

**TOWNSHIP OF MAHWAH  
ORDINANCE NO. 2014**

**AN ORDINANCE OF THE TOWNSHIP OF MAHWAH, COUNTY OF BERGEN, STATE OF NEW JERSEY, AMENDING CHAPTER 3, "POLICE REGULATIONS," SECTION 6, SUBSECTIONS 11 THRU 13, TO ESTABLISH THE TOWNSHIP'S VACANT AND ABANDONED PROPERTIES REGISTRATION PROGRAM, AND AMENDING CHAPTER 10, "BUILDING AND HOUSING," OF THE TOWNSHIP CODE TO ESTABLISH NEW SECTION 10-8, ON VACANT AND ABANDONED PROPERTIES**

**WHEREAS**, the Township's Construction Official and Property Maintenance Officer have found there to be an influx of improved properties, both commercial and residential, within the Township that are unoccupied, vacant, and/or abandoned that have gone unmaintained, become unsecured, and/or have the increased likelihood of becoming neglected, blighted or a nuisance; and

**WHEREAS**, properties in foreclosure can involve properties that are vacant and abandoned or have an increased risk of becoming vacant and abandoned during foreclosure proceedings; and

**WHEREAS**, in addition to properties in foreclosure, there are certain properties within the Township, which although not in foreclosure, have become unoccupied and are otherwise vacant because the owner(s) thereof plan to renovate, reconstruct and/or redevelop the property, regardless of whether or not permits or approvals have been applied for and/or obtained from the Township's administrative officers and agencies such as the Zoning Board of Adjustment, Planning Board and/or the Construction Official; and

**WHEREAS**, vacant and abandoned properties in foreclosure and/or other unoccupied properties that are the subject of anticipated, impending and/or ongoing renovations, reconstruction and/or redevelopment applications have a higher likelihood of becoming unsecured, unmaintained and neglected, before, during and after local zoning/planning and construction approvals are obtained or before, during and after completion of foreclosure proceedings; and

**WHEREAS**, such unoccupied, vacant and/or abandoned properties pose a greater risk of blight, public nuisance, and are detrimental to the public health, safety and welfare for the communities in which such properties are located; and

**WHEREAS**, the some of the public health and safety risks associated with unoccupied, vacant and/or abandoned properties include, but are not limited to: the fostering criminal activity such as arson, vandalism and trespass; increased risk of fire; structural dilapidation and collapse and falling objects; creating public and private nuisances and attractive nuisances; illegal dumping; accumulation of litter and debris; infestation of rodents, pests and mold; depressing neighboring property values, reducing revenues for municipalities; and otherwise diminishing the quality of life for residents and businesses in those areas; and

**WHEREAS**, because of the increased public health risks and dangers to the general health and welfare of the public associated with unoccupied, vacant and/or abandoned properties, it is important that the Township possess tools to identify such properties, monitor their status, and mitigate the public health risks associated with same; and

**WHEREAS**, pursuant to N.J.S.A. 40:48-1 et seq., of the “Home Rule Act,” the New Jersey Legislature delegated to municipalities the responsibility to promulgate regulations designed to promote the public health, safety, and welfare of its citizens; and

**WHEREAS**, the New Jersey Legislature has also enacted a host of statutes intended to assist and enhance local municipal authority to adopt and enforce ordinances addressing and mitigating the public health risks and concerns caused by vacant, abandoned and/or unoccupied properties, including but not limited to under the “Abandoned Properties Rehabilitation Act,” N.J.S.A. 55:19-78 et seq. N.J.S.A. 40:48-1 -1.1, N.J.S.A. 40:48-2.3 thru -2.12g, -2.13 thru -2.14, -2.26 thru -2.31, and N.J.S.A. 40:48-2.12s3 of the Home Rule Act, which among other things, require foreclosing creditor to serve notice on municipalities of the foreclosure actions, authorize municipalities to establish a vacant and abandoned property registration program, and enable municipal officials to take certain action against properties/property owners that have been unoccupied, vacant, and/or abandoned under appropriate circumstances; and

**WHEREAS**, pursuant to N.J.S.A. 40:48-1 and -1.1, the Township has specific police powers to adopt ordinances and regulations as to the construction, alteration and repair of buildings and structures of every kind within the municipality and to provide for or require the demolition and removal of any structures and buildings which are or may become unfit and/or dangerous life and health of the public or which might tend to be susceptible to fire, and to assess the costs thereof as a municipal lien against such properties; and

**WHEREAS**, in 2019 the Township Council established standards for vacant and abandoned properties in foreclosure under Chapter 3, Section 6 subsections 11 thru 13 of the Township Code; and

**WHEREAS**, pursuant to P.L. 2021 c.444, in 2021 the New Jersey Legislature adopted updated standards for municipalities to establish Vacant/Abandoned Property Ordinances and Fee Schedules, which include requirements that creditors service notice on municipalities of the initiation of a foreclosure action in court in connection with residential and/or commercial properties, and which authorize municipalities to create and oversee a property registration program for such properties in foreclosure, and grant authority to a local public officer of the municipality to take certain action against properties that have been abandoned for more than six months; and

**WHEREAS**, a property registration program provides a valuable tool to confront the risk of blight created by properties in which foreclosure proceedings have been initiated if such properties that become vacant and abandoned; and

**WHEREAS**, pursuant to N.J.S.A. 55:19-78 et seq., and N.J.S.A. 40:48-2.3 thru -2.12g the municipality’s public officer is authorized to deem property that has not been legal occupied for a period of six months as “abandoned property” or “nuisance property” under certain circumstances,



and to initiate proceedings for the demolition and rehabilitation thereof; and

**WHEREAS**, it is in the best interest of the Township to operate a property registration program in accordance with N.J.S.A. 40:48-2.12s3; and to adopt certain additional ordinances requiring property owners and creditors to address and protect against the risk of blight, nuisance, unfit and dangerous property conditions that occur when properties become vacant and unoccupied in accordance with N.J.S.A. 40:48-2.3 thru -2.12g, -2.13 thru -2.14, -2.26 thru -2.31, to assist the Township's Construction Official and Property Maintenance Officer in carrying out their responsibilities for the protection of the public health, safety and general welfare; and

**WHEREAS**, the Business Administrator, Township Construction Official, Property Maintenance Officer, and the Township Attorney have reviewed the proposed Ordinance, and recommend the Township Council adopt same; and

**WHEREAS**, the Township Council determines that it is necessary and appropriate, and in the best interest of the health, safety and welfare of the Township's residents and members of the public who visit, travel, or conduct business in the Township, to amend the Code to add a new section addressing unoccupied, vacant and abandoned residential, commercial and industrial properties; and

**WHEREAS**, the Township Council has reviewed the recommended amendments and revisions to the Township's Code and has determined that same is necessary and appropriate, in the best interest of the health, safety and welfare of the Township's residents and should be enacted pursuant to the above-referenced statutes, and the Township's general police powers set forth at N.J.S.A. 40:48-1 and N.J.S.A. 40:48-2 et. seq.

**NOW THEREFORE, BE IT ORDAINED**, by the Township Council of the Township of Mahwah, County of Bergen, State of New Jersey, as follows:

**SECTION 1.** Chapter 3, "Police Regulations," Section 6, Subsections 11 thru -13 of the Township Code is hereby repealed and replaced in its entirety as follows:

**§3-6.11 Registration and Maintenance of Vacant and Abandoned Properties in Foreclosure**

**a. Property Registration Program and Registry Established.** The Township of Mahwah hereby establishes Property Registration Program and Registry pursuant to its authority granted by P.L. 2021, c. 444. The purpose of this program is to maintain a registry for all commercial and residential properties within the Township's municipal boundaries for which a summons and complaint in an action to foreclose has been or is about to be filed with the Superior Court of New Jersey. The registry will be formed and maintained to assist the Township with identifying, monitoring, and 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 in accordance with State law or the Township Code.

**b. Definitions.**

**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 39 of P.L. 2009, c. 53 (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 Chapter, a Creditor shall not include the State, a political subdivision of the State, a State, county, or local government entity, or their agent or assignee, such as the servicer.

**ENFORCEMENT OFFICER**

Shall mean any law enforcement officer, the Construction Official, building inspector, Property Maintenance Officer, Zoning Officer, Fire Chief, Fire Inspector, Assistant Zoning Officer, Assistant Property Maintenance Officer, the Municipal Engineer, Deputy Municipal Engineer, or any other officers and employees of the Township designated by the Township to assist the above-listed officers and officials or otherwise enforce the Township Code.

**OWNER**

Shall mean the title holder; and agent of the title holder having authority to act with respect to a property; and any person, legal entity or other party having any ownership interest, whether legal or equitable in real property. This term shall also apply to any person, legal entity or agent responsible for the construction maintenance or operation of the property involved.

**PROPERTY MANAGEMENT COMPANY**

Shall mean a local property manager, property maintenance company or similar entity retained on behalf of a Creditor, Owner or other responsible party to be responsible for the maintenance and/or upkeep of property, whether occupied, unoccupied, vacant and/or abandoned.

**PUBLIC OFFICER**

Shall mean Business Administrator and/or Municipal Clerk, or such other officer, employee, or third-party contractor designated or appointed by the Township Council to maintain and oversee the Township’s Property Registration Program.

**RESPONSIBLE PARTY**

Shall mean the owner of real property, title holder(s) of real property, an agent of the title holder(s) authorized to act with respect to a vacant or unoccupied property (including any “property management company”), any Property Management Company, any Creditor or foreclosing party required to provide notice to the Township pursuant to N.J.S.A. 46:10B-51, and any amendments or supplements thereto, any other party-in-interest determined by the Township’s officials or officers to have authority to act with respect to the maintenance of any unoccupied and/or vacant property.

“Responsible Party” shall also include a Creditor responsible for the maintenance of property pursuant to section 18 of P.L. 2008, c. 127 (N.J.S.A. 46:10B-51) and filing a summons and complaint in an action to foreclose who 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; and/or an in-State representative or agent of the Creditor who shall be responsible for the care, maintenance, security, and upkeep of the exterior of the property if it becomes vacant and abandoned.

