



**BOROUGH OF LAWNSIDE
ORDINANCE NO. 10-2022**

**AMENDING THE ORDINANCE REQUIRING THE REGISTRATION AND MAINTENANCE OF
CERTAIN REAL PROPERTY BY MORTGAGEES, PROVIDING FOR PENALTIES AND
ENFORCEMENT, AS WELL AS THE REGULATION, LIMITATION AND REDUCTION OF
REGISTRABLE REAL PROPERTY WITHIN THE BOROUGH OF LAWNSIDE**

WHEREAS, the Borough of Lawnside desires to protect the public health, safety and welfare of the citizens of the Borough of Lawnside and maintain a high quality of life for the citizens of the Borough of Lawnside through the maintain of structures and properties in the Borough of Lawnside; and

WHEREAS, properties that are neglected and have unsecured, accessible structures have a negative impact on community value, create conditions that invite criminal activity, and foster an unsafe and unhealthy environment for children; and

WHEREAS, the present mortgage foreclosure crisis has serious negative implications for all communities trying to manage the consequences of properties that are in the foreclosure upon and/or mortgagee owned; and

WHEREAS, often times, the foreclosing party is an absentee responsible party, and there is no local contact for such a property, which makes it difficult to notice the proper party of the violations of the Borough of Lawnside Code, and to maintain the requisite level of maintenance and security on such structures or lots; and

WHEREAS, the Borough of Lawnside recognizes an increase in the number of properties subject to foreclosure action or foreclosed upon, (hereinafter referred to as "registrable properties") located throughout the Borough of Lawnside which lead to decline in property value, create nuisances and lead to a general decrease in neighborhood and community aesthetic; and

WHEREAS, the Borough of Lawnside has already adopted property maintenance codes to regulate building standards for the exterior of structures and the condition of the property as a whole; and

WHEREAS, the Borough of Lawnside recognizes in the best interest of the public health, safety and welfare a more regulated method is needed to discourage registrable property mortgagees from allowing their properties to be abandoned, neglected or left unsupervised; and

WHEREAS, the Borough of Lawnside has vested interest in protecting neighborhoods against decay caused by registrable property and concludes that it is in the best interest of the health, safety, and welfare of its citizens and residents to impose registration requirements of registrable property mortgagees from allowing their properties to be abandoned, neglected or left unsupervised; and

WHEREAS, the Borough of Lawnside desires to amend the Borough of Lawnside code in order to amend in light of P.L.2021, c.444, its property registration process that will identify a contact person to address safety and aesthetic concerns to minimize the negative impact and conditions that occur as a result of the foreclosure process; and

WHEREAS, pursuant to N.J.S.A. 40:48-2, the governing body of a municipality is authorized to enact and amend ordinances as deemed necessary for the preservation of the public health, safety and welfare and as may be necessary to carry into effect the powers and duties conferred and imposed upon the municipality by law; and

WHEREAS, pursuant to P.L. 2021, c. 444, the governing body of a municipality is authorized to adopt or amend ordinances creating a property registration program for the purpose of identifying and monitoring properties within the municipality for which a summons and complaint in an action to foreclosure on a mortgage has been filed, regulate the care, maintenance, security and upkeep of such properties, and impose a registration fee on the Mortgagee of such properties; and

WHEREAS, upon passage, duly noticed public hearings, as required by law, will have been held by the Borough of Lawnside, at which public hearings all residents and interested person were given an opportunity to be heard.
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.

