

CITY OF UNION CITY
ORDINANCE 2023-3

AN ORDINANCE AMENDING CHAPTER 311
“Property Maintenance”

BE IT ORDAINED by the Board of Commissioners of the City of Union City, County of Hudson, State of New Jersey, that Chapter 311, is hereby supplemented by creating a new section, entitled “Registration and Maintenance of Properties in Foreclosure”, as follows:

Chapter 311 is hereby supplemented with a new Article VI.

§ Purpose and Intent.

It is the purpose and intent of the Mayor and Commissioners to establish a process to address the deterioration, crime, and decline in value of the City’s neighborhoods caused by properties with foreclosing or foreclosed mortgages, and to identify, regulate and have maintained, the number of these properties located within the City. It has been determined that owner-occupied structures are generally better maintained when compared to vacant structures, even with a diligent off-site property owner. Vacant structures or structures owned by individuals who are economically strained and unable to meet their mortgage obligations are often not properly or diligently maintained, which contributes to blight, declined property values, and has a negative impact on social perception of the residential areas where they are located. It is the Mayor and Commissioners’ further intent to establish a registration program as a mechanism to help protect neighborhoods from becoming blighted through the lack of adequate maintenance of properties that are in foreclosure or foreclosed.

§ 2. Definitions.

“Creditor” means a mortgagee or an agent or assignee of a mortgagee, such as the 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.

“Enforcement Officer” means any construction code official, zoning officer, law enforcement officer, code enforcement officer, fire inspector, building inspector, board of health inspector, rent regulation officer, or other person authorized by the City to enforce the applicable code(s).

“Property considered vacant and abandoned” means a property that 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 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. Registration Program.

In accordance with NJSA 40:48-2.12s3a, there is hereby created a property registration program for the purposes of identifying and monitoring residential and commercial properties within the municipality for which a summons and complaint in an action to foreclose on a mortgage has been filed and to 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.

- a. Requirements. In accordance with the Registration Program, a creditor shall meet the following requirements:
 - 1. Any creditor filing a summons and complaint in an action to foreclose shall, in addition to the notice provided to the City pursuant to section 17 of P.L.2008, c. 127 (C.46:10B-51) or section 2 of P.L.2021, c. 444 (C.40:48-2.12s2), register the residential or commercial property with the City's property registration program as a property in foreclosure and, as part of that registration:
 - (a) provide the City with the information regarding the creditor required by paragraph (1) of subsection a. of section 17 of P.L.2008, c. 127 (C.46:10B-51) or paragraph (1) of subsection a. of section 2 of P.L.2021, c. 444 (C.40:48-2.12s2); (b) identify 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 (c) identify whether the property is vacant and abandoned in accordance with the definition established herein;
 - 2. 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;

3. In the event the registered property becomes vacant and abandoned, as defined herein, after the property is initially registered with the municipality, the creditor shall update the property registration with the municipality to reflect the change in the property's status;
4. The creditor 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;
5. A creditor located out-of-State shall be responsible for appointing an in-State representative or agent to act for the foreclosing creditor, and register the representative with the City;
6. A creditor, filing a summons and complaint in an action to foreclose on a property, that is or becomes vacant and abandoned, shall provide the following care, maintenance, security, and upkeep of the exterior of the property:

- a. Maintain and upkeep the property in accordance with the Property Maintenance Code, and at a minimum, as follows:

- A. Properties subject to this chapter shall be kept free of weeds, overgrown brush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspaper circulars, flyers, notices, except those required by federal, state or local law, discarded personal items including, but not limited to, furniture, clothing, large and small appliances, printed material, or any other items or conditions which constitute evidence of vacancy.

- B. Registrable property shall be maintained free of graffiti or similar markings by removal or 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 accordance with the applicable code(s) at the time registration is required.

- D. Registrable yard maintenance shall include, but not be limited to, grass, ground covers, bushes, shrubs, hedges or similar plantings, decorative rock or bark or artificial turf/sod. Acceptable maintenance of yards and/or landscape shall not include weeds, gravel, broken concrete, asphalt or similar material.

- E. Maintenance shall include, but not be limited to, watering, cutting and mowing of required ground cover or landscape and removal of all trimmings.

- F. Failure of the mortgagee, owner, and transferees to properly maintain the property as required by this chapter may result in a violation of the applicable code(s) and issuance of a citation or notice of violation in accordance with the applicable code of the City. Pursuant to a

finding and determination by the City, Sheriff, Magistrate or a court of competent jurisdiction, the City may take the necessary action to ensure compliance with this section.

G. In addition to the above, the property is required to be maintained in accordance with the applicable code(s) of the City.

b. Secure the property at a minimum, as follows:

A. Properties subject to this chapter 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 will preclude 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 of the window.

C. If a property is registrable, and the property has become vacant or blighted, a property manager shall be designated by the mortgagee and/or owner to perform the work necessary to bring the property into compliance with the applicable code(s), and the property manager must perform regular inspections to verify compliance with the requirements of this chapter, and any other applicable laws.

D. In addition to the above, the property is required to be secured in accordance with the applicable code(s) of the City.

E. When a property subject to this chapter becomes vacant, it shall be posted with the name and twenty-four-hour contact telephone number of the property manager. The property manager shall be available to be contacted by the City Monday through Friday between 9:00 a.m. and 5:00 p.m., legal holidays excepted. The sign shall be placed in a window facing the street and shall be visible from the street. Unless otherwise limited by a City ordinance, the posting shall be no less than 18 inches by 24 inches and shall be of a font that is legible from a distance of 45 feet. The posting shall contain the following language with supporting information:

THIS PROPERTY IS MANAGED BY _____
AND IS INSPECTED ON A REGULAR BASIS.