## **VACANT AND ABANDONED PROPERTY**

Any residential or commercial property shall be considered vacant and abandoned if it is not legally occupied by an owner, mortgagor or tenant, and which is in such condition that it cannot be legally reoccupied because of the presence or finding of at least two 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 are boarded up or closed off, or multiple windowpanes 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 under any other provision of the Code of the Township of Mahwah, the Uniform Construction Code or pursuant to any other State, County or local law;
- 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.

For purposes of this Section, "vacant and abandoned" residential property is also defined to mean residential real estate with respect to which the mortgagee has proved in the Superior Court of New Jersey, by clear and convincing evidence, that the mortgaged real estate is vacant and abandoned in accordance with N.J.S.A. 2A:50-73 or where a notice of violation has been issued by the Township's Construction, Zoning and/or Property Maintenance Officers pursuant to section 3 of P.L. 2021, c. 444 (N.J.S.A. 40:48-2.12s3) for a Creditor's failure to provide care, maintenance, security and upkeep of the exterior of

such residential property. Where a notice of violation has not been issued pursuant to section 3 of P.L. 2021, c. 444 (N.J.S.A. 40:48-2.12s3), real property shall be deemed "vacant and abandoned" if a court of competent jurisdiction finds that the mortgaged property, is not occupied by an owner, mortgagor or tenant as evidenced by a lease agreement entered into prior to the service of a notice of intention to commence foreclosure in accordance with section 4 of the "Fair Foreclosure Act," P.L. 1995, c. 244 (N.J.S.A. 2A:50-56), and at least two of the above-listed conditions exist.

### **§ 3.6.12 Property Registration Program & Creditor Requirements**

#### **a. Duties & Responsibilities of Public Officer and Enforcement Officer.**

1. The Business Administrator and Township Clerk shall serve as the municipal official(s) responsible for administering and coordinating the Township Property Registration Program in conjunction with the Enforcement Officer(s) of the Township. The Business Administrator and Township Clerk shall be responsible for: maintaining the Registry in conjunction with the advice and recommendations of the Enforcement Officer; accepting registrations and notices from Creditors and/or Responsible Parties; collecting registration fees; processing registration payments; and assisting in the enforcement and collection of delinquent registration fees required to be submitted to the Township under §3-6.13 below.
2. The Township Construction Official and/or Property Maintenance Officer shall be responsible for notifying Creditors and other Responsible Parties of any conditions violations related to the care, maintenance, security and upkeep of any vacant and abandoned residential and commercial properties; determining eligibility for designation as vacant and abandoned property under this Chapter, and for the enforcement of the provisions of this section, including issuing violations, and imposing and collecting fines and penalties for the failure of Creditors and/or Responsible Parties to register, abate or correct any conditions or violations of the Township Code and other applicable laws.
3. The Township may, in its discretion, create, maintain and administer this registry directly or retain the professional services of a private 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.
  - (a) Any third parties retained to create, maintain, and/or administer the registry shall have the authority on behalf of the Township to: identify properties subject to the registration requirement; maintain and update the registration list; communicate with Creditors and/or in-state representatives; invoice and collect payment of fees; monitor Compliance; and 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 Township.
  - (b) Any third parties retained to create, maintain, and/or administer the registry shall be required to comply with the following reporting and payment requirements:

- i. Any and all amounts collected by the third-party administrator as part of its administration of the Township's registry, including registration fees, interest, and penalties, shall be paid, in full, directly to the Township, as applicable, not less than once per year, or as otherwise directed by the Township's Public Officer. No fees, payments, expenses, or other deductions for the services of the third-party administrator shall be made from the funds collected for such fees, interest and penalties. Payment for any third-party administrator services under this section shall be made by the Township directly to the third party, under the terms and conditions outlined within the contract for professional services.
- ii. 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 Township's registry shall file with the Tax Collector a certification identifying: the address, block, lot, and contact information of any property for which registration fees under this code are due and owing at the time of the certification; the amount of the registration fees, and separately, any interest, fines, and other penalties due and owing at the time of the certification; and the date on which the property became eligible for inclusion on the Township's registry.

**b. Creditor Notice Requirements.**

1. Within 30 days of the effective date of this ordinance, any Creditor that has initiated foreclosure proceedings on any commercial or residential property located within the Township of Mahwah which currently remains pending in the Superior Court of New Jersey shall provide to the Township Clerk with written notice of the foreclosure action with respect to each and every commercial and residential property. Such notice provided by the Creditor shall be organized by block and lot number, and street address for each property in foreclosure, and shall provide such additional information listed in paragraph 2 below.
2. A Creditor having initiated foreclosure proceedings on any commercial or residential property located within the Township of Mahwah shall provide to the Township Clerk with written notice of the foreclosure action with respect to each and every commercial and residential property within 10 days of serving a summons and complaint in foreclosure on any commercial or residential property located within the Township of Mahwah. Such notice provided by the Creditor shall set forth the block and lot number and street address for each property in foreclosure, and shall provide the following additional information:
  - (a) The full name, address, telephone number and email address for the representative of the Creditor responsible for receiving complaints of property maintenance and code violations;
  - (b) The full name, address, telephone number, and email address any person or entity retained by the Creditor or a representative of the creditor to be responsible for the care maintenance, security and/or upkeep of the property;

- (c) If the Creditor is located out-of-state, the notice shall also contain the full name, address, telephone number and email address of an in-State representative or agent who shall be responsible for the care, maintenance, security and/or upkeep of the property if the property becomes vacant or abandoned;
- (d) The full name, address, telephone number and email address of the individual located within the State who is authorized to accept service of process on behalf of the Creditor; and
- (e) Whether the property is deemed “vacant and abandoned” in accordance with the definition set forth in §3-6.11 above.

**c. Creditor Registration Requirements.** Creditors and/or other Responsible Parties of any commercial or residential property required to notify the Township pursuant to the above sections or N.J.S.A. 46:10B-51.1, shall within 30 days of notifying the Township that a property is in foreclosure, register the property with the Township’s property registration program by completing the Township’s approved certificate of property registration form, making payment of the required registration fee to the Township in accordance with §3-6.13 below, and filing the registration form with the Township Clerk in accordance with the requirements set forth hereinafter below.

1. The information supplied to the Township on the registration form provided by the Creditor shall include the following information:
  - (a) The address, block, and lot of the subject property;
  - (b) 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;
  - (c) Whether the property is deemed “vacant and abandoned” in accordance with the definition set forth in §3-6.11 above;
  - (d) The full name, address, telephone number, and email address for the representative of the Creditor and/or Responsible Party responsible for receiving notice of complaints of property maintenance and code violations;
  - (e) The full name, address, telephone number, and email address of any Responsible Party and/or other 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;
  - (f) The full name, address, telephone number and email address of the individual located within the State who is authorized to accept service of process on behalf of the Creditor;
  - (g) Provide evidence of any liability insurance;



- (h) If the Creditor is out-of-state, the full name, address, and telephone number of an in-state representative or agent of the Creditor or Responsible Party 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; and
- 2. After initial notice and registration to the Township, Creditors and Responsible Parties subject to the notice and registration requirements shall update the Township's property registration within 10 days of any change in the information contained in the original or any subsequent notices.
- 3. Such certificate of registration shall remain valid for the calendar year in which it is filed. All Creditors and/or Responsible Parties shall file with the Township on January 30 of each subsequent year an annual renewal registration certificate with respect to each commercial and residential property that remains in foreclosure as of January 1 of each subsequent year.

**d. Creditor and Responsible Party Obligations.** All Creditors and/or other Responsible Parties of any commercial or residential properties in foreclosure shall be required to comply with the following requirements during the pendency of any foreclosure action and continuing thereafter until such time as a final transfer of title occurs and the Creditor and/or Responsible Party no longer have authority over ownership, occupancy, custody and control of the property:

- 1. Payment of all registration fees, and fines and penalties for noncompliance established within this §3-6.13;
- 2. Update the property registration for each commercial or residential property in foreclosure within 10 days of any change in the information contained in the original notice to the Township;
- 3. If the Creditor is located outside the State of New Jersey, such out-of-state Creditor shall appoint an in-state representative, agent or other Responsible Party to act for the foreclosing Creditor, whose contact information shall be contained within the initial notice to the Township;
- 4. If at any time such commercial or residential property in foreclosure is deemed or found to be "vacant or abandoned" as defined under §3-6.11 hereinabove, either by the Creditor or the Township Enforcement Officer, within ten (10) days of such determination, the Creditor and/or the Creditor's Responsible Party shall:
  - (a) Assume full responsibility for the care, maintenance, upkeep, and security of the exterior of the property as required under the laws of the State of New Jersey and the Code of the Township. Such duties and responsibilities to be assumed by the Creditor and/or Responsible Party include, but are not be limited to, the duties and responsibilities applicable to owners and tenants of property under Chapters 3 and 10 of the Township Code, the provisions of the Township Health Code, and the following specific requirements:

- i. Keeping the property 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 such as furniture, clothing, large and small appliances, printed materials and any and all other items that give the appearance that the property is abandoned;
- ii. Keeping the property free of graffiti or similar markings by removal or painting over of same with an exterior grade paint that matches the color of the exterior structure;
- iii. Keeping all pools and spas free from stagnant water so the water structure remains clear of pollutants and debris.
- iv. Maintaining appropriate non-scalable barriers of appropriate height for all in-ground and above-ground pools in accordance with the New Jersey Uniform Construction Code.
- v. Securing the property against unauthorized entry, which shall include but not be limited to the closure and locking of windows, doors, gates and other openings of such size that may allow a child to access the interior of the property or structure.
- vi. Repairing broken windows, doors, gates and other openings of such size that may allow a child to access the interior of the property or structure. Broken windows shall be secured by reglazing of the window;
- vii. Posting signage on the inside of the property, visible to the public, no smaller than 18 inches by 24 inches, which contains the name, address, telephone number, and email address of the Creditor, Responsible Party, or an out-of-state Creditor's in-state representative, agent or Responsible Party, for the purpose of receiving service of process and otherwise maintaining the property;
  1. If different than the person receiving service of process, the sign posted inside the property must also include the name, address, telephone number, and email address of the person responsible for day-to-day supervision and management of the building;
- viii. Post the property with "no trespassing" signs of a nature sufficient to give notice to any person entering upon the property that it is against the law to enter the property without permission of the Creditor;
- ix. 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 Township's property registration program;

(b) Within 10 days of such commercial or residential property being deemed "vacant and

abandoned” the Creditor and/or Responsible Party shall provide written certification to the Township Enforcement Officer or its designee, that the above conditions have been satisfied.