- A. **ACCESSIBLE PROPERTY/STRUCTURE** – means 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.
- B. **ANNUAL REGISTRATION** – shall mean 12 months from the date of the first action that requires registration, as determined by the Borough of Lawnside, or its designee, and every subsequent 12 months. The date of the initial registration may be different than the first action that required registration.
- C. **APPLICABLE CODES** – means to include, but not be limited to, the Borough of Lawnside's Zoning Code, the Borough of Lawnside's Property Rehabilitation and Maintenance Code, Neighborhood Improvement Ordinance, Solid Waste Ordinance, Residential and Commercial Recycling Ordinance, and the State and the Borough of Lawnside Building and Fire Codes.
- D. **BLIGHTED PROPERTY** – means:
 - 1. Properties that have broken or severely damaged windows, doors, walls, or roofs which create hazardous conditions and encourage trespassing; or
 - 2. Properties whose maintenance is not in conformance with the maintenance of other neighboring properties; or
 - 3. Properties cited for a public nuisance pursuant to the Borough of Lawnside Codes; or
 - 4. Properties that endanger the public's health, safety, or welfare because the properties or improvements thereon are dilapidated, deteriorated, or violate minimum health and safety standards or lacks maintenance as required by the applicable codes.
- E. **ENFORCEMENT OFFICER** – means any Law Enforcement Officer, Building Official, Zoning Inspector, Code Enforcement Officer, Fire Inspector, Building Inspector or other person authorized by the Borough of Lawnside to enforce applicable code(s).
- F. **EVIDENCE OF VACANT AND ABANDONED PROPERTY** – As used in this Article, means the presence or finding of at least two of the following conditions concerning the Real Property: overgrown and/or dead vegetation; past due utility notices and/or disconnected utilities; accumulation of trash junk or debris; abandoned vehicles auto parts or materials; the absence of furnishings and/or personal items consistent with habitation or occupancy; the presence of an unsanitary, stagnant swimming pool; the accumulation of newspapers, circulars, flyers and/or mail, or statements by neighbors, passers-by, delivery agents or government agents; a written statement by a mortgagor expressing the clear intent of all mortgagors to abandon the property; the property is occupied by an unauthorized person; the property is occupied without a valid, unexpired certificate of occupancy or other written authorization for occupancy as may be required by Applicable Laws; the presence of boards over doors, windows or other openings in violation of applicable code; or any other reasonable indicia of abandonment.

- G. **DEFAULT** – shall mean that the mortgagor has not complied with the terms of the mortgage on the property, or the promissory note, or other evidence of the debt, referred to in the mortgage.
- H. **FORECLOSURE OR FORECLOSURE ACTION**– shall mean the legal process by which a Mortgagee, or other lien holder, terminates or attempts to terminate 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, a complaint and summons filed with respect to foreclosure on a mortgage, a lis pendens filed against it by the lender holding a mortgage on the property, a deed-in-lieu of foreclosure, sale to the mortgagee or lien holder, certificate of title and all other processes, activities and actions, by whatever name, associated with the described process. The legal process is not concluded until the property obtained by the Mortgagee, lien holder, or their designee, by certificate of title, or any other means, is sold to a non-related bona fide purchaser in an arm's length transaction to satisfy the debt or lien.
- I. **MORTGAGEE** – means the creditor, including but not limited to, trustees; mortgage servicing companies; lenders in a mortgage agreement; any agent, servant, or employee of the creditor; any successor in interest; or any assignee of the creditor's rights, interests or obligations under the mortgage agreement; or any other person or entity with the legal right to foreclose on the Real Property, excluding governmental entities as assignee or owner of record.
- J. **REAL PROPERTY** – means any improved residential or commercial land and/or buildings, leasehold improvements and any anything affixed to the land, or portion thereof identified by a property parcel identification number, located in the Borough of Lawnside limits. Developed lots are considered improved land.
- K. **REGISTRABLE PROPERTY** – means,
1. Any real property located in the Borough of Lawnside, whether Vacant and Abandoned vacant or occupied, that is subject to an ongoing foreclosure action by the Mortgagee or Trustee, has been the subject of a foreclosure action by a Mortgagee or trustee and a Judgment has been entered, or has been the subject of a foreclosure sale where the title was transferred to the beneficiary of a mortgage involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure/sale; and
 2. The designation of a "foreclosure" property as "registrable" shall remain in place until such time as the property is sold to a non-related bona fide purchaser in an arm's length transaction or the foreclosure action has been dismissed.
- L. **VACANT** – means any parcel of land in the Borough of Lawnside that contains any building or structure that is not lawfully occupied or inhabited by human beings.