THE PROPERTY MANAGER CAN BE CONTACTED
BY TELEPHONE AT _____

OR BY EMAIL AT _____

F. A creditor shall 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.

G. The posting required in Subsection E above shall be placed on the interior of a

window facing the street to the front of the property so that it is visible from the street, or secured to the exterior of the building/structure facing the street to the front of the property so that it is visible from the street or, if no such area exists, on a stake of sufficient size to support the posting in a location that is at all times visible from the street to the front of the property but not readily accessible to vandals. Exterior posting shall be constructed of and printed with weather-resistant materials.

H. Failure of the mortgagee and/or property owner of record to properly inspect and secure a property subject to this chapter, and post and maintain the signage noted in this section, is a violation and shall be subject to enforcement by any of the enforcement means available to the City. The City may take the necessary action to ensure compliance with this section, and recover costs and expenses in support thereof.

c. **Registration.** A creditor shall file the registration with the Rent Regulation Officer, in the Office of Rent Control.

d. **Registration Fees.**

1. A creditor required to register a property pursuant to the within ordinance shall pay a fee to the City, in a sum not to exceed: (1) \$500 per property annually for any property that is required to be registered; and (2) an additional \$2,000 per property annually if the property is vacant or abandoned pursuant to the definition, provided herein, or becomes vacant and abandoned at any time thereafter while the property is in foreclosure.
2. Property registration fees imposed pursuant to subsection b.1. shall be considered a municipal charge pursuant to the "tax sale law," R.S.54:5-1 et seq., regardless of whether the fees are being collected by a third-party entity or by the municipality directly.

e. **Third Party Administrator.**

1. The City may delegate to a private entity any duties under the property registration program, including, without limitation, identifying properties located within the City that are subject to the registration requirements of the property registration program, maintaining and updating the property registrations for the City, communicating with the creditors or the in-State representative or agent appointed by creditors located out of State of such properties, invoicing and collecting payment from the creditors for such properties any fees authorized herein and subsection b.1. of this section, and monitoring compliance with the requirements of the ordinance.
2. Any property registration fees imposed pursuant to subsection b.1. and collected by a third-party entity pursuant to subsection c.1., of this section, shall be paid over to the City within a timeframe specified in the contract between the City and the third-party entity. Amounts collected by the third-party entity on behalf of the City shall be paid over in full without any amount deducted as payment for services rendered by the third-party entity. Once the collected fees are paid over to the City, the officer charged with the custody of the general funds shall deposit all such funds within 48 hours after the receipt thereof to the credit of the City in its designated legal depository. A third-party entity shall collect and pay

over to the municipality any interest and penalties, based upon the rate of interest and penalties fixed by the City for late payment of property taxes, assessments, and other municipal charges pursuant to R.S.54:4-67, for late payment of the property registration fees imposed pursuant to subsection b.1. of this section. The third-party entity shall at least once a year, or as requested by the municipal tax collector, file a certification as may be required by the tax collector to enforce tax liens for all unpaid property registration program fees due and owing at the time the certification is filed.

3. No less than 20 percent of any money collected pursuant to subsection d.2 and d.3. of this section shall be utilized by the municipality for municipal code enforcement purposes.

f. Enforcement; Notice of Violation; Fine.

1. The Enforcement Officer, designated or appointed pursuant to P.L.1942, c. 112 (C.40:48-2.3 et seq.), or any other local official responsible for administration of any property maintenance or public nuisance code, shall be authorized to issue a notice to the creditor, if the Enforcement Officer or other authorized municipal official determines that the creditor has violated the ordinance. In the case of a violation for failure to provide care, maintenance, security, and upkeep of the exterior of vacant and abandoned property, such notice shall require the person or entity to correct the violation within 30 days of receipt of the notice, or within 10 days of receipt of the notice if the violation presents an imminent threat to public health and safety.
2. An out-of-State creditor subject to this ordinance 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 (1) of subsection a. of section 17 of P.L.2008, c. 127 (C.46:10B-51) or paragraph (1) of subsection a. of section 2 of P.L.2021, c. 444 (C.40:48-2.12s2) for providing notice to the municipal clerk that a summons and complaint in an action to foreclose on a mortgage has been served.
3. A creditor found by the municipal court, or by any other court of competent jurisdiction, to be in violation, excluding only a violation addressed by paragraph (2) 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.

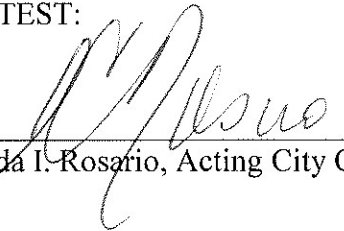
| Commissioners | Yea | Nay | Abstain/Present | Absent |
|-----------------------|-----|-----|-----------------|--------|
| Lucio P. Fernandez | x | | | |
| Wendy Grullon | x | | | |
| Celin J. Valdivia | x | | | |
| Maryury A. Martinetti | x | | | |
| Mayor Brian P. Stack | x | | | |

I HEREBY CERIFY this to be true and correct Ordinance of the City of Union City Board of Commissioners introduced on January 10, 2023 and was further considered and adopted after Public Hearing held on January 24, 2023 at Bella Vista Apartments, 522- 22nd Street, Union City, New Jersey 07087.

INTRODUCED: January 10, 2023

ADOPTED: January 24, 2023

ATTEST:



 Hilda I. Rosario, Acting City Clerk

1/24/2023

 Date