

TOWNSHIP OF HAMILTON

ORDINANCE NO.: 1999-2022

AN ORDINANCE AMENDING ARTICLE II. §238-10 THROUGH AND INCLUDING §238-10 TO §238-17 - REGISTRATION OF PROPERTIES IN FORECLOSURE

§ 238-10

Purpose and intent.

A.

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

B.

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

§ 238-11

Definitions.

The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. This section, to the extent applicable, is an operational section of this article.

ACCESSIBLE PROPERTY/STRUCTURE

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

APPLICABLE CODES

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

BLIGHTED PROPERTY

- A. Properties with broken or severely damaged windows, doors, walls, or roofs which create hazardous conditions or facilitate trespassing;
- B. Properties cited for a public nuisance relating to their appearance or lack of safety pursuant to the Township Code; or

- C. Properties that endanger the public's health, safety, or welfare because they, or improvements thereon, are dilapidated, deteriorated, violate minimum health and safety standards, or lack maintenance as required by the applicable codes.

ENFORCEMENT OFFICER

Any law enforcement officer, Building Official, Zoning Inspector, Code Enforcement Officer, Fire Inspector, Building Inspector, or other person authorized by the Township to enforce any applicable codes.

EVIDENCE OF VACANCY OR ABANDONMENT

Any condition that, on its own or combined with other conditions present, would lead a reasonable person to believe that a property is vacant. Such conditions include:

- 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 residence 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 of any adjoining or adjacent property owner, that exists due to 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 any mortgagor expressing the clear intent of all mortgagors to abandon the property; and
- O. Any other reasonable indicia of abandonment.

FORECLOSURE

The legal process by which a mortgagee terminates a mortgagor's interest in real property either to obtain legal and equitable title to the real property pledged as security for a debt or to force a sale of said property to satisfy a debt. For purposes of this article, this process begins upon the service of a summons and complaint on the mortgagor or any interested party. For purposes of this article, the process is not concluded until the property is sold to a bona fide purchaser not related to the mortgagee in an arm's-length transaction whether by Sheriff's sale, private sale following a Sheriff's sale, or private sale following the vesting of title in the mortgagee pursuant to a judgment.

MORTGAGEE

The creditor, including but not limited to: lenders in a mortgage agreement; any agent, servant, or employee of the creditor; any successor in interest; or any assignee of the creditor's rights, interests, or obligations under the mortgage agreement, excluding governmental entities as assignee or owner.

MORTGAGE SERVICER

An entity authorized by a mortgagee to receive payments on a mortgage, whether said entity has legal or equitable rights in the mortgaged property.

REAL PROPERTY

For purposes of this article, any residential or commercial land and/or buildings, leasehold improvements and anything affixed to the land, or portion thereof identified by a property parcel identification number, located in the Township limits.

REGISTRABLE PROPERTY

Any real property located in the Township, whether vacant or abandoned or occupied, that is subject to a foreclosure as defined in this article.

- A. Property shall remain registrable property so long as it is in foreclosure, as defined by this article.
- B. Pursuant to N.J.S.A. 46:10B-51.1, property shall also remain registrable property if, upon the completion of the foreclosure, it is owned, by way of Sheriff's sale or deed in lieu of foreclosure, by an individual or entity that does not occupy the property

ANNUAL REGISTRATION

The registration of a registrable property twelve months from the date of the first action that requires registration by the terms of this article and every subsequent twelve months. The date of the initial registration may be different than the date of the first action that required registration.

VACANT or ABANDONED

Uninhabited by human beings or unlawfully inhabited.

- A. Vacant property does not mean property that is temporarily unoccupied:
 - (1) If it is not intended by the owner to be left vacant and the vacancy does not exceed (30) days;
 - (2) While under repair or renovation so long as such repairs and renovations are moving forward towards completion in the normal course; or
 - (3) While the residents are away on vacation, personal matters, or business.
- B. Whether a property is vacant or abandoned shall be determined in consideration of evidence of vacancy as defined in this section and any factors determinant of the lawfulness of occupancy.

§ 238-12

Applicability.

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

§ 238-13

Establishment of a registry.

Pursuant to the provisions of § 238-10, the Township or its authorized designee shall establish a registry cataloging each registrable property within the Township, containing the information required by this article.