- (c) Upon a property being deemed “vacant and abandoned” the Creditor and/or Responsible Party shall be responsible to cure and abate any violations of the above requirements or any other violations of the laws of the State of New Jersey or Township Code within 30 days of receiving a notice of violation; or if such violations/condition is deemed an imminent threat to public health and safety by the Enforcement Officer, cure such violation(s) or condition(s) within 10 days of receiving such notice.
5. Upon registering the property in accordance with this Section, the Creditor shall be issued a certification of registration from the Township Clerk and/or Business Administrator.
  6. If there is any change in the name, address, email 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 paragraph following the filing of the summons and complaint, the Creditor shall update the registration certificate with the Township Clerk to contain updated name, address, email address or telephone number within 10 days of the change in that information.
  7. If at any time the Creditor or other Responsible Party is deemed to be in violation of the above requirements, or if the property is deemed to be in violation of any other applicable Township or State building, construction, housing, property maintenance, health or safety laws, regulations and/or ordinances, the Public Officer, Enforcement Officer or his/her designee shall notify the Creditor and/or Responsible Party using the contact information provided in the property registry established by this §3-6.11.
  8. If the Creditor fails to remedy the violation within that time period, the Township may impose penalties allowed for the violation of municipal ordinances in accordance with §3-6.13 below.
  9. The notice/certificate of registration requirements herein are a continuing obligation of the Creditor and other Responsible Parties throughout the pendency of the foreclosure action and shall continue through issuance of a final judgment of foreclosure, sheriff sale, short sale and resale until such time as a final transfer of title occurs and the Creditor and/or Responsible Party no longer have authority over ownership, occupancy, custody and control of the property. Within 10 days of the transfer of title to a third-party, the Creditor shall update the Township’s property registration program of the transfer of title and provide all updated information contained in the original or any subsequent notices.
  10. If the Township expends public funds to abate or correct any such violations and conditions in situations in which the Creditor of commercial or residential property was given notice pursuant to the provisions of this Chapter and 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 for demolishing and removing any hazardous or unfit structures or improvements or to otherwise repair, clean-up and

maintain such residential or commercial property). All such costs, fees and expenses incurred by the Township for labor, equipment, material, disposal/removal, all professionals, attorney's and expert fees, and court costs associated therewith shall become a municipal lien against the property and collectable by the Township in accordance with applicable law. 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 the recourse provided under N.J.S.A. 55:19-100.

### **§3-6.13 Fees, Violations & Penalties**

**a.** All fees, penalties, and/or fines established within this section and assessable pursuant to the Township'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. Fees.** Creditors required to notify and register with the Township any property in foreclosure, shall be required to pay to the Township both an initial registration fee, per each property in foreclosure, and thereafter an annual registration fee per each property that remains in foreclosure as of January 1 of the next year following in accordance with following fee schedule:

1. For any and all residential and/or commercial properties subject to an existing foreclosure action initiated prior to the effective date of this ordinance, and which remains pending as of November 5, 2023 (the effective date of adoption of this section), Creditors shall pay an initial registration fee to the Township in the amount of \$500 per each property in foreclosure. The initial registration fee shall become due and payable to the Township within thirty (30) days after the effective date of this this section.
2. For any and all residential and/or commercial properties that becomes subject to a new foreclosure action first filed after November 5, 2023(effective date of this section), Creditors shall pay an initial registration fee to the Township in the amount of \$500 per each property in foreclosure. The initial registration fee shall become immediately due and payable to the Township on the earlier of the date the summons and complaint is filed in the foreclosure action or the date of registration of the property with the Township.
3. Creditors shall be required to pay an annual renewal registration fee to the Township in the amount of \$500 per each previously registered residential and/or commercial property which continues to remain the subject of a pending foreclosure proceeding as of January 1 each year. The annual registration fee shall become due and payable to the Township on January 30, annually.

**c. Vacant and Abandoned Registration Fees.** In addition to the above initial and annual registration fees, if any property in foreclosure registered with the Township is vacant and abandoned, as defined in §3-6.11 above, Creditors shall be required to pay to the Township certain additional initial and annual vacant and abandoned property registration fees per each property in the following amounts and manner:

1. If any residential and/or commercial property in foreclosure is vacant and abandoned, as defined in §3-6.11 above, as of the date such property is to be initially registered with the

Township, the Creditor shall, in addition to the initial registration fee, pay to the Township an additional vacant and abandoned property registration fee in the amount of \$2,000 per each vacant and abandoned property at the time of initial registration.

2. If at any time a residential and/or commercial property in foreclosure registered with the Township is subsequently determined by the Township's Enforcement Officer to be vacant and abandoned, as defined in §3-6.11 above, the Creditor shall, in addition to any initial/annual registration fee, pay to the Township an additional vacant and abandoned property registration fee in the amount of \$2,000, per each vacant and abandoned property. The additional vacant and abandoned property registration shall become immediately due and payable to the Township at the time it is determined that the property is vacant and abandoned.
3. Any vacant and abandoned residential and/or commercial property in foreclosure which is vacant and abandoned as of the January 1, shall be subject to an additional annual vacant and abandoned property registration fee in the amount of \$2,000 per each vacant and abandoned property. The annual vacant and abandoned property registration fee shall become due and payable to the Township at the time of annual registration. on January 30
4. If there is an outstanding construction, property maintenance or other code violation on a vacant and abandoned property that remains unabated at the time of annual renewal, the Creditor and/or Responsible Party shall pay an additional fee of \$750 plus all outstanding fines and penalties due the Township for violations of any outstanding property maintenance, building/construction or other code violations.

**d. Violations.**

1. An out-of-state Creditor subject to the notice and registration requirements hereinabove, 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 the violation continues. The violation shall be deemed to commence on the day after the creditor's initial ten- or thirty-day requirement to notify the Township of applicable foreclosure actions.
2. A Creditor of commercial property subject to the notice and registration requirements of this section, found to be in violation of any part of this ordinance, with the exception of a separate violation by an out-of-state Creditor for the failure to register/appoint an in-state representative above, shall be subject to a fine of \$1,500 for failure to remedy a violation each and every day the violation continues. The violation shall be deemed to commence on the thirty-first 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 eleventh day following the creditor's receipt of such notice.
3. A Creditor of residential property subject to the notice and registration requirements of this section, found to be in violation of any part of this ordinance, with the exception of a separate violation by an out-of-state Creditor for the failure to register/appoint an in-state representative above, shall be subject to a fine up to the maximum amount permitted under

N.J.S.A. 40:49-5 for failure to remedy a violation, for each day the violation continues. The violation shall be deemed to commence on the thirty-first 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 eleventh day following the creditor's receipt of such notice.

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

**e. Relation to other laws.**

1. Nothing herein, nor any action taken by the Township pursuant thereto, shall preclude the Township and its officers and agents from taking any and all further or separate action pursuant to any other laws, regulations, codes and/or ordinances of the State of New Jersey or the Township of Mahwah, including but not limited to any such action and/or remedies pertaining to unfit and/or unsafe buildings under the Uniform Construction Code, Uniform Fire Code, or any other codes or ordinances of the Township and/or the Township Board of Health.

**SECTION 2.** Chapter 10, Building and Housing, of the Township Code is hereby amended to establish as new sections 10-8.1 thru 10-8., Vacant and Abandoned Properties, to read as follows:

**§ 10-8 Vacant and Abandoned Properties.**

**§ 10-8.1 Definitions.**

- a. Terms not defined in this subsection that are defined in § 10-1, Uniform Construction Code, or § 10-2, Property Maintenance Code, of the Township Code shall have the meanings ascribed to them in those sections. Terms defined in this subsection § 10-1 or § 10-2 shall have ascribed to them their ordinarily accepted meanings as the context herein may imply.
- b. The words “accessory structure,” “building,” “dwelling,” “dwelling unit” or “structure” shall be construed, unless expressly stated to the contrary, to include the plurals of these words and as if they were followed by the words “or any part thereof.” The word “shall” shall be applied retroactively as well as prospectively.
- c. Unless otherwise expressly stated, the following words, terms, and phrases, as used in § 10-8 shall have the respective meanings assigned to them unless a different meaning clearly appears from the context:

**ABANDONED REAL PROPERTY**

Shall mean, with respect to § 10-8 only, any real property located in the Township of Mahwah, whether vacant or occupied, that a summons and complaint has been filed with respect to foreclosure on a mortgage, 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, is subject to an application for a tax deed or pending tax assessor’s lien sale, 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, the foreclosure action has been dismissed with prejudice, and/or any default on the mortgage or lien has been cured.

### **ABANDONED PROPERTY**

Shall mean any property that is determined to be abandoned pursuant to P.L. 2003, c. 210 (N.J.S.A. 55:19-78 et seq.), as follows:

- a. Any property that has not have been legally occupied for six months and meets any one of the following criteria may be deemed abandoned property by the public officer:
  1. Property is in need of rehabilitation, in the reasonable judgment of the public officer, and no rehabilitation has taken place during that six-month period.
  2. Construction was initiated and discontinued prior to completion, leaving the building unsuitable for occupancy, and no construction has taken place for at least six months as of the date of determination by the Public Officer that the building is abandoned.
  3. At least one installment of property tax remains unpaid and delinquent as of the date of determination.
  4. The property has been determined to be a nuisance by the Public Officer as defined in this section.
- b. Exceptions to abandoned property.
  1. A property on which an entity other than the Township holds a tax sale certificate is not deemed to be abandoned if the owner of the certificate:
    - (a) Continues to pay all municipal taxes and liens when due; and
    - (b) Initiates foreclosure proceedings within six months after the property is eligible for foreclosure.
  2. A property used on a seasonal basis is deemed to be abandoned only if it meets any two of the criteria set forth in part "a" of this section.
- c. A property which contains both residential and nonresidential space may be considered abandoned pursuant to N.J.S.A. 55:19-78 et seq. so long as 2/3 or more of the total net square footage of the building was previously legally occupied as residential space and none of the residential space has been legally occupied for at least six months at the time of the determination of abandonment by the Public Officer/Enforcement Officer.

