ORDINANCE # 05:09-22

AN ORDINANCE AMENDING CODE OF THE BOROUGH OF BELLMAWR TO BE ENTITLED, "VACANT AND ABANDONED PROPERTIES: NOTICE, REGISTRATION AND FEES," PROVIDING FOR PURPOSE, INTENT AND APPLICABILITY OF 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; PROVIDING FOR SEVERABILITY, REPEALER, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the Mayor and Council of the Borough of Bellmawr desires to protect the public health, safety and welfare of the citizens of the Borough and maintain a high quality of life for the citizens of the Borough through the maintenance of structures and properties in the Borough; 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 continued mortgage foreclosure rates have serious negative implications for all communities trying to manage the consequences of properties that have defaulted mortgages, are in the foreclosure process, foreclosed upon and/or mortgagee owned; and

WHEREAS, properties with defaulted mortgages 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, often times, the foreclosing party or property owners are often out of state, 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 Code, and to maintain the requisite level of maintenance and security on such structures or lots; and

WHEREAS, the Bellmawr Borough Council recognizes there are a large number of properties with defaulted mortgages and subject to foreclosure action or foreclosed upon, (hereinafter referred to as "registrable properties") located throughout the Borough which lead to a decline in property value, create nuisances and lead to a general decrease in neighborhood and community aesthetic; and

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

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

WHEREAS, the Bellmawr Borough Council desires to amend the Borough's code in order to establish a property registration process that will identify multiple parties responsible to address safety and aesthetic concerns to minimize the negative impact and conditions that occur as a result of vacancy, absentee ownership and the foreclosure process; and

WHEREAS, upon passage, duly noticed public hearings, as required by law, will have been held by the Bellmawr Borough Council, at which public hearings all residents and interested persons were given an opportunity to be heard;

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Bellmawr, County of Camden, State of New Jersey finds that the implementation of the following changes and additions will assist the Borough of Bellmawr in protecting neighborhoods from the negative impact and conditions that occur as a result of vacancy, absentee ownership and lack of compliance with existing Borough of Bellmawr regulations and laws.

SECTION 1:

The foregoing **"WHEREAS"** clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon the adoption hereof

SECTION 2:

The Bellmawr Borough Council does hereby amend the Borough of Bellmawr Code and include an Ordinance entitled "Vacant and Abandoned Properties: Notice, Registration and Fees" to read as follows:

VACANT AND ABANDONED PROPERTIES: NOTICE, REGISTRATION AND FEES

1. PURPOSE AND INTENT

It is the intent of this Chapter, as further detailed within its enabling Ordinance, to enable the Borough of Bellmawr 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.

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.

3. ESTABLISHMENT AND ADMINISTRATION OF REGISTRY

(a) The Borough of Bellmawr 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 Borough 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 Borough of Bellmawr 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 Borough 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 Borough.

(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 Borough's registry, including registration fees, interest, and penalties, shall be paid, in full directly to the Borough or Camden County, and/or Camden County Improvement Authority as applicable, not less than once per year, or as otherwise directed by the Borough. 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 Borough, 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 Borough'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 Borough's registry.

(e) The Borough'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.

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 Borough of Bellmawr: (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 Borough of Bellmawr, the creditor shall notify the Borough 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 Borough, creditors subject to the notice requirement shall update the Borough'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 Borough pursuant to this section shall:

(1) Register the property with the Borough's property registration program as a property in foreclosure, within 30 days of notifying the Borough;

(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 chance in the information contained in the original notice to the Borough;

(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 Borough;

(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 Borough's property registration program;

(e) Provide proof, within 10 days of receiving a request by the Borough 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 Code Official or his or her designee shall notify the creditor using the contact information provided in the property registry established by this Article.

5. FEES, VIOLATIONS AND PENALTIES

(a) All fees, penalties, and/or fines established within this Article and assessable pursuant to the Borough'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 Borough 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 Borough'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 Borough 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 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 Borough 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 Borough 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 3: All ordinances or parts thereof which are inconsistent with the provisions of this Ordinance are, to the extent of such inconsistency, hereby repealed.

SECTION 4: In the event that any section, clause, sentence, phrase or provision of this Ordinance is declared unconstitutional, unenforceable, or invalid by a court of competent jurisdiction, such a decision shall not affect the remaining portions of this Ordinance, and the Ordinance shall be interpreted consistent with its original intent to the fullest extent permissible by law.

SECTION 5: The fines and penalties established within this Ordinance shall be considered cumulative, and not superseding, as a remedy available to the Borough in addition to those which may also apply under any other applicable local, County, or State law or regulation.

Introduction: May 26, 2022
Adopted: June 23, 2022

BOROUGH OF BELLMAWR

Charles J. Sauter, III

By: Charles J. Sauter, III, Mayor

ATTEST:

Francine M. Wright RMC

Francine M. Wright, RMC, Borough Clerk

CERTIFICATION

I, Francine M. Wright, Clerk of the Borough of Bellmawr, hereby certify the foregoing to be a true and correct copy of an ordinance adopted by the Mayor and Borough Council at their meeting of May 26, 2022, in the Municipal Building, 21 East Browning Road, Bellmawr, New Jersey.

Francine M. Wright RMC

Francine M. Wright, RMC, Borough Clerk