

CITY OF ESTELL MANOR, NJ

ORDINANCE #04-2023

ORDINANCE AMENDING ORDINANCE #02-2016, ALSO KNOWN AS CHAPTER 289 OF THE CITY CODE ENTITLED “PROPERTY, ABANDONED AND VACANT”; AND REPEALING ALL ORDINANCES HERETOFORE ADOPTED THE PROVISIONS OF WHICH ARE INCONSISTENT HEREWITH

WHEREAS, the continuing mortgage foreclosure crisis has serious negative implications for all communities trying to manage the consequences of property vacancies and abandoned real properties subject to foreclosure; and

WHEREAS, the City of Estell Manor (hereinafter referred to as “The City of Estell Manor” or the “City”) recognizes an increase in the number of vacancies and abandoned properties located throughout the City; and

WHEREAS, the City of Estell Manor is challenged to identify and locate responsible parties of foreclosing parties who can maintain the properties that are in the foreclosure process or that have been foreclosed; and

WHEREAS, the City of Estell Manor finds that the presence of vacant and abandoned properties can lead to a decline in property value, create attractive nuisances and lead to a general decrease in neighborhood and community aesthetics; and

WHEREAS, pursuant to N.J.S.A. 40:48-2, the Mayor and Council of the City are 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 Mayor and Council of the City are 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 compliant 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, the City of Estell Manor 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 City of Estell Manor desires to amend the City's Code in order to participate in the County-wide registration program established by the Atlantic County Improvement Authority that will identify a contact person to address safety and aesthetic concerns to minimize the negative impacts and blighting conditions that occur as a result of the foreclosures; and

WHEREAS, the City of Estell Manor has a vested interest in protecting neighborhoods against decay caused by vacant and foreclosure properties and concludes that it is in the best interests of the health, safety, and welfare of its citizens and residents to amend in light of recent State legislation P.L. 2021, c. 444 registration and certification requirements on foreclosure properties located within the City of Estell Manor;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Estell Manor, County of Atlantic and State of New Jersey, that:

SECTION 1. The following sections of Chapter 289 entitled “Property, Abandoned and Vacant” shall be and are hereby amended only as indicated below:

§289-1 Purpose and Intent.

It is the purpose and intent of the City of Estell Manor to amend, in light of recent State legislation P.L. 2021, c. 444, the process to address the deterioration and blight of City of Estell Manor neighborhoods caused by an increasing amount of abandoned, foreclosed or distressed real property located within the City of Estell Manor, and to identify, regulate, limit and reduce the number of foreclosure properties located within the City of Estell Manor. It is the City of Estell Manor's further intent to continue to participate in the County-wide registration program established by the Atlantic County Improvement Authority is a mechanism to protect neighborhoods from becoming blighted due to the lack of adequate maintenance and security of foreclosure properties.

§289-2 Definitions.

Abandoned Real Property: Any real property located within the City of Estell Manor, whether vacant or occupied, that a complaint filing for foreclosure, has had a lis pendens filed against it by the Lender holding a mortgage on the property, is subject to an ongoing foreclosure action by the Lender, or has been transferred to the Lender under a deed in lieu of foreclosure. The designation of a property as "abandoned" shall remain in place until such time as the property is sold or transferred to a new owner in an arm's length transaction or the foreclosure action has been dismissed.

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.

Except as otherwise noted above, the definitions set forth within §289-2 remain unchanged.

§289-3 Applicability.

[No change]

§289-4 Establishment of a Registry.

Pursuant to the provisions of this Chapter, the City of Estell Manor shall participate in the County-wide registration program established by the Atlantic County Improvement Authority which catalogs each Abandoned Property within the City of Estell Manor, containing the information required by this Article.

§289-5 Registration of Foreclosure Real Property.

- (a) Any mortgagee who holds a mortgage on real property located within the City of Estell Manor shall perform an inspection of the property to determine vacancy or occupancy, upon default by the mortgagor as evidenced by a foreclosure filing. The mortgagee shall, within ten (10) days of the inspection, register the property with the Division of Code Enforcement, or designee, on forms or website access provided by the City of Estell Manor, 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.
- (b) If the property is occupied but remains in foreclosure, it shall be inspected by the mortgagee or his designee monthly and within ten (10) days of that inspection, update the property registration to a vacancy status on forms provided by the City of Estell Manor.
- (c) Registration pursuant to this section shall contain the name of the mortgagee and the server, the direct mailing address of the mortgagee and the server, a direct contact name and telephone number for both parties, facsimile number and e-mail address for both parties, the folio or tax number, and the name and twenty-four (24) hour contact telephone number of the property management company responsible for the security and maintenance of the property.
- (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) A non-refundable annual registration fee in the amount of \$500.00 per property, shall accompany the registration form or website registration. An additional \$2,000 fee per property shall be paid annually if the property is vacant or abandoned pursuant to the definition in this Chapter when the summons and complaint in an action to foreclose is filed, or becomes vacant and abandoned pursuant to the definition in this Chapter at any time thereafter while the property is in foreclosure.
- (f) If the 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, that the property is not registered and shall be due and payable with the registration.
- (g) All registration fees must be paid directly from the Mortgagee, Servicer, Trustee, or Owner. Third Party Registration fees are not allowed without the consent of the City of Estell Manor and/or its authorized designee.

- (h) This section shall also apply to properties that have 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.
- (i) 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 remain in foreclosure.
- (j) Any person 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.
- (k) Failure of the mortgagee to properly register or to modify the registration form 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.
- (l) Pursuant to any administrative or judicial finding and determination that any property is in violation of this article, the City of Estell Manor 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.
- (m) Registration of foreclosure property does not alleviate the mortgagee from obtaining all required licenses, permits and inspections required by applicable code or State Statutes.
- (n) 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.
- (o) If the mortgagee sells or transfers the Registrable Property in a non-arm's length transaction to a related entity or person, the transferee is subject to all the terms of this Chapter. Within ten (10) days of the transfer, the transferee shall 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. The previous mortgagee 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.

§289-6 Maintenance Requirements.

[No change]

§289-7 Security Requirements.

[No change]

§289-8 Public Nuisance.

[No change]

§289-9 Violations and penalties; schedule of civil penalties.

Any person who shall violate the provisions of this article may be cited and fined as provided within this Chapter 19 and N.J.S.A. 55:19-78 *et. seq.* The following listed violations of these sections, as may be amended from time to time, which may be enforced pursuant to the provisions of this regulation; and the dollar amount of civil penalty for the violation of these sections as it may be amended. The descriptions of violations below are for informational purposes only and are not meant to limit or define the nature of the violations or the subject matter of the Estell Manor Code, except to the extent that different types of violations of the Estell Manor Code section may carry different civil penalties. For each Estell Manor Code section listed in the schedule of civil penalties, the entirety of the section may be enforced by the mechanism provided in this section, regardless of whether all activities prescribed or required are described herein. To determine whether a particular activity is prescribed or required by this Code, the relevant Estell Manor Code sections shall be examined.

- (a) As authorized under P.L. 2021, Chapter 444, C.40:48-2.12s3 g.(1), if an out-of-State mortgagee that is subject to the requirements of this Chapter is found by the Municipal Court, 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 mortgagee 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.
- (b) As authorized in P.L. 2021, Chapter 444, C.40:48-2.12s3 g.(2), if an out-of-State mortgagee that is subject to requirements of this Chapter, is found by the Municipal Court, or by any other court of competent jurisdiction, to be in violation, excluding only a violation addressed by paragraph (a) of this Section, 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.

§289-10 through §289-14

[No Change]

SECTION 2. All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistencies, and should any section, clause, sentence or provision of any item in this Ordinance be declared unconstitutional or invalid by a Court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 3. This Ordinance shall take effect upon its final passage and publication as provided by law.

THE CITY OF ESTELL MANOR,
COUNTY OF ATLANTIC and
STATE OF NEW JERSEY

ATTEST:

Elizabeth Owen, Mayor

Lisa Marcolongo, RMC, CMR
City Clerk

COUNCIL MEMBER	MOTION	YES	NO	ABSTAIN	ABSENT
GIVENS	2	X			
MASKER	1	X			
MADDOX		X			
DILG		X			
MAYOR OWEN		X			

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