### **ABANDONED PROPERTY LIST**

Shall mean the list of abandoned properties established compiled/maintained by the

Township's Enforcement Officer pursuant § 10-8.3, which shall only include properties that fit the criteria for "abandoned property" as defined in §10-8.2.

**ACCESSIBLE PROPERTY/STRUCTURE**

Shall mean a property that is accessible through a compromised/breached gate, fence, wall or other barrier, or a property/structure that is unsecured and/or is breached in such a way as to allow access to the property's immediate surrounding yards or the interior space of any structure thereon by unauthorized persons, including but not limited to, by way of unlocked, missing or damaged doors, windows, or structural components.

**APPLICABLE CODES**

Shall mean any and all provisions of the Code of the Township of Mahwah, any and all New Jersey Statutes and all regulations promulgated pursuant thereto.

**BLIGHTED PROPERTY**

Shall mean property that has broken, severely damaged or missing windows, doors, walls or roofs, or portions of a structural system, which create hazardous conditions and encourage trespassing; or

- a. Property that is not maintained in conformance with the maintenance of other neighboring properties, causing a decrease in value of the neighboring properties; or
- b. Property declared or deemed unfit, dangerous, unmaintained, a nuisance, or cited for violating any of the provisions of Chapter 10, Building and Housing, Chapter 12, Fire Prevention, and/or dwelling standards under the Board of Health provisions of the Township Code; or
- c. Property or any improvement(s) thereon, declared unsafe or an imminent hazard pursuant to the Uniform Construction Code Act, N.J.S.A. 52:27D-119, et seq., the Uniform Fire Safety Act, N.J.S.A. 52:27D-192 et seq., and/or the related regulations promulgated pursuant thereto, under the Uniform Construction Code, N.J.A.C. 5:23-1 et seq., sub-code, and the Uniform Fire Code, N.J.A.C. 5:70-1 et seq.; or
- d. Property that endangers the public's health, safety or welfare because the property or improvements thereon are dilapidated, deteriorated, or violate or have been cited as violating the minimum health and safety standards or lack of maintenance as required under any other provision of the Township Code, including but not limited to, Chapter 3, "Police Regulations," Chapter 10, Building and Housing, and Chapter 12, Fire Prevention and/or the Board of Health provisions of the Township Code.

**BUILDING**

Shall mean any structure or improvement, or part thereof, whether used for human habitation or otherwise and includes any outbuildings and/or accessory structures.

**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 39 of P.L. 2009, c. 53 (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 Chapter, a Creditor shall not include the State, a political subdivision of the State, a State, county, or local government entity, or their agent or assignee, such as the servicer.

#### **ENFORCEMENT OFFICER or PUBLIC OFFICER**

Shall be used interchangeably herein, and shall mean any law enforcement officer, the Construction Official, building inspector, Property Maintenance Officer, Zoning Officer, Fire Chief, Fire Inspector, Assistant Zoning Officer, Assistant Property Maintenance Officer, the Municipal Engineer, Deputy Municipal Engineer, any other officers and employees of the Township designated by the Township to assist the above-listed officers/officials, and/or any qualified third-party contractor designated or appointed by the Township Council to maintain to carry-out such tasks including overseeing the Township's Vacant and Abandoned Property List.

#### **MORTGAGEE**

Shall mean the Creditor, including but not limited to trustees, mortgage service companies, and lenders in a mortgage agreement; any employee, agent or contractor of the Creditor; any successor in interest; or any assignee of the Creditor's rights, interest or obligations under the mortgage agreement.

#### **NUISANCE PROPERTY**

Shall mean any property that is determined by the Enforcement Officer to be a nuisance if any one of the following applies:

- a. The property is found to be unfit for human habitation, occupancy or use pursuant to N.J.S.A. 40:48-2.3 or Chapters 10, 12 or §§BH3-1 thru -21 of the Township Code; or
- b. The condition and vacancy of the property materially increases the risk of fire to the property and adjacent properties; or
- c. The property is subject to unauthorized entry leading to potential health and safety hazards; the owner has failed to take reasonable and necessary measures to secure the property; or the Township has secured the property in order to prevent such hazards after the owner has failed to do so; or
- d. The presence of vermin or the accumulation of debris, uncut vegetation or physical deterioration of the structure or grounds has created potential health and safety hazards and the owner has failed to take reasonable and necessary measures to remove the hazards; or
- e. The dilapidated appearance or other condition of the property materially affects, including the economic welfare of, the residents of the area in close proximity to the property and the owner has failed to take reasonable and necessary measures to remedy the conditions; or

- f. The property falls within the definition and/or characteristics of “Blighted Property” as defined hereinabove.

**OWNER**

Shall mean any person, legal entity or other party having any ownership interest, whether legal or equitable in real property. This term shall also apply to any person, legal entity or agent responsible for the construction maintenance or operation of the property involved.

**PROPERTY MANAGEMENT COMPANY**

Shall mean a local property manager, property maintenance company or similar entity retained on behalf of a Creditor or other responsible party to be responsible for the maintenance and/or upkeep of property, whether occupied, unoccupied, vacant and/or abandoned.

**RESPONSIBLE PARTY**

Shall mean the owner of real property, title holder(s) of real property, an agent of the title holder(s) authorized to act with respect to a vacant or unoccupied property (including any “property management company”), any Property Management Company, any Creditor or foreclosing party required to provide notice to the Township pursuant to N.J.S.A. 46:10B-51, and any amendments or supplements thereto, any other party-in-interest determined by the Township’s officials or officers to have authority to act with respect to the maintenance of any unoccupied and/or vacant property.

“Responsible Party” shall also include a Creditor responsible for the maintenance of property pursuant to section 18 of P.L. 2008, c. 127 (N.J.S.A. 46:10B-51) and filing a summons and complaint in an action to foreclose who 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; and/or an in-State representative or agent of the Creditor who shall be responsible for the care, maintenance, security, and upkeep of the exterior of the property if it becomes vacant and abandoned.

**STREET ADDRESS**

Shall mean an address at which a natural person who is the Responsible Party or an authorized agent actually resides or actively uses for business purposes and shall include a street name or rural delivery route.

**TOWNSHIP**

Shall mean the Township of Mahwah, County of Bergen, State of New Jersey.

**UNOCCUPIED PROPERTY**

Shall mean any real property currently improved with a building or structure or previously improved with a structure or building which no longer exists in whole or in part due to demolition, fire or other calamity; and such the property is no longer lawfully occupied, in whole or in part, under one or more of the following scenarios:

- a. The property is a multi-tenant commercial property, such as a strip mall, office complex or industrial complex, and one or more of the individual tenant spaces has been vacant for 30 days or more and the property has otherwise become a blighted property; or
- b. The property is no longer lawfully occupied because it is in the process of undergoing demolition, construction, renovation, or rehabilitation; or
- c. The property is no longer lawfully occupied because construction, renovation or rehabilitation was initiated on the property and was discontinued prior to completion, leaving the building unsuitable for occupancy and no construction has taken place for at least six months as determined by the Construction Official and/or Property Maintenance Officer; or
- d. The property is not occupied or is otherwise considered unfit for human habitation, occupancy or use, within the meaning of §§ 10-4 or § BH3-21 of the Township Code because one or more of the conditions listed therein; or
- e. The property is not currently occupied, in whole or in part, because the owner and/or contract purchaser has ceased renting or leasing the property for the purpose(s) of applying for or obtaining planning, zoning or other land use approvals, or for the purpose of developing, redeveloping, renovating, constructing, rehabilitating, converting or changing one or more uses of the property pursuant to a planning, zoning or other land use approval that has been obtained; or
- f. The building and/or structure on the property is not regularly occupied because the owner is deceased or has relocated; or
- g. The property has been ordered closed and/or vacated by court order or by order of any federal, State, County or local government agency, authority or officer by reason of posing health risk, imminent harm/danger of collapse or fire, and/or due to the presence of contamination; or
- h. The property has been deemed abandoned property under the provisions of N.J.S.A. 55:19-78 et seq.; or
- i. The property has not been occupied for a period of six months and is in need of rehabilitation in the reasonable judgment of the Construction Official.

Residential property shall not be considered "unoccupied" if on the property, the primary building or structure is undergoing construction, renovation or rehabilitation that is proceeding diligently to completion and the building is in compliance with all applicable ordinances, codes, regulations and statutes; there is a building occupied on a seasonal basis that is otherwise secure and in compliance with all applicable ordinances, codes, regulations and statutes; there is a building that is secure and is otherwise in compliance with all applicable ordinances, codes, regulations and statutes, but it is unoccupied because it is the subject of a probate action, action to quiet title, or other ownership dispute.

## VACANT AND ABANDONED PROPERTY

Any residential or commercial property shall be considered vacant and abandoned if it is not legally occupied by an owner, mortgagor or tenant, and which the property cannot be legally reoccupied because of the presence or a finding of at least two or more 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 windowpanes 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 under any other provisions of the Code of the Township of Mahwah or pursuant to any other State, County or local law;
- 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.

For purposes of this Section, "vacant and abandoned" residential property is also defined to mean residential real estate with respect to which the mortgagee proves in the Superior Court of New Jersey, by clear and convincing evidence, that the mortgaged real estate is vacant and has been abandoned; or where a notice of violation has been issued by the Township's Construction and/or Property Maintenance Officer pursuant to section 3 of P.L. 2021, c. 444 (N.J.S.A. 40:48-2.12s3) for a Creditor's failure to provide care, maintenance, security and upkeep of the exterior of such residential property. Where a notice of violation has not been issued pursuant to section 3 of P.L. 2021, c. 444 (N.J.S.A. 40:48-2.12s3), real property shall be deemed "vacant and abandoned" if a court of competent jurisdiction finds that the property, mortgaged or not, is not occupied by an owner, mortgagor or tenant as evidenced by a lease agreement entered into prior to the service of a notice of intention to commence foreclosure according to section 4 of the "Fair Foreclosure Act," P.L. 1995, c. 244 (N.J.S.A. 2A:50-56), and at least two of the above the above-listed conditions exist.



