

**TOWN OF GUTTENBERG
COUNTY OF HUDSON, STATE OF NEW JERSEY**

ORDINANCE #14-20

AMENDING ORDINANCE CHAPTER XIII, SECTION 13-8

**AN ORDINANCE OF THE TOWN OF GUTTENBERG, AMENDING CHAPTER XIII,
ENTITLED PROPERTY MAINTENANCE, SECTION 13-8, ENTITLED
REGISTRATION OF VACANT, ABANDONED AND FORECLOSED PROPERTIES**

WHEREAS, the Mayor and Council of the Town of Guttenberg (“Town”) desire to protect the public health, safety and welfare of the citizens of the Town and maintain a high quality of life for its citizens through the maintenance of structures and properties in the Town; 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 have defaulted mortgages, are in the foreclosure process, foreclosed upon and/or mortgagee owned; and

WHEREAS, often times, the foreclosing party or property owners are 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 Town’s Code, and to maintain the requisite level of maintenance and security on such structures or lots; and

WHEREAS, the Mayor and Council of the Town of Guttenberg recognizes an increase in the number of properties with defaulted mortgages and subject to foreclosure action or foreclosed upon, (hereinafter referred to as “registrable properties”) located throughout the Town, along with Vacant Lands, which can lead to a decline in property value, create nuisances and lead to a general decrease in neighborhood and community aesthetic; and

WHEREAS, the Mayor and Council of the Town of Guttenberg have 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 Mayor and Council of the Town of Guttenberg recognize it is in the best interest of the public health, safety and welfare of the residents of the Town to have a more regulated method to discourage registrable property owners and mortgagees from allowing their properties to be abandoned, neglected or left unsupervised; and

WHEREAS, the Mayor and Council of the Town of Guttenberg have a vested interest in protecting neighborhoods against decay caused by registrable property and conclude 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 Town of Guttenberg to discourage registrable property owners and mortgagees from allowing their properties to be abandoned, neglected or left unsupervised; and

WHEREAS, the Mayor and Council of the Town of Guttenberg desire to amend the Town's code in order to establish a 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 or Vacant Land; and

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

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Town of Guttenberg, County of Hudson, State of New Jersey, that Ordinance Chapter XIII, Section 13-8, shall be amended as follows:

The Mayor and Council of the Town of Guttenberg find that the implementation of the following changes and additions will assist the Town in protecting neighborhoods from the negative impact and conditions that occur as a result of vacancy and lack of compliance with existing Town regulations and laws.

1. That 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.
2. That the Mayor and Council of the Town of Guttenberg do hereby amend the Town's Ordinances, Chapter XIII, entitled "Property Maintenance", Section 13-8, entitled "Registration of Vacant, Abandoned and Foreclosed Properties," to read as follows:

CHAPTER XIII ARTICLE 8

REGISTRATION OF DEFAULTED MORTGAGE PROPERTY

SECTION 8 - 1. PURPOSE AND INTENT

It is the purpose and intent of the Mayor and Council of the Town of Guttenberg to establish a process to address the deterioration, crime and decline in value of Town neighborhoods caused by properties with defaulted mortgages and vacant properties located within the Town of Guttenberg, and to identify, regulate, limit and reduce the number of these properties located within the Town. It is the Mayor and Council of the Town of Guttenberg's further intent to establish a registration requirement as a mechanism to protect neighborhoods from the negative impact and conditions that occur as a result of vacancy, lack of adequate maintenance and security and will provide a method to expeditiously identify a contact person for each property responsible for this protection.

It is not the intent of this article to determine the rights and liabilities of persons under agreements to which the Town is not a party. This article shall not be construed to alter the terms of any lease

or other agreement between a landlord and a tenant or others relating to property that is the subject of this Article; provided that no provision of any lease or other agreement shall be construed to excuse compliance with this article. Additionally, a violation of this article shall not in and of itself create a negligence per se standard or otherwise expand existing liability in tort for either a landlord or a tenant.

