

**TOWNSHIP OF STILLWATER
ORDINANCE 2023-08**

**AN ORDINANCE OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF
STILLWATER, COUNTY OF SUSSEX, STATE OF NEW JERSEY
AMENDING CHAPTER 304 OF THE TOWNSHIP CODE
ENTITLED “PROPERTY, VACANT AND ABANDONED”.**

WHEREAS, Public Law 2021, chapter 444 (N.J.S.A. 40:48-2.12s1 *et seq.*), effective January 18, 2022, governs a municipality’s ability to regulate, manage, and enforce the proper administration of vacant and abandoned real property; and

WHEREAS, the Committee of the Township of Stillwater desires to update its existing Code provisions to be in accord with the provisions of P.L. 2021, c. 444 (N.J.S.A. 40:48-2.12s1 *et seq.*), in order to serve the best interests of the Township and its residents.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Stillwater, County of Sussex, and State of New Jersey, that Chapter 304 of the Code of the Township of Stillwater entitled “Property, Vacant and Abandoned” is hereby amended as follows:

SECTION I.

Articles I and II of the Chapter 304 of the Township Code are hereby repealed in their entirety and replaced with a new Article I entitled “Registration of Vacant and Abandoned Properties in Foreclosure” as follows:

Chapter 304 Property, Vacant and Abandoned

Article I Registration of Vacant and Abandoned Properties in Foreclosure

§ 304-1 Purposes

The purposes of this Article are to:

- A. Create a Property Registration Program to identify and monitor residential and commercial properties in the Township for which a summons and complaint in an action to foreclose on a mortgage has been filed;
- B. Regulate the care, maintenance, security, and upkeep of the exterior of vacant and abandoned residential and commercial properties for which a summons and complaint in an action to foreclose has been filed; and
- C. Impose property registration fees on the Creditor of residential or commercial properties on an annual basis.

§ 304-2 Definitions

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 (N.J.S.A. 40:48-2.12s1 *et seq.*), as may be amended from time to time.

CREDITOR

A mortgagee or an agent or assignee of a mortgagee, such as a servicer, who has filed a complaint in the Superior Court seeking to foreclose upon a residential or commercial mortgage. If the entity seeking to foreclose upon the residential or commercial mortgage changes as a result of an assignment, transfer, or otherwise after the filing of the foreclosure complaint in the Superior Court, the new entity shall be deemed the Creditor for purposes of this section. 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.

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.

OWNER

The title holder, any agent of the title holder, or any holder of legal or beneficial title to vacant and/or abandoned property.

VACANT AND ABANDONED PROPERTY

Any residential or commercial building which is not legally occupied by a mortgagor or tenant, which is in such condition that it cannot be legally reoccupied, because of the presence or finding of at least two of the following:

- 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 windowpanes that are damaged, broken, and unrepaired;
- J. doors to the property that are missing, 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.

§ 304-3. Property Registration Program

- A. There is hereby created a Property Registration Program in the Township of Stillwater for the purposes set forth in § 304-1 pursuant to the authority granted by P.L. 2021, c. 444 (N.J.S.A. 40:48-2.12s1 *et seq.*).
- B. The Code Enforcement Officer of the Township of Stillwater shall be responsible for the administration of the Property Registration Program. Duties shall include the following:
 - (1) Identify properties subject to the registration requirement;
 - (2) Maintain and update the registration list;

- (3) Communicate with Creditors and/or in-State representatives and agents;
- (4) Invoice and collect payment of fees and penalties;
- (5) Monitor compliance; and
- (6) Such other functions, within the scope of P.L. 2021, c. 444 (N.J.S.A. 40:48-2.12s1 et seq.) which may be deemed necessary to carry out their function on behalf of the Township.

§ 304-4. Residential or Commercial Foreclosures

- A. The Creditor filing a summons and complaint in an action to foreclose shall, in addition to the notice provided to the Township pursuant to N.J.S.A. 46:10B-51 or N.J.S.A. 40:48-2.12s2, register the residential or commercial property with the Property Registration Program as a property in foreclosure.
- B. To register a property as a property in foreclosure, the Creditor must provide the Township with the following:
 - (1) Information regarding the Creditor required by N.J.S.A. 46:10B-51(a)(1) or N.J.S.A. 40:48-2.12s2(a)(1);
 - (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; and
 - (3) Identify whether the property is vacant and abandoned in accordance with the definition in § 304-2.
- C. If there is any change in the name, address, or telephone number for a representative, agent, or individual authorized to accept service on behalf of a Creditor required to register pursuant to the Property Registration Program following the filing of the summons and complaint, the Creditor shall update the Property Registration Program within 10 days of the change in that information.
- D. If the registered property becomes vacant and abandoned in accordance with the definition in § 304-2 after the property is initially registered with the Township, the Creditor filing a summons and complaint in an action to foreclose shall update the Property Registration Program within with the Township to reflect the change in the property's status.
- E. The Creditor filing a summons and complaint in an action to foreclose shall be responsible for the care, maintenance, security, and upkeep of the exterior of the property if the property is vacant and abandoned at any time while the property is registered with the Property Registration Program.

- F. A Creditor located outside the State of New Jersey shall be responsible for appointing an in-state representative or agent to act for the foreclosing Creditor.
- G. A Creditor filing a summons and complaint in an action to foreclosure on property that is or becomes vacant and abandoned shall:
 - (1) Secure the property against unauthorized entry;
 - (2) Post a sign affixed to the inside of the property and visible to the public indicating 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; and
 - (3) Acquire and otherwise maintain liability insurance by procuring a vacancy policy, covering any damage to any person or any property caused by any physical condition of the property while registered with the Property Registration Program.
- H. The Code Enforcement Officer is authorized to issue a notice to the Creditor filing the summons and complaint in an action to foreclose, if he or she determines that the Creditor has violated this Article. The Creditor shall correct all violations for failing to provide care, maintenance, security, and upkeep of the exterior of vacant and abandoned property within 30 days of receipt of notice from the Township, or within 10 days of receipt of the notice if the violation presents an imminent threat to public health and safety.