## **§ 10-8.2 Abandoned and Unoccupied Properties**

### **b. Designation and Powers of Public officer and/or Enforcement Officer.**

The Township Construction Official, Property Maintenance Officer, and/or Director of Rehabilitation (collectively hereinafter referred to as the "Public Officer" and/or "Enforcement Officer") are hereby directed to identify abandoned properties within the Township, place said properties on an abandoned property list, and provide such notices and carry out such other tasks as are required to effectuate an abandoned property list as provided by law.

### **c. Abandoned property report.**

The Public officer shall provide a report to Township Council and the Township Business Administrator every six months with respect to the number and location of properties on the abandoned property list, the status of those properties, and any actions taken by the Township or by any qualified rehabilitation entity, designated pursuant to the authority granted the public officer, with respect to any property on the list or any other abandoned property within the Township of Mahwah.

### **d. Establishment of and updates to abandoned property list.**

The Public Officer shall establish the abandoned property list and any additions or deletions thereto by authorizing the publication of the list in the official newspaper of the Township of Mahwah, which publication shall constitute public notice, and, within 10 days after publication, shall send a notice, by certified mail, return receipt requested, and by regular mail, to the owner of record of every property included on the list. The published and mailed notices shall identify property determined to be abandoned, setting forth the owner of record, if known, the tax lot and block number and street address. The public officer, in consultation with the Tax Collector, shall also send out a notice by regular mail to any owner, mortgagee, servicing organization, or property tax processing organization that receives a duplicate copy of the tax bill pursuant to N.J.S.A. 54:4-64d. When the owner of record is not known for a particular property and cannot be ascertained by the exercise of reasonable diligence by the Tax Collector, notice shall not be mailed but instead shall be posted on the property in the manner as provided in N.J.S.A. 40:48-2.7. The mailed notice shall indicate the factual basis for the finding of the public officer that the property is abandoned property, as that term is defined herein and in N.J.S.A. 55:19-54, and shall specify the information relied upon in making such finding. In all cases, a copy of the mailed or posted notice shall also be filed by the public officer in the office of the Bergen County Clerk. This filing shall have the same force and effect as a formal notice under N.J.S.A. 2A:15-6. The notice shall be captioned with the name of the Township of Mahwah as "plaintiff" and the name of the property owner as "defendant," as though an action had been commenced by the Township against the owner.

### **d. Appeals of abandoned property list inclusion.**

1. An owner or lienholder may challenge the inclusion of his property on the abandoned property list by appealing that determination to the public officer within 30 days of the

owner's receipt of the certified notice or 40 days from the date upon which the notice was sent. An owner whose identity was not known to the public officer shall have 40 days from the date upon which notice was published or posted, whichever is later, to challenge the inclusion of a property on the abandoned property list. For good cause shown, the public officer shall accept a late filing of an appeal.

2. Within 30 days of receipt of a request for an appeal of the findings contained in the notice, the public officer shall schedule a hearing for redetermination of the matter.
3. Any property included on the list shall be presumed to be abandoned property unless the owner, through the submission of an affidavit or certification asserting that the property is not an abandoned property, can demonstrate that the property was erroneously included on the list. The affidavit or certification shall be accompanied by supporting documentation, such as, but not limited to, photographs, repair invoices, bills and construction contracts. The sole ground for appeal shall be that the property in question is not abandoned property as that term is defined herein and in N.J.S.A. 55:19-54. The public officer shall decide any timely filed appeal within 10 days of the hearing on the appeal and shall promptly, by certified mail, return receipt requested, and by regular mail, notify the property owner of the decision and the reasons therefor.
4. The property owner may challenge an adverse determination of the Public Officer on any appeal by instituting a summary proceeding by filing a Summons and Complaint, in the Superior Court, Law Division, Bergen County, in accordance with the New Jersey Court Rules, which action shall be tried de novo. Such action shall be instituted within 20 days of the date of the notice of decision mailed by the public officer. The sole ground for appeal shall be that the property in question is not an abandoned property as that term is defined in N.J.S.A. 55:19-54. The failure to institute an action of appeal on a timely basis shall constitute a jurisdictional bar to challenging the adverse determination, except that, for good cause shown, the court may extend the deadline for instituting the action.
5. The public officer shall promptly remove any property from the abandoned property list that has been determined not to be abandoned on appeal, or otherwise in accordance with any final judgment decision rendered by a court of competent jurisdiction.
6. The abandoned property list shall become effective, and the Township of Mahwah shall have the right to pursue any legal remedy with respect to properties on the abandoned property list, as to any one property has been placed on the list in accordance with the provisions of this section, upon the expiration period for appeal with respect to the property or upon denial of an appeal brought by the property owner.

**e. Sale of tax lien.**

1. Notwithstanding the provisions of N.J.S.A. 54:5-19, or the provisions of any other law to the contrary, if a property is included on the abandoned property list and the property taxes or other Township liens due on the property are delinquent for six or more quarters as of the date of expiration of the right to appeal the property's inclusion on the list or, if an appeal has been filed, as of the date that all opportunities for appeal of inclusion on the

list have been exhausted, then the tax lien on the property may be sold in accordance with the procedures of the Tax Sale Law, N.J.S.A. 54:5-1 et seq., on or after the 90th day following the expiration of that time of appeal or final determination on an appeal.

2. The Township of Mahwah may, at its option, require that the sale of the tax sale certificate or any subsequent assignment or transfer of a tax sale certificate held by the Township be subject to the express condition that the purchaser or assignee shall be obliged to perform and conclude any rehabilitation or repairs necessary to remove the property from the abandoned property list pursuant to N.J.S.A. 55:19-55 and to post a bond in favor of the Township to guarantee the rehabilitation or repair of the property. The public officer may waive a requirement to post a bond imposed by the Township for any purchaser, assignee or transferee of a tax sale certificate that provides documentation acceptable to the public officer that the purchaser, assignee or transferee is a qualified rehabilitation entity as defined in N.J.S.A. 55:19-80. The cost of rehabilitation and repairs and the cost of the bond shall be added to the amount required to be paid by the owner for redemption of the property. The purchaser, assignee or transferee of the tax sale certificate who is required to rehabilitate and repair the property shall be required to file the appropriate affidavits with the Tax Collector, pursuant to N.J.S.A. 54:5-62, representing the amounts of monies expended periodically toward the rehabilitation or repair of the property. A purchaser, assignee or transferee shall be entitled to interest on the amounts expended, as set forth in the affidavits, at the delinquent rate of interest for delinquencies in excess of \$1,500 in effect for the time period when the amounts were expended, pursuant to N.J.S.A. 54:4-67. The tax sale certificate purchaser, assignee or transferee, with the authority of the Township of Mahwah, shall be permitted to enter in and upon the property for the purposes of appraising the costs of rehabilitation and repair and to perform all other acts required to guarantee the completion of the rehabilitation or repair of the property. No rehabilitation or repair work shall be commenced, however, until proof of adequate liability insurance and an indemnification agreement holding the Township of Mahwah harmless has been filed with the Township Clerk on a form approved by the Township Attorney.

**3. Remediation by Township.**

- i. If the Township of Mahwah acquires the tax sale certificate for a property on the abandoned property list, then, upon 10 days' written notice to the property owner and any mortgagee as of the date of the filing of the notice pursuant to N.J.S.A. 55:19-55, the Township shall be permitted to enter upon the property and remediate any conditions that caused the property to be included on the abandoned property list. No remediation shall be commenced, however, if within that ten-day period the owner or mortgagee shall have notified the Township in writing that the owner or mortgagee has elected to perform the remediation itself. When the owner or mortgagee elects to perform the remediation itself, it shall be required to post bond in favor of the Township of Mahwah in order to ensure performance. The amount and conditions of the bond shall be determined by the Public Officer.
- ii. The cost of remediation incurred by the Township of Mahwah, as so certified by the entity incurring the cost upon completion of the remediation, shall constitute a lien upon the property first in time and right to any other lien, whether the other lien was

filed prior to or after the filing of any lien by the Township, except for Township taxes, liens and assessments and any lien imposed pursuant to the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 et seq., together with any interest thereon. The certification of cost shall be filed and recorded as a lien by the entity incurring the cost with the Bergen County Clerk.

**4. Intent to maintain abandoned property.**

- (a) Failure of an owner or lienholder to remove the property from the abandoned property list within the period of time for appeal of inclusion of the property on the list pursuant to N.J.S.A. 55:19-55 shall be prima facie evidence of the intent of the owner that the property is abandoned property.
- (b) The clearance, development, redevelopment, or repair of property being maintained as an abandoned property pursuant to subsection 3 of this section shall be considered a public purpose and public use, for which the power of eminent domain may be lawfully exercised.

**f. Removal of property from abandoned property list.**

- 1. An owner may request removal of his/her/its property from the abandoned property list prior to sale of the tax sale certificate by paying all taxes and Township liens due, including interest and penalties, and:
  - (a) By posting a certified check, money order, or a bond equal to the cost of remediating all conditions because of which the property has been determined to be abandoned pursuant to N.J.S.A. 55:19-55 and by posting a certified check, money order, or a bond to cover the cost of any environmental cleanup required on the property, evidenced by a certification by a licensed engineer retained by the owner and reviewed and approved by the public officer, stating that the certified check, money order, or bond adequately covers the cost of the cleanup; or
  - (b) By demonstrating to the satisfaction of the public officer that the conditions rendering the property abandoned have been remediated in full; provided, however, that where the public officer finds that the owner is actively engaged in remediating the conditions because of which the property was determined to be abandoned pursuant N.J.S.A. 55:19-55, as evidenced by significant rehabilitation activity on the property, the public officer may grant an extension of time of not more than 120 days for the owner to complete all work, during which time no further proceedings will be taken against the owner or the property.
- 2. If the owner has posted a certified check, money order, or bond in order to have a property removed from the abandoned property list and the conditions because of which the property was determined to be abandoned have not been fully remediated within one year of the date of posting the cash or bond, or, in the case of a property which requires a remediation of any known, suspected or threatened release of contaminants, if the owner has failed to enter into a memorandum of agreement with the New Jersey Department of Environmental

Protection or an administrative consent order, as the case may be, or if an agreement or order is in effect but the owner has failed to perform the remediation in conformance with the agreement or order, then the cash or bond shall be forfeited to the Township, which shall use the cash or bond and any interest which has accrued thereon for the purpose of demolishing or rehabilitating the property or performing the environmental remediation. Any funds remaining after the property has been demolished, rehabilitated or cleaned up shall be returned to the owner.