APPLICABILITY

These sections shall be considered cumulative and not superseding or subject to any other law or provision for same, but rather be additional remedy available to the Borough of Lawnside above and beyond any other State or the Borough of Lawnside provisions for same.

ESTABLISHMENT OF A REGISTRY

Pursuant to the provisions of Ordinance of the Borough of Lawnside, or its designee, shall establish a registry cataloging each Registrable Property within the Borough of Lawnside, containing the information required by this Article.

REGISTRATION OF FORECLOSURE REAL PROPERTY

- A. A Mortgagee filing a summons and complaint in an action to foreclose on a mortgage on Real Property in the Borough of Lawnside shall perform an inspection on the property to determine whether the Real Property is Vacant and Abandoned immediately upon filing the summons and complaint.

- B. The Mortgagee filing a summons and complaint in an action to foreclose in the Borough of Lawnside shall, within (10) days of the inspection, register the property with the Code Enforcement Department, or its designee, on forms or other manner as directed, and indicate whether the property is vacant or occupied. A separate registration is required for each property, whether it is found to be vacant or occupied.
- C. Registration pursuant to this section shall contain the name, direct mailing address, a direct name, telephone number, and e-mail address for the Mortgagee/Trustee, and Mortgage Servicer, and the name twenty-four (24) hour contact phone number of the local property management company responsible for the security and maintenance of the property who has the authority to make decisions concerning the abatement of nuisance conditions at the property, as well as expenditures in connection therewith.
- D. If the Mortgagee is located outside of New Jersey, it must provide the full name, mailing address, and direct-dial telephone number of an in-State representative or agent for the Mortgagee.
- E. 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 annual registration fee. Properties registered less than six (6) months prior to the Effective Date shall renew the registration every twelve (12) months from the expiration of the original registration renewal date and shall pay the non-refundable annual registration fee.
- F. If the mortgage and/or servicing on a property is sold or transferred, the new Mortgagee is subject to all the terms of this Chapter. Within ten (10) days of the transfer, the new Mortgagee shall register the property or update the existing registration. The previous Mortgagee(s) will not be released from the responsibility of paying all previous unpaid fees, fines, and penalties accrued during that Mortgagee's involvement with the Registrable Property.
- G. If the servicing rights for a mortgage on a registrable property are sold or transferred, the registration must be updated to include all the new Servicer information within 10 days of the servicing transfer.
- H. If the Mortgagee of a foreclosed real property sells or transfers the property to a non-arm's length related person or entity, the transferee is subject to all the terms of this Article and within 5 days of the transfer register the property or update the existing registration. Any and all previous unpaid fees, fines, and penalties, regardless of who the Mortgagee was at the time registration was required, including but not limited to unregistered periods during the Foreclosure process, are the responsibility of the transferee and are due and payable with the updated registration. Except if it is determined that the transferee is exempt from paying fees then the previous mortgagee will not be released from the responsibility of paying all previous unpaid fees and fines, regardless of who the mortgagee was at the time when registration was required, including but not limited to unregistered periods during the foreclosure process. The provisions of this section are cumulative with and in addition to other available remedies. Moreover, the Code Enforcement Department is authorized and empowered to refer the previous mortgagee's non-payment of previous fees and fines to the Code Enforcement Special Magistrate or a court of competent jurisdiction for disposition.
- I. As long as the property is Registrable it shall be inspected by the Mortgagee, or designee, monthly. If an inspection shows a change in the property's occupancy status the mortgagee shall, within ten (10) days of that inspection, update the occupancy status of the property registration.
- J. A non-refundable registration fee of \$500.00 shall accompany each registration pursuant to this section.
- K. 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.
- L. All registration fees must be paid directly from the Mortgagee, Trustee, or Servicer. Third Party Registration fees are not allowed without the consent of the Borough of Lawnside and/or its authorized designee.