§ 238-14

Registration of registrable property.

- A. The mortgagee of registrable property shall, within 10 days from the commencement of foreclosure, register the property with the Division of Code Enforcement, or other Township designee, on paper forms or by electronic means provided by the Township. The mortgagee shall indicate whether the property is vacant or abandoned or occupied. A separate registration is required for each registrable property within the Township.
- B. Registration pursuant to this section shall contain the name and direct mailing address of the mortgagee and mortgage servicer; a direct contact name, telephone number, and e-mail address for the mortgagee and mortgage servicer; and the name and twenty-four-hour contact telephone number of the mortgagee's in-state representative that is responsible for the security and maintenance of the property and is authorized to make decisions concerning the abatement of nuisance conditions at the property, as well as any expenditures in connection therewith.
- C. Mortgagees of property that is registrable property on the effective date of this article shall, within 30 days from the effective date, register the property with the Division of Code Enforcement, or other Township designee, on paper forms or by electronic means provided by the Township. The mortgagee shall indicate whether the property is vacant or abandoned or occupied. A separate registration is required for each registrable property within the Township.
- D. The mortgagee of registrable property shall reregister registrable property no later than 10 days after the end of the preceding twelve month interval and shall do so until the property is no longer registrable property.
- E. A nonrefundable annual registration fee of \$500 shall accompany each registration pursuant to this section; and an additional \$2,000 per property annually if the property is vacant or abandoned pursuant to the definition in the ordinance when the summons and complaint in an action to foreclose is filed, or becomes vacant and abandoned pursuant to the definition in the ordinance at any time thereafter while the property is in foreclosure. All registration fees must be paid directly by the mortgagee or owner. Third-party registration fees are not allowed without the consent of the Township and/or its authorized designee.
- F. Each individual property on the Registry that has been registered for six (6) months or more prior to the Effective Date shall have thirty (30) days to renew the registration and pay the non-refundable \$500.00 annual registration fee. Properties registered less than six (6) months prior to the Effective Date shall renew the registration upon expiration and every twelve (12) months thereafter and shall pay the non-refundable \$500.00 annual registration fee.
- G. If the Foreclosing or Foreclosed Property is not registered, or the registration fee is not paid within thirty (30) days of when the registration or renewal is required pursuant to this section, a late fee equivalent to ten percent (10%) of the Annual Registration fee shall be charged for every thirty-day period (30), or portion thereof, the property is not registered and shall be due and payable with the registration.
- H. Properties subject to this section shall remain under the annual registration and fee requirements and the security and maintenance standards of this article so long as they are registrable property.
- I. Any person or legal entity that has registered a property under this section must report any change of information contained in the registration within 10 days of the change. Such changes including, but are not limited to: a change in the identity or contact information of the mortgage servicer; a change in the identity or contact information of the mortgagee's in-state representative responsible for maintenance of the property; or a change in the mortgagee, mortgage servicer,

or mortgagee's in-state representative's belief as to the occupied, vacant, or abandoned status of the registrable property.

- J. If the mortgagee of a registrable property sells or transfers the mortgage or sells or transfers the property in a non-arm's-length transaction, the new mortgagee of the registrable property is subject to all the terms of this article, and within 10 days of the sale or transfer of the mortgage or of the property must register the property if it is unregistered or update the existing registration. The new mortgagee and any previous mortgagee subject to the registration requirements of this section, are each individually liable for any previous unpaid registration fees or fines owed under this article. Payment of any such previous fees or fines may be demanded of the new mortgagee upon that party's initial registration under this subsection. The provisions of this section are cumulative with and in addition to other available remedies. Moreover, the Division of Code Enforcement is authorized and empowered to refer the previous mortgagee's nonpayment of fees and fines owed under this article to a court of competent jurisdiction for disposition.
- K. Failure to properly register or to modify a registration from time to time as required by this section is a violation of this article and shall be subject to enforcement and any resulting monetary penalties and/or property liens.
- L. Pursuant to an administrative or judicial determination that a property is in violation of the applicable codes, the Township may take all necessary actions to cure such a violation and may place a lien on the property for any costs thereof to the extent, and in the manner, permitted by law.

§ 238-15

Maintenance requirements.