**g. Expedited action to foreclose right of redemption.**

1. When a person or entity other than the Township acquires a tax sale certificate for a property on the abandoned property list at tax sale, the purchaser may institute an action to foreclose the right of redemption at any time after the expiration of just six months following the date of the sale of the tax sale certificate.
2. Notwithstanding N.J.S.A. 54:5-104.34, when the Township of Mahwah is the purchaser at tax sale of any property on the abandoned property list pursuant to N.J.S.A. 54:5-34, an action to foreclose the right of redemption may be instituted in accordance with the provisions of Subsection b of N.J.S.A. 54:5-77.
3. After the foreclosure action is instituted, the right to redeem shall exist and continue to exist until barred by the judgment of the Superior Court; provided, however, that no redemption shall be permitted except where the owner:
  - (a) Posts a certified check, money order, or a bond equal to the cost of remediating the conditions because of which the property was determined to be abandoned pursuant to N.J.S.A. 55:19-56, as determined by the court; or
  - (b) Demonstrates to the court that the conditions because of which the property was determined to be abandoned pursuant to N.J.S.A. 55:19-55 have been remedied in full.

**h. Entry of final judgment barring right of redemption; grounds for reopening judgment.**

Once a final judgment barring the right of redemption with respect to a property on the list of abandoned properties has been recorded, no court shall reopen such judgment at any time except on the grounds of lack of jurisdiction or fraud in the conduct of the action; in any such proceeding, the provisions of N.J.S.A. 55:19-20 et seq. shall be construed liberally in favor of the purchaser, assignee or transferee of the tax sale certificate.

**i. Property deemed not abandoned; criteria; certification of abandonment provided upon request.**

1. If an entity other than the Township has purchased or taken assignment from the Township of a tax sale certificate on a property that has not been legally occupied for a period of six months, that property shall not be added to the abandoned property list pursuant to N.J.S.A. 55:19-55 if:

- (a) The owner of the certificate has continued to pay all Township taxes and liens on the property in the tax year when due; and
  - (b) The owner of the certificate takes action to initiate foreclosure proceedings within six months after the property is eligible for foreclosure pursuant to either Subsection a or b of N.J.S.A. 54:5-86, as appropriate, and diligently pursues foreclosure proceedings in a timely fashion thereafter.
2. A property used on a seasonal basis shall be deemed abandoned only if it meets any two of the additional criteria set forth in N.J.S.A. 55:19-81.
  3. A determination that a property is abandoned property under the provisions of this article and N.J.S.A. 55:19-78 et seq. shall not constitute a finding that the use of the property has been abandoned for purposes of municipal zoning or land use regulation.
  4. Upon the request of a purchaser or assignee of a tax sale certificate seeking to bar the right of redemption on an abandoned property pursuant to Subsection b of N.J.S.A. 54:5-86, the public officer or the Tax Collector shall, in a timely fashion, provide the requester with a certification that the property fulfills the definition of an "abandoned property" according to the criteria established in N.J.S.A. 55:19-81 and 55:19-82.

**j. Transfer of possession and control of abandoned property.**

1. A summary action or other action to transfer possession and control of abandoned property in need of rehabilitation to the Township of Mahwah may be brought by the Township in the Superior Court, Bergen County. If the court shall find that the property is abandoned pursuant to N.J.S.A. 55:19-81 and that the owner or party in interest has failed to submit and initiate a rehabilitation plan, then the court may authorize the Township to take possession and control of the property and to develop a rehabilitation plan.
2. Where the Township has been granted possession and control, the Township may commence and maintain further proceedings for the conservation, protection or disposal of the property, or any part thereof, that are required to rehabilitate the property, recoup the cost and expenses of rehabilitation, and for the sale of the property; provided, however, that the court shall not direct the sale of the property if the owner applies to the court for reinstatement of control and possession of the property as permitted by N.J.S.A. 55:19-92.
3. Failure by the owner, mortgage holder or lienholder to submit a plan for rehabilitation to the Township, obtain appropriate construction permits or, in the alternative, submit formal applications for funding the cost of rehabilitation to local, state or federal agencies providing such funding, within the initial six-month period, shall be deemed prima facie evidence that the owner has failed to take any action to further the rehabilitation of the property.

**k. Property owner's defense against complaint; plan required.**

1. An owner may defend against a complaint filed pursuant to N.J.S.A. 55:19-84 by



submitting a plan for the rehabilitation and reuse of the property which is the subject of the complaint and by posting a bond equal to 125% of the amount determined by the public officer or the court to be the projected cost of rehabilitation.

2. Any plan submitted by an owner to defend against a complaint shall be submitted within 60 days after the complaint has been filed, unless the court provides the owner with an extension of time for good cause shown.
  3. A plan submitted by an owner pursuant to this section shall include, but not be limited to:
    - (a) A detailed financial feasibility analysis, including documentation of the economic feasibility of the proposed reuse, including operating budgets or resale prices, or both, as appropriate;
    - (b) A budget for the rehabilitation of the property, including sources and uses of funds, based on the terms and conditions of realistically available financing, including grants and loans;
    - (c) A timetable for the completion of rehabilitation and reuse of the property, including milestones for performance of major steps leading to and encompassing the rehabilitation and reuse of the property; and
    - (d) Documentation of the qualifications of the individuals and firms that will be engaged to carry out the planning, design, financial packaging, construction, and marketing or rental of the property.
  4. The court shall approve any plan that, in the judgment of the court, is realistic and likely to result in the expeditious rehabilitation and reuse of the property which is the subject of the complaint.
    1. If the court approves the owner's plan, then it may appoint the public officer to act as monitor of compliance and progress. If the owner fails to carry out any step in the approved plan, then the Township may apply to the court to have the posted bond forfeited, to transfer possession of the building to the Township to complete the rehabilitation plan, and to grant authorization to use the bond proceeds for the rehabilitation.
    2. The owner shall provide bimonthly reports to the public officer on its activities and progress toward rehabilitation and reuse of the property.
  5. The court may reject a plan and bond if it finds that the plan does not represent a realistic and expeditious means of ensuring the rehabilitation of the property or that the owner or his representative or agents, or both, lack the qualifications, background or other criteria necessary to ensure that the plan will be carried out successfully.
- l. Owner's unsuccessful defense against complaint; mortgage holders or lienholders to be designated in possession of property.**

1. If an owner is unsuccessful in defending against a complaint filed pursuant to N.J.S.A. 55:19-84, the mortgage holder or lienholder may seek to be designated in possession of the property by submitting a plan and posting a bond meeting the same conditions as set forth in N.J.S.A. 55:19-87. Their plan must be submitted within 60 days following the court's rejection of the owner's plan, unless the court provides the mortgage holder or lienholder with an extension of time for good cause shown. If the court approves any such mortgage holder or lienholder's plan, it shall designate that party to be in possession of the property for purposes of ensuring its rehabilitation and reuse and may appoint the public officer to act as monitor of the party's compliance.
2. The mortgage holder or lienholder, as the case may be, shall provide bimonthly reports to the court and the public officer on its activities and progress toward rehabilitation and reuse of the property.
3. If the mortgage holder or lienholder fails to carry out any material step in the approved plan, then the public officer shall notify the court, which may order the posted bond forfeit, grant the Township possession of the property, and authorize the Township to use the proceeds of the bond for rehabilitation of the property.
4. Any sums incurred or advanced for the purpose of rehabilitating the property by a mortgage holder or lienholder granted possession of a property pursuant to Subsection A of this section, including court costs and reasonable attorneys' fees, may be added to the unpaid balance due that mortgage holder or lienholder, with interest calculated at the same rate set forth in the note or security agreement, or, in the case of a tax lienholder, at the statutory interest rate for subsequent liens.

**m. Township to be designated in possession of property; submission of plan to court.**

1. If no mortgage holder or lienholder meets the conditions of N.J.S.A. 55:19-88, then the Township may submit a plan to the court which conforms with the provisions of N.J.S.A. 55:19-87. Such plan shall designate whether the Township or a qualified rehabilitation entity shall undertake the rehabilitation plan in accordance with the provisions of N.J.S.A. 55:19-90.
2. The court shall grant the Township or qualified rehabilitation entity possession of the property if it finds that:
  - (a) The proposed rehabilitation and reuse of the property is appropriate and beneficial;
  - (b) The Township or qualified rehabilitation entity is qualified to undertake the rehabilitation and reuse of the property; and
  - (c) The plan submitted by the Township or qualified rehabilitation entity represents a realistic and timely plan for the rehabilitation and reuse of the property.
3. The Township or qualified rehabilitation entity shall take all steps necessary and appropriate to further the rehabilitation and reuse of the property consistent with the plan submitted to the court. In making its findings pursuant to this subsection, the court may

consult with qualified parties, including the New Jersey Department of Community Affairs, and, upon request by a party in interest, may hold a hearing on the plan.

4. Where either a redevelopment plan pursuant to N.J.S.A. 40A:12-1 et seq. or a neighborhood revitalization plan pursuant to N.J.S.A. 52:27D-490 et seq. has been adopted or approved by the New Jersey Department of Community Affairs, as appropriate, encompassing the property which is subject of a complaint, the court shall make a further finding that the proposed rehabilitation and reuse of the property are not inconsistent with any provision of either plan.

**n. Township exercise of rights to further rehabilitation and reuse of property; designation of qualified rehabilitation entity.**

1. The Township may exercise its rights under N.J.S.A. 55:19-78 et seq. directly or may designate a qualified rehabilitation entity for the purpose of exercising the Township's rights, where that designation will further the rehabilitation and reuse of the property consistent with Township plans and objectives. This designation shall be made by resolution of the Township Council of the Township of Mahwah.
2. Regardless of whether the Township exercises its rights directly or designates a qualified rehabilitation entity pursuant to this section, while in possession of a property pursuant to N.J.S.A. 55:19-78 et seq., the Township shall maintain, safeguard, and maintain insurance on the property. Notwithstanding the Township's possession of the property, nothing in N.J.S.A. 55:19-78 et seq. shall be deemed to relieve the owner of the property of any civil or criminal liability or any duty imposed by reason of acts or omissions of the owner.