§ 304-5. Provisions Only Applicable to Commercial Properties

- A. For the purposes of this section only, "Creditor" means 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," N.J.S.A. 17:11C-51 through N.J.S.A. 17:11C-89, and any entity acting on behalf of the Creditor named in the debt obligation including, but not limited to, servicers. For purposes of this section, 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.
- B. A Creditor serving a summons and complaint in an action to foreclose on a mortgage on commercial property shall, within 10 days of serving the summons and complaint, notify the Township Clerk and the Mayor, in writing, that a summons and complaint in an action to foreclose on a mortgage has been filed against the subject property.
- C. The notice shall contain the full name, address, and telephone number for the representative of the Creditor who is responsible for receiving complaints of property maintenance and code violations, and the full name and contact

information for 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.

- D. If the Creditor that has served a summons and complaint in an action to foreclose on a commercial property within the Township and that Creditor is located out-of-state, the notice shall contain the full name, address, and telephone number of an in-state representative or agent who shall be responsible for the care, maintenance, security, and upkeep of the exterior of the property if it becomes vacant and abandoned.
- E. The notice shall include the street address, lot, and block number of the property.
- F. The notice may contain information about more than one property.
- G. The notice shall be mailed to the Township Clerk at the following address: Office of the Township Clerk, Township of Stillwater, 964 Stillwater Road, Newton, New Jersey 07860.
- H. The Township Clerk shall forward a copy of the notice to the Code Enforcement Officer.
- I. If there is any change in the name, address, or telephone number for a representative, agent, or individual authorized to accept service on behalf of a Creditor required to be provided in a notice pursuant to this Section following the filing of the summons and complaint, the Creditor shall provide a notice to the Township Clerk containing the updated name, address, or telephone number within 10 days of the change in that information.
- J. Within 30 days following the effective date of this Section, any Creditor that has initiated a foreclosure proceeding on any commercial property in the Township that is pending in Superior Court shall provide to the Township Clerk a listing of all commercial properties in the Township for which the Creditor has foreclosure actions pending by street address and lot and block number. The Township Clerk shall forward a copy of the notice to the Code Enforcement Officer.
- K. If the owner of a commercial property vacates or abandons any property on which a foreclosure proceeding has been initiated or if a commercial property becomes vacant at any point subsequent to the Creditor's filing the summons and complaint in an action to foreclose on a mortgage against the subject property, but prior to vesting of title in the Creditor or any other third party, and the exterior of the property is found to be a nuisance or in violation of any applicable state or local code, the Code Enforcement Officer shall notify the Creditor or the representative or agent of an out-of-state Creditor, as applicable, which shall have the responsibility to abate the nuisance or correct the violation in the same manner and to the same extent as the title owner of the property, to such standard or specification as may be required by State law or Township ordinance. The

Township shall include a description of the conditions that gave rise to the violation with the notice of violation and shall provide a period of not less than 30 days from the Creditor's receipt of the notice for the Creditor to remedy the violation. If the Creditor fails to remedy the violation within that time period, the Township may impose penalties allowed for the violation of Township Ordinances.

- L. 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 the provisions of § 304-5(K) 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 that provided under N.J.S.A. 55:19- 100.

§ 505-6. Registration Fees

A Creditor required to register a property pursuant to this Article shall pay an annual registration fee as follows:

- A. \$500 per property annually for any property that is required to be registered because a summons and complaint in an action to foreclose was filed by the Creditor.
- B. An additional \$2,000 per property annually if the property is vacant or abandoned pursuant to the definition in § 304-2 when the summons and complaint in an action to foreclose is filed, or becomes vacant and abandoned pursuant to said definition at any time thereafter while the property is in foreclosure.
- C. Registration fees shall be due to the Township Clerk on January 31 of each year.

§ 505-7. Penalties and Fines.

- A. An out-of-state Creditor found by a municipal court or other court of competent jurisdiction, to be in violation of the requirement to appoint an in-state representative or agent pursuant to this Article 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 N.J.S.A. 46:10B-51(a)(1) or N.J.S.A. 40:48-2.12s2(a)(1) for providing notice to the Township Clerk that a summons and complaint in an action to foreclose on a mortgage has been served.
- B. A Creditor found by a municipal court or other court of competent jurisdiction, to be in violation, excluding only a violation of § 304-7 A, of this Chapter shall be subject to a fine of \$1,500 for each day of the violation. Any fines imposed pursuant to this Section 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.

- C. No less than 20% of any money collected pursuant to this Article shall be utilized by the Township for code enforcement purposes.

SECTION II.

Article III of the Township Code entitled “Municipal Powers to Rehabilitate Abandoned Properties” shall be renumbered and renamed as “Article II. Municipal Powers to Rehabilitate Abandoned Properties” with § 304-10 through § 304-17 being renumbered sequentially as § 304-8 through § 304-15.

SECTION III.

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portion thereof.

SECTION IV.

All existing Ordinances and/or parts thereof which are inconsistent with the terms of this Ordinance are, to the extent of such inconsistency, repealed.

SECTION V.

This Ordinance shall take effect immediately upon final passage and publication according to law.

TOWNSHIP COMMITTEE OF STILLWATER TOWNSHIP

ATTEST:

Lynda Knott, Township Clerk

Lisa Chammings, Mayor

DATED: Introduced: March 21, 2023
 Adopted: April 4, 2023