies.
- B. Severability. In the event that any clause, section, paragraph or sentence of this Ordinance is deemed to be invalid or unenforceable for any reason, then the Township Committee hereby declares its intent that the balance of the Ordinance not affected by said invalidity shall

remain in full force and effect to the extent that it allows the Township to meet the goals of the Ordinance.

- C. The fines and penalties established within this Ordinance shall be considered cumulative, and not superseding, as a remedy available to the Township in addition to those which may also apply under any other applicable Township ordinance, or other applicable local, County, or State law or regulation.
- D. This Ordinance shall become effective immediately upon adoption and publication in the manner prescribed by law.

TOWNSHIP OF PENNSAUKEN

TOWNSHIP CLERK

ADOPTED:

4864-3977-5239, v. 1