**o. Township deemed possessor of property; borrowing of funds; reporting and filing requirements.**

1. If the Township has been granted possession of the property pursuant to N.J.S.A. 55:19-89, the Township shall be deemed to have an ownership interest in the property for the purpose of filing plans with public agencies and boards, seeking and obtaining construction permits and other approvals, and submitting applications for financing or other assistance to public or private entities.
2. For purposes of any state program of grants or loans, including but not limited to programs of the New Jersey Department of Community Affairs and the New Jersey Housing and Mortgage Finance Agency, possession of a property under this subsection shall be considered legal control of the property.
3. Notwithstanding the granting of possession to the Township, nothing in N.J.S.A. 55:19-78 et seq. shall be deemed to relieve the owner of the property of any obligation the owner or any other person may have for the payment of taxes or other Township liens and charges, or mortgages or liens to any party, whether those taxes, charges or liens are incurred before or after the granting of possession.
4. The granting of possession shall not suspend any obligation the owner may have as of the

date of granting possession for payment of any operating or maintenance expense associated with the property, whether or not billed at the time of the granting of possession.

5. The court may approve the borrowing of funds by the Township to rehabilitate the property and may grant a lien or security interests with priority over all other liens or mortgages other than municipal liens. Prior to granting this lien priority, the court must find as follows:
  - (a) The Township sought to obtain the necessary financing from the senior lienholder, which declined to provide such financing on reasonable terms;
  - (b) The Township sought to obtain a voluntary subordination from the senior lienholder, which refused to provide such subordination; and
  - (c) Lien priority is necessary in order to induce another lender to provide financing on reasonable terms. No lien authorized by the court shall take effect unless recorded with the Clerk of Bergen County.
6. Where the Township has been granted possession by the court in the name of the Township, the Township may seek the approval of the court to assign its rights to another entity, which approval shall be granted by the court when it finds that:
  - (a) The entity to which the Township's rights will be assigned is a qualified rehabilitation entity; and
  - (b) The assignment will further the purposes of this section.
7. Where the Township has designated a qualified rehabilitation entity to act on its behalf, the qualified rehabilitation entity shall provide bimonthly reports to the Township on its activities and progress toward rehabilitation and reuse of the property. The Township or qualified rehabilitation entity, as the case may be, shall provide such reports to the court as the court determines to be necessary. If the court finds that the Township or its designee has failed to take diligent action toward rehabilitation of the property within one year from the grant of possession, then the court may request that the Township designate another qualified rehabilitation entity to exercise its rights or, if the Township fails to do so, may terminate the order of possession and return possession and control of the property to its owner.
8. The Township shall file a notice of completion with the court, and shall also serve a copy on the owner and any mortgage holder or lienholder, at such time as the Township has determined that no more than six months remain to the anticipated date on which rehabilitation will be complete. This notice shall include an affidavit of the public officer, attesting that the rehabilitation is anticipated to be completed within that time period, and a statement setting forth the actions as it plans to undertake consistent with the plan.

**p. Petition for reinstatement of control and possession by owner.**

1. An owner may petition for reinstatement of the owner's control and possession of the

property at any time after one year from the court's removal of possession, but no later than 30 days after the Township has filed a notice of completion with the court or, in the event the notice of completion is filed within less than one year of the grant of possession, within 30 days after the Township has filed said notice.

2. The court may allow additional time for good cause if that additional time does not materially delay completion of the rehabilitation, place undue hardship on the Township or affect any of the terms or conditions under which the Township has applied for or received financing for the rehabilitation of the property.
3. Any petition to reinstate the owner's control and possession of the property filed pursuant to N.J.S.A. 55:19-92 shall:
  - (a) Include a plan for completion of the rehabilitation and reuse of the property consistent with the plan previously approved by the court;
  - (b) Provide legally binding assurance that the owner will comply with all conditions of any grant or loan secured by the Township or repay those grants or loans in full, at the discretion of the maker of the loan or grant; and
  - (c) Be accompanied by payment equal to the sum of all Township liens outstanding on the property; all costs incurred by the Township in bringing action with respect to the property; any costs incurred by the Township not covered by grants or loans to be assumed or repaid pursuant to this section; and any costs remaining to complete rehabilitation or reuse of the property, as determined by the public officer, which payment shall be placed in escrow with the clerk of the court ending disposition of the petition.

**q. Obligation of owner prior to grant of petition.**

1. Prior to the granting of a petition on the part of the owner by the court pursuant to N.J.S.A. 55:19-92; the owner may be required to post a bond or other security in an amount determined by the court, after consultation with the public officer, as likely to ensure that the owner will continue to maintain the property in sound condition. That bond or other security shall be made available to the Township to make any repair on the property in the event of a code violation which is not corrected in timely fashion by owner. The bond or other security may be forfeited in full in the event that the owner fails to comply with any requirement imposed as a condition of the reinstatement petition filed pursuant to N.J.S.A. 55:19-92.
2. The owner may seek approval of the court to be relieved of this requirement after five years, which shall be granted if the court finds that the owner has maintained the property in good repair during that period, that no material violations affecting the health and safety of the tenants have occurred during that period, and that the owner has remedied other violations in a timely and expeditious fashion.

**r. Failure of owner to petition for reinstatement of control and possession of property;**

**granting of title to Township; authority to sell.**

If the owner fails to petition for the reinstatement of control and possession of the property within 30 days after the Township has filed a notice of completion or; in any event, within two years after the initial grant of possession, or if the owner fails to meet any conditions that may be set by the court in granting a reinstatement petition, the court may grant the Township title or authorize the Township to sell the property, subject to the provisions of N.J.S.A. 55:19-96.

**r. Procedure for Township to place liens, obtain title and sell property.**

1. The Township, with the approval of the court, may place a lien on the property to cover any costs of the Township in connection with any proceeding under N.J.S.A. 55:19-78 et seq., incurred prior to the grant by the court of an order of possession, which may include costs incurred to stabilize or secure the property to ensure that it can be rehabilitated in a cost-effective manner. Any such lien shall be considered a Township lien for the purposes of N.J.S.A. 54:5-9, with the rights and status of a Township lien pursuant thereto.
2. Where the Township seeks to gain title to the property, it shall purchase the property for fair market value on such terms as the court shall approve and may place the proceeds of sale in escrow with the court.
3. The court may authorize the Township to sell the building free and clear of liens, claims and encumbrances, in which event all such liens, claims and encumbrances shall be transferred to the proceeds of sale with the same priority as existed prior to resale in accordance with the provisions of this section, except that municipal liens shall be paid at settlement. The proceeds of the purchase of the property shall be distributed as set forth in N.J.S.A. 55:19-97.
4. The Township may seek approval of the court to sell the property to a third party when the court finds that such conveyance will further the effective and timely rehabilitation and reuse of the property.
5. Upon approval by the court, the Township shall sell the property on such terms and at such price as the court shall approve and may place the proceeds of sale in escrow with the court. The court shall order a distribution of the proceeds of sale after paying court costs in the order of priority set forth in N.J.S.A. 55:19-97.

**s. Distribution of proceeds.**

1. The proceeds paid pursuant to Subsection c of N.J.S.A. 55:19-96 shall be distributed in the following order of priority:
  - (a) The costs and expense of sale;
  - (b) Other governmental liens;
  - (c) Repayment of principal and interest on any borrowing or indebtedness incurred by the Township and granted priority lien status pursuant to Subsection a of N.J.S.A. 55:19-98;

- (d) A reasonable development fee to the Township consistent with the standards for development fees established for rehabilitation by the New Jersey Department of Community Affairs or the New Jersey Housing and Mortgage Finance Agency;
- (e) Other valid liens and security interest, in accordance with their priority; and
- (f) The owner.

**t. Recourse of Township; public officer authority to place lien; remedies.**

1. With respect to any lien placed against real property pursuant to the provisions of N.J.S.A. 40:48-2.3, 40:48-2.5, or 40:48-2.3a, or any receiver's lien pursuant to N.J.S.A. 2A:42-114 et seq., the Township shall have recourse with respect to the lien against any assets of the owner of the property if an individual, against any assets of any partner if a partnership, and against any asset of any owner of a 10% interest or greater if the owner is any other business organization or entity recognized pursuant to law.
2. The public officer, with the approval of the court, may place a lien on the property to cover any costs of the Township in connection with a proceeding under N.J.S.A. 55:19-78 et seq., incurred prior to the grant by the court of an order of possession under N.J.S.A. 55:19-78 et seq. which may include costs incurred to stabilize or secure the property to ensure that it can be rehabilitated in a cost-effective manner. Any such lien shall be considered a Township lien for the purposes of N.J.S.A. 54:5-9, with the rights and status of a Township lien pursuant thereto.
3. With the exception of the holding of special tax sales pursuant to N.J.S.A. 55:19-101, the remedies available under N.J.S.A. 55:19-78 et seq. shall be available to the Township with respect to any abandoned property, whether or not the Township has established an abandoned property list and whether or not the property at issue has been included on any such list.

**u. Special tax sale and criteria for bidders.**

1. The Township may hold special tax sales with respect to those properties eligible for tax sale pursuant to N.J.S.A. 54:5-19 which are also on the abandoned property list.
2. The Township shall establish criteria for eligibility to bid on properties at the sale, which may include, but need not be limited to:
  - (a) Documentation of the bidder's ability to rehabilitate or otherwise reuse the property consistent with Township plans and regulations;
  - (b) Commitments by the bidder to take action to foreclose on the tax lien by a date certain; and
  - (c) Such other criteria as the Township may determine are necessary to ensure that the properties to be sold will be rehabilitated or otherwise reused in a manner consistent with the public interest.