SECTION 8 - 2. 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. Applicable Codes – means to include, but not be limited to, the Town’s Zoning Ordinance, the Town’s Property Maintenance Ordinance, Solid Waste Ordinance, Residential and Commercial Recycling Ordinance, and the State and Town Building and Fire Codes.
- C. 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 causing a decrease in value of the neighboring properties; or
 - 3. Properties cited for a public nuisance pursuant to the Town 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.
- D. Enforcement Officer – means any Law Enforcement Officer, Building Official, Zoning Official, Code Enforcement Officer, Fire Inspector, Building Inspector, or other person authorized by the Town to enforce the applicable code(s).
- E. Evidence of Vacancy - means any condition that on its own, or combined with other conditions present, would lead a reasonable person to believe that the property is vacant. Such conditions may include, but are not limited to: 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; or the presence of boards over doors, windows or other openings in violation of applicable code.

- F. 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.
- G. Foreclosure - shall mean the legal process by which a mortgagee, or other lien holder, 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 lien holder, 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, 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
- H. 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, excluding governmental entities.
- I. Owner – Owner means any person, firm, corporation or other legal entity who, individually or jointly or severally with others, holds the legal or beneficial title to any building, facilities, equipment or premises subject to the provisions of this chapter.
- J. Real Property - means any residential or commercial land and/or buildings, leasehold improvements and anything affixed to the land, or portion thereof identified by a property parcel identification number, located in the Town limits.
- K. Registrable Property – means:
 - 1. any real property located in the Town , whether vacant or occupied, that is encumbered by an ongoing foreclosure action by the Mortgagee or Trustee, has been the subject of a foreclosure action by a Mortgagee or Trustee and a Judgement 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.

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.

2. Any property that is vacant for more than thirty (30) days or any cancellation of Utility Service, whichever occurs first.

- L. Semi-Annual Registration - shall mean 6 months from the date of the first action that requires registration, as determined by the Town, or its designee, and every subsequent 6 months. The date of the initial registration may be different than the date of the first action that required registration
- M. Vacant – means any improved or unimproved lot and any parcel of land in the Town that contains any building or structure that is not lawfully occupied or inhabited by human beings as evidenced by the conditions set forth in the definition of "Evidence of Vacancy" above which is without lawful tenant, or lawful occupant or without a certificate of occupancy. Vacant property does not mean property that is temporarily unoccupied while the residents are away on vacation, personal matters or business, or is not intended by the owner to be left vacant, so long as the period does not exceed thirty (30) days.

SECTION 8 - 3. APPLICABILITY

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

SECTION 8 - 4. ESTABLISHMENT OF A REGISTRY

Pursuant to the provisions of Section 4, the Town or its designee, shall establish a registry cataloging each Registrable Property within the Town, containing the information required by this Article.

SECTION 8 - 5. REGISTRATION OF DEFAULTED MORTGAGE REAL PROPERTY

- A. Any Mortgagee who holds a mortgage on real property located within the Town shall perform an inspection of the property to determine vacancy or occupancy, upon default by the mortgagor. The Mortgagee shall, within ten (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.
- B. Registration pursuant to this section shall contain the name, direct mailing address, a direct contact name, telephone number, and e-mail address for the Mortgagee/Trustee, and the Mortgage Servicer, and the name and 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 any expenditure in connection therewith.

- C. Mortgagees who have existing registrable property on the effective date of this ordinance have 30 calendar days from the effective date to 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 vacant or occupied.
- D. If the mortgage on a registrable property is sold or transferred, the new Mortgagee is subject to all the terms of this Article. Any previous unpaid registration fees are the responsibility of the new Mortgagee or Trustee and are due and payable with their initial 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 a court of competent jurisdiction for disposition.
- E. 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.
- F. If the Mortgagee owner 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. Any previous unpaid registration fees are the responsibility of the new Registrable property owner and are due and payable with their initial 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 a court of competent jurisdiction for disposition.
- G. 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.

- H. A non-refundable registration fee of \$500.00 shall accompany each registration pursuant to this section.
- I. 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 Semi-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.
- J. All registration fees must be paid directly from the Mortgagee, Trustee, Servicer, or Owner. Third Party Registration fees are not allowed without the consent of the Town and/or its authorized designee.
- K. Properties subject to this section shall remain under the semi-annual registration requirement, and the inspection, security and maintenance standards of this section as long as they are registrable.
- L. Until the mortgage or lien on the property in question is satisfied, or legally discharged, the desire to no longer pursue foreclosure, 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 holding the defaulted mortgage, from all the requirements of this article as long as the borrower is in default.
- M. 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.
- N. 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
- O. Pursuant to any administrative or judicial finding and determination that any property is in violation of this article, the Town 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.
- P. Properties subject to this chapter shall be in accordance with the applicable code(s) of the Town.
- Q. Registration of foreclosure property does not alleviate the Mortgagee and/or Owner from obtaining all required licenses, permits and inspections required by applicable code or State Statutes. Acquisition of required licenses permits, and inspections or registration of rental property does not alleviate the requirement for the property to

be registered under this section. Mortgagee and/or Owner is expected to update the status of the property in the event of a Mortgagee managed rental.