- M. Properties subject to this section shall remain under the annual registration requirement, and the inspection, security and maintenance standards of this section as long as they are registrable.
- N. Until the mortgage or lien on the property in question is satisfied, or legally discharged, the filing of a dismissal of lis pendens and/or summary of final judgment and/or certificate of title, voluntary or otherwise, does not exempt any Mortgagee from all the requirements of this article.
- O. Any Mortgagee or legal entity that has registered a property under this section must report any change of information contained in the registration within ten (10) days of the change.
- P. Failure of the Mortgagee to properly register or to modify the registration information from time to time to reflect a change of circumstances as required by this article is a violation of the article and shall be subject to enforcement and any resulting monetary penalties and/or property liens
- Q. Pursuant to any administrative or judicial finding and determination that any property is in violation of this article, the Borough of Lawnside may take the necessary action to ensure compliance with and place a lien on the property for the cost of the work performed to benefit the property and bring it into compliance.
- R. Properties subject to this chapter shall be in accordance with the applicable code(s) of the Borough of Lawnside.

AMENDMENTS

Registration fees and penalties outlined in this Article may be modified an amendment to this Article, passed and adopted by the Borough.

VIOLATIONS

- (a) Unless otherwise provided for in this Chapter, a violation of this Chapter is declared unlawful.
 - 1. Per P.L. 2021, Chapter 444, C.40:48-2.12s3 g. (1) An out-of-State creditor subject to an ordinance adopted pursuant to subsection a. of this section found by the municipal court of the municipality in which the property subject to the ordinance is located, or by any other court of competent jurisdiction, to be in violation of the requirement to appoint an in-State representative or agent pursuant to the ordinance shall be subject to a fine of \$2,500 for each day of the violation. Any fines imposed on a creditor for the failure to appoint an in-State representative or agent shall commence on the day after the 10-day period set forth in paragraph
 - 2. Per P.L. 2021, Chapter 444, C.40:48-2.12s3 g. (2) A creditor subject to an ordinance adopted pursuant to subsection a. of this section found by the municipal court of the municipality in which the property subject to the ordinance is located, or by any other court of competent jurisdiction, to be in violation, excluding only a violation addressed by paragraph (1) of this subsection, of the ordinance shall be subject to a fine of \$1,500 for each day of the violation. Any fines imposed pursuant to this paragraph shall commence 31 days following receipt of the notice of violation, except if the violation presents an imminent risk to public health and safety, in which case any fines shall commence 11 days following receipt of the notice.

SEVERABILITY

If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

REPEALER

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

CODIFICATION

It is the intention of the Mayor and Council of the Borough of Lawnside, that the provisions of this Ordinance shall become and be made a part of the Borough of Lawnside Code of Ordinances; and that the sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section", "article", or such other appropriate word or phrase in order to accomplish such intentions.

EFFECTIVE DATE

This ordinance shall take affect according to local and state requirements.

STATEMENT

This Ordinance authorizes the Borough to govern the maintenance of vacant properties in the Borough of Lawnside, establishes registration requirements and levies a registration fee upon owners of vacant properties.

FIRST READING:

JULY 6, 2022

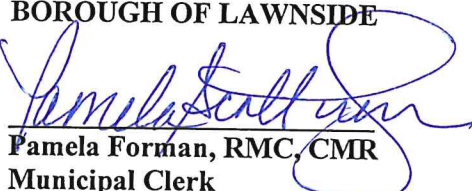
SECOND READING & PUBLIC HEARING:

JULY 27, 2022

ADOPTED:

JULY 27, 2022

BOROUGH OF LAWNSIDE


Pamela Forman, RMC, CMR
Municipal Clerk


Mary Ann Wardlow
Mayor

ADOPTED: JULY 27, 2022