All registrable property is subject to the applicable codes. To the extent that registrable property becomes vacant or abandoned, the mortgagee shall be responsible, to the same extent as the owner, for complying with the applicable codes as they relate to the exterior of the property. This obligation shall include, but not be limited to, the following specific requirements:

- A. Registrable property shall be kept free of weeds, overgrown brush, and dead vegetation; trash, junk, debris, and building materials; any accumulation of newspapers, circulars, flyers, or notices, except those required by federal, state, or local law; discarded personal items, including, but not limited to, furniture, clothing, large and small appliances, or printed material; and any other item that gives the appearance that the property is abandoned.
- B. Registrable property shall be maintained free of graffiti and similar markings through removal or by painting over with an exterior grade paint that matches the color of the exterior structure.
- C. Front, side, and rear yards, including landscaping, of registrable property shall be maintained in a manner including, but not limited to, watering, irrigation, cutting and mowing of required ground cover or landscape, and removal of all trimmings.
- D. Pools and spas on registrable property shall be maintained so the water remains free and clear of pollutants and debris and the water is inaccessible to trespassers and animals.
- E. Failure of the mortgagee of abandoned or vacant registrable property to maintain the exterior of the registrable property in accordance with the applicable codes shall subject the mortgagee to the issuance of a citation or notice of violation thereunder and the pursuit by the Township of all remedies available to it under the law.

§ 238-16

Security requirements.

All registrable property is subject to the applicable codes. To the extent that registrable property becomes vacant or abandoned, the mortgagee shall be responsible, to the same extent as the owner, for complying with the applicable codes as they relate to the

security of the property. This obligation shall include, but not be limited to, the following specific requirements:

- A. Registrable properties shall be maintained in a secure manner so as not to be accessible to unauthorized persons.
- B. A "secure manner" shall include, but not be limited to, the closure and locking of windows, doors, gates, and other openings of such size that may allow a child to access the interior of the property or structure. Broken windows, doors, gates and other openings of such size that may allow a child to access the interior of the property or structure must be repaired. Broken windows shall be secured by reglazing the window.
- C. Failure of the mortgagee of abandoned or vacant registrable property to keep the registrable property secured in accordance with the applicable codes shall subject mortgagee to the issuance of a citation or notice of violation thereunder and the pursuit by the Township of all remedies available to it under the law.

§ 238-17

Penalties for failure to register; schedule of civil penalties; severability and effective date.

Any mortgagee or owner who fails to register a registrable property or violates any provision of this article may be cited and fined up to \$1,000 at the discretion of the court.

Severability and Effectiveness Clause. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional, invalid, or unenforceable by a court of competent jurisdiction, such decision shall not affect the remaining portions of this Ordinance.

Any Ordinance inconsistent with the terms of this Ordinance is hereby repealed to the extent of such inconsistency.

Effective Date. This Ordinance shall take effect immediately upon final passage and publication as provided by in law.

TOWNSHIP COMMITTEE OF THE TOWNSHIP
OF HAMILTON, COUNTY OF ATLANTIC AND
STATE OF NEW JERSEY

ATTEST: Rita Martino
Rita Martino, RMC CMR Township Clerk

Charles Cain, Mayor

COMMITTEE MEMBER	MOTION	YES	NO	ABSTAIN	ABSENT
CHEEK		X			
HOPKINS		X			
LINK	2	X			
PITALE	1	X			
MAYOR CAIN		X			

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FINAL READING AND ADOPTION: July 6, 2022

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Notice Content

TOWNSHIP OF HAMILTON NOTICE OF FINAL ADOPTION OF ORDINANCE NO. 1999-2022 The Ordinance published herewith has been finally adopted by the Township of Hamilton, in the County of Atlantic, State of New Jersey, on July 5, 2022 and is effective upon the date of publication of this statement. Copies of the full ordinance are available at no cost and during regular business hours, at the Township Clerk's office for members of the general public who request the same. Rita Martino, RMC, CMR Township Clerk TOWNSHIP OF HAMILTON AN ORDINANCE AMENDING ARTICLE II CHAPTER 238-10 THROUGH AND INCLUDING 238-10 TO 238-17 REGISTRATION OF PROPERTIES IN FORECLOSURE Printer Fee: \$16.80 Pub Date: July 8, 2022 Order #: 0000189930

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