SECTION 8 – 6. INSPECTION AND REGISTRATION OF REAL PROPERTY THAT IS NOT SUBJECT TO A MORTGAGE IN FORECLOSURE

- A. Any Owner of Vacant property located within the Town shall within ten (10) days after the property becomes Vacant, register the Real Property with the Town Registry.
- B. Initial registration pursuant to this section shall contain at a minimum the name of the Owner, the mailing address of the Owner, e-mail address, and telephone number of the Owner, and if applicable, the name and telephone number of the Property Manager and said person's address, e-mail address, and telephone number.
- C. At the time of initial registration each registrant shall pay a non-refundable Semi-Annual Registration fee of five hundred dollars (\$500.00) for each Vacant property. Subsequent non-refundable Semi-Annual renewal registrations of Vacant properties and fees in the amount of five hundred dollars (\$500.00) are due within ten (10) days of the expiration of the previous registration. Said fees shall be used to offset the costs of: (1) registration and registration enforcement, (2) code enforcement and mitigation related to Vacant properties, and (3) for any related purposes as may be adopted in the policy set forth in this Chapter. Said fees shall be deposited to a special account in the Town's Department dedicated to the cost of implementation and enforcement of this Ordinance and fulfilling the purpose and intent of this Chapter.
- D. If the property is sold or transferred, the new Owner is subject to all the terms of this Chapter. Within ten (10) days of the transfer, the new Owner shall register the Vacant property or update the existing registration. The previous Owner(s) will not be released from the responsibility of paying all previous unpaid fees, fines, and penalties accrued during that Owner's involvement with the Vacant property.
- E. If the Vacant property is not registered, or either the registration fee or the Semi-Annual Registration fee is not paid within thirty (30) days of when the registration or Semi-Annual Registration is required pursuant to this section, a late fee shall be equivalent to ten percent (10%) of the Semi-Annual Registration fee shall be charged for every thirty (30) day period, or portion thereof, the property is not registered and shall be due and payable with the registration. This section shall apply to the initial registration and registrations required by subsequent Owners of the Vacant property.
- F. Properties subject to this section shall remain subject to the Semi-Annual Registration requirement, and the inspection, security, and maintenance standards of this section as long as the property is Vacant.
- G. Failure of the Owner to properly register or to modify the registration to reflect a change of circumstances as required by this ordinance is a violation of this Chapter and shall be subject to enforcement by any of the enforcement means available to the Town.

- H. If any property is in violation of this Chapter, the Town may take the necessary action to ensure compliance with and place a lien on the property for the cost of the outstanding obligation and any additional cost incurred to the property into compliance.
- I. Properties registered as a result of this section are not required to be registered again pursuant to the Foreclosure mortgage property section.

SECTION 8 - 7. PENALTY

- a. Registration Violation.

The penalty to a Mortgagee and/or Owner who is out of state and has filed a summons and complaint in an action to foreclose a Guttenberg residential property, but not appointed an in-state representative or agent pursuant to this section, shall be subject to a fine of \$2500.00 for each day of the violation.

- b. Code Violation.

A Mortgagee and/or Owner subject to this section shall be fined \$1500.00 for each day commencing on the 31st day after receiving notice of a violation of the requirement to care, maintain, and or provide proper security upkeep, issued by the Construction Code Official or other authorized agent for the Town pursuant to this section.

SECTION 8 – 8. 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.

SECTION 8 – 9. REPEALER

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

SECTION 8 – 10. CODIFICATION

It is the intention of the Mayor and Council of the Town of Guttenberg, that the provisions of this Ordinance shall become and be made a part of the Town 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.

SECTION 8 – 11. SEVERABILITY

This ordinance shall take effect upon passage and publication as required by law (according to local and state requirements).

SUMMARY OF ORDINANCE

This Ordinance amends the previous ordinance which established a 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 vacant lots.

/S/ Alberto Cabrera
Introduction: 4.27.20
Adoption: 5.27.20