3. The Township may establish minimum bid requirements for a special tax sale that are less than the full amount of the taxes, interest and penalties due, the amount of such minimum bid to be at the sole discretion of the Township, in order to ensure that the properties to be sold will be rehabilitated or otherwise reused in a manner consistent with the public interest.
4. The Township may combine properties in said special tax sale into bid packages and require that bidders place a single bid on each package, rejecting any and all bids on individual properties that are submitted.
5. The Township may sell said properties subject to the provision that, if the purchaser fails to carry out any commitment that has been set forth as a condition of sale or misrepresents any material qualification that has been established as a condition of eligibility to bid pursuant thereto, then the properties and any interest thereto acquired by the purchaser shall revert to the Township, and any amount paid by the purchaser to the Township at the special tax sale shall be forfeit to the Township.
6. In the event there are two or more qualified bidders for any property or bid package in a special tax sale, the Township may designate the unsuccessful qualified bidder whose bid was closest to the successful bid as an eligible purchaser.
7. In the event that the selected purchaser of that property or bid package fails to meet any of the conditions of sale established by the Township pursuant to this section and his/her/its interest in the property or properties reverts to the Township, the Township may subsequently designate the entity previously designated as an eligible purchaser as the winning bidder for the property or properties and assign the tax sale certificates to that entity on the basis of that entity's bid at the special tax sale, subject to the terms and conditions of the special tax sale.
8. The Township shall provide notice of a special tax sale pursuant to N.J.S.A. 54:5-26. The notice shall include any special terms of sale established by the Township pursuant to this section. Nothing shall prohibit the Township from holding a special tax sale on the same day as a standard or accelerated tax sale.

**v. Removal of property from abandoned property list.**

A property on which an entity, other than the Township, has purchased or taken assignment from the Township of a tax sale certificate which has been placed on the abandoned property list may be removed if the owner of the certificate pays all municipal taxes and liens due on the property within 30 days after the property is placed on the list; provided, however, that if the owner of the certificate fails to initiate foreclosure proceedings within six months after the property was first placed on the list, the property shall be restored to the abandoned property list in accordance with the provisions of N.J.S.A. 55:19-103.

**w. Interested parties may request additions to abandoned property list.**

1. Any interested party may submit a written request to the public officer asserting that any

property within the Township should be included on the abandoned property list prepared pursuant to N.J.S.A. 55:19-55, specifying the street address and block and lot number of the property to be included and the grounds for its inclusion. Within 30 days of receipt of any such request, the public officer shall provide a written response to the party, either indicating that the property will be added to the list or, if not, the reasons for not adding the property. For the purposes of this section, the term "interested parties" shall include any resident of the Township, any owner or operator of a business within the Township or any organization representing the interests of residents, business owners or otherwise engaged in furthering the revitalization and improvement of the neighborhood in which the property is located.

2. Any interested party may participate in a redetermination hearing regarding the inclusion of a property on the abandoned property list. Upon written request by any interested party, the public officer shall provide that party with at least 20 days' notice of any such hearing. The party shall provide the public officer with notice, at least 10 days before the hearing, of its intention to participate and the nature of the testimony or other information that it proposes to submit at the hearing.

### **§ 10-8.3 Miscellaneous Provisions**

#### **a. Additional Authority.**

1. **Unoccupied, Blighted & Nuisance Properties.** With respect to any Unoccupied Property, Blighted Property and/or Nuisance Property, as those terms are defined within §10-8.1, that does not otherwise fall within the provisions of "Vacant and Abandoned Property" and "Abandoned Property," the Enforcement Officer shall be authorized to require that the owner, Creditor, Property Management Company or other Responsible Party for such property to undertake reasonable measures to secure, maintain, repair, make safe or otherwise require that such property does not become or continue to be blighted property at any time, including pre-demolition, pre-construction, construction and rehabilitation phase until a final certificate of occupancy and/or certificate of habitability is obtained.
2. If the Enforcement Officer has reason to believe that a property subject to the provisions of this Chapter is posing a serious threat to the public health, safety and welfare, the enforcement officer may temporarily secure the property at the expense of the mortgagee, Creditor and/or owner and may issue summonses and complaints as soon as possible to address the blighting conditions of the property, whether occupied, unoccupied, and/or vacant and abandoned.
3. The Enforcement Officer shall have the authority to require the owner, mortgagee, Creditor and/or, property management company, occupant, Responsible Party and/or the agents, of any Unoccupied Property, Blighted Property and/or Nuisance Property, to implement additional maintenance and/or security measures to address or mitigate the impact of any blighting conditions at any time leading up to, during or after completion of any renovation/redevelopment project or foreclosure process., including but not limited to securing any and all doors, windows or other openings, employment

of an on-site security guard, requirements of fire watch in accordance with §137-42 of the Code, require property to be demolished, or other measures as may be reasonably required to help prevent the further decline of the property.

4. If there is a finding that the condition of the property is posing a threat to the public health, safety and welfare, then the Enforcement Officer may direct the Township to abate the violation and charge the mortgagee, Creditor, Responsible Party and/or owner with the cost of the abatement.
5. If the mortgagee, owner, Creditor or other Responsible Party does not reimburse the Township for the cost of temporarily securing the property, or of any abatement directed by the Enforcement Officer within 30 days of the Township sending the mortgagee owner or Creditor, Property Management Company and/or other Responsible Party the invoice, then such amounts, together with an administrative fee of \$500 to address the Township's administrative costs and expense shall be a lien against the property and recorded and collected as provided by the statutes of the State of New Jersey in the same manner as set forth herein above.

**b. Inspections; Right of Entry; Denial of Entry.**

1. The Owner, Creditor, Mortgagee, Responsible Party and/or property management company, and/or any authorized agent thereof of any Unoccupied, Abandoned, and/or Vacant and Abandoned Property must provide the Township Enforcement Officer with access to the property for the purpose of conducting interior and exterior inspections to determine compliance with all applicable laws, regulations, codes and ordinances. The Township Enforcement Officer shall provide the Owner, tenant, Creditor, Mortgagee, Responsible Party and/or property management company, and/or any authorized agent thereof with reasonable notice of such inspection, which shall be carried out during regular business hours, or at such other times as circumstances warrant or as agreed to by the parties.
2. When the Enforcement Officer believes or has reason to believe that violations of the provisions of this code exist, he/she shall make or cause to be made inspections to determine the condition of such suspect structures and premises in order to safeguard the safety and welfare of the public under the provisions of this code.
3. The Enforcement Officer is authorized to enter any structure or premises at any reasonable time for the purpose of performing his duties under this code.
4. All inspections as provided for herein shall be made with the permission of either Owner, Creditor, Mortgagee, Responsible Party and/or property management company, or any authorized agent thereof of any Unoccupied, Abandoned, and/or Vacant and Abandoned Property. When requesting such permission, the Enforcement Officer shall advise the Owner, Creditor, Mortgagee, Responsible Party and/or property management company of his/her right to refuse such permission. In the event that such permission is denied to the Enforcement Officer upon request, the provisions of §10-8.4c of this Chapter shall be complied with.

**c. Issuance of search warrant when entry refused.**

1. Where any Enforcement Officer or duly appointed inspector is refused entry or access or is otherwise impeded or prevented from conducting an inspection pursuant to this chapter by Owner, Creditor, Mortgagee, Responsible Party and/or property management company, or any authorized agent thereof of any Unoccupied, Abandoned, and/or Vacant and Abandoned Property, the Enforcement Officer is authorized upon affidavit, apply to the Judge of the Municipal Court of the Township of Mahwah for an administrative search warrant. If the Judge is satisfied as to the matter set forth in said affidavit and if he/she finds that probable cause for issuance of the search warrant exists, he/she shall authorize the issuance of a search warrant permitting access to and inspection of the particularly described building in a particularly described area.
2. Probable cause permitting the issuance of the aforesaid search warrant may include but is not limited to the following:
  - (a) The passage of time.
  - (b) The nature of the building or buildings.
  - (c) The condition of the entire area.
  - (d) A valid public interest.
  - (e) Belief that a nuisance is maintained.
  - (f) Belief that a violation of this code is maintained.

**d. Immunity of Enforcement Officer:**

1. Any Enforcement Officer or any person authorized by the Township to enforce the sections of this Chapter shall be immune from civil or criminal prosecution for reasonable, good faith entry upon real property while in the discharge of the Enforcement Officer's official duties under this Chapter.
2. Except as may otherwise be provided by statute or local law or ordinance, no officer, agent or employee of the municipality charged with the enforcement of this code shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this code.
3. No person who institutes or assists in the prosecution of civil, quasi-criminal or criminal proceeding under this code shall be liable for damages hereunder unless acting with actual malice and without reasonable grounds for believing that the person accused or prosecuted was guilty of an unlawful act or omission.
4. Any suit brought against any officer, agent or employee of the municipality as a result of any act required or permitted in the discharge of his duties under this code shall be defended by the legal representatives of the municipality until the final determination of the proceedings therein.

**e. Penalties and Fees.**

1. Except as otherwise explicitly provided herein, every person, firm, corporation, Owner, operator, Property Management Company, Creditor, Mortgagee, and/or Responsible Party, or any agent(s) thereof which violates any provision of this code or any ordinance adopted pursuant hereto, shall be liable be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not more than \$2,000 or the maximum fine as otherwise permitted by N.J.S.A. 40:49-5, or by imprisonment for not more than 90 days, or both.
2. Each day that a violation continues after due notice has been served in accordance with the terms and provisions hereof shall constitute an additional separate and distinct offense for which the maximum penalty may continue to be imposed and collected.
3. Opposing or Obstructing Enforcement Officer; Penalty. Any person, firm corporation, including the Owner, operator, Property Management Company, Creditor, Mortgagee, and/or Responsible Party, or any agent(s) thereof, which shall oppose, obstruct or resist any Enforcement Officer or any person authorized by this Chapter in the discharge of his/her duties as provided in this Chapter shall be subject to penalties as set forth in this subsection.

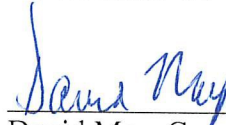
**SECTION 3.** Ordinances, resolutions, regulations or parts of ordinances, resolutions and regulations inconsistent herewith are hereby repealed to the extent of such inconsistencies.

**SECTION 4.** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid by a court of competent jurisdiction, such a decision shall not affect the remaining portions of this Ordinance.

**SECTION 5.** This ordinance shall take effect twenty (20) days following final passage, approval, and publication as required by law.

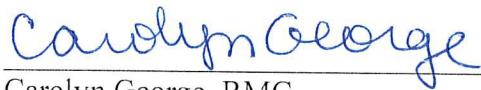
Introduced: 10/2/23  
Adopted: 10/16/23  
Effective Date: 11/5/23

TOWNSHIP OF MAHWAH



\_\_\_\_\_  
David May, Council President

ATTEST:



\_\_\_\_\_  
Carolyn George, RMC  
Municipal Clerk