

**ORDINANCE OF THE COUNCIL OF THE CITY OF SOUTH
AMBOY, COUNTY OF MIDDLESEX, STATE OF NEW
JERSEY, AMENDING AND SUPPLEMENTING ARTICLE
IX OF THE CITY CODE ENTITLED ABANDONED AND
VACANT PROPERTIES, SECTIONS 115-67 THROUGH 115-
76**

WHEREAS, mortgage foreclosures often result in the abandonment and neglect of residential properties; and

WHEREAS, P.L. 2014, c.35, authorizes municipalities to adopt ordinances for the purpose of regulating the care, maintenance, security and upkeep of the exterior of vacant and abandoned residential properties for which a creditor has filed an action to foreclose; and

WHEREAS, P.L. 2022, c. 444 revised various parts of P.L. 2014, c 35, statutory law, and supplemented Title 40 to provide a more uniform approach for the registration and maintenance of foreclosed and abandoned property; and

WHEREAS, it is in the public interest for the City of South Amboy to establish a mechanism to identify and track vacant and abandoned residential properties and to enforce those standards of maintenance consistent with the State of New Jersey's statutory requirements.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and the Council of the City of South Amboy, State of New Jersey, that Sections 115-67 through 115-76 of the City Code be amended as follows:

Repeal the definition of "Creditor" in § 115-67 and replace with

The following terms, wherever used herein or referred to in this Article, shall have the respected meanings assigned to them, unless a different meaning clearly appears from the context; as used in this Article:

CREDITOR

~~Shall mean a State chartered bank, savings bank, savings and loan association or credit union, any person or entity required to be licensed under the provisions of the "New Jersey Residential Mortgage Act," P.L. 2009, c. 53 (C.17:11C-51 et seq.), any foreclosing entity subject to the provisions of C.46:10B-51 (P.L. 2008 c. 127, Sec. 17, as amended from time to time), any entity that has filed a summons and complaint in an action to foreclose on a mortgage, and any entity acting on behalf of the creditor named in the debt obligation including, but not limited to, servicers.~~

Shall mean a mortgagee or an agent or assignee of a mortgagee, such as the servicer, who has filed a complaint in the Superior Court seeking to foreclose upon a residential or commercial mortgage. If the entity seeking to foreclose upon the residential or commercial mortgage changes as a result of an assignment, transfer, or otherwise after the filing of the foreclosure complaint in the Superior Court, the new entity shall be deemed the creditor for purposes of this section. For purposes of this section, 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.

EXTERIOR OF PREMISES

Shall mean those portions of a structure which are exposed to public view or are visible from adjoining or adjacent lots, including all outside surfaces and appurtenances thereto, and the open land space of any premises outside of any building or structure erected thereon, including vacant lots.

NUISANCE

Shall mean:

(1) Any public or private condition that would constitute a nuisance according to the statutes, laws and regulations of the State of New Jersey, its governmental agencies or the ordinances of the City.

(2) Any physical condition existing in or on the exterior or any premises which is potentially dangerous, detrimental or hazardous to the life, health or safety of persons on, near or passing within the proximity of the premises where the condition exists.

OPERATOR

Shall mean any person, persons or entity, not the owner, but including any agent of the owner, who has charge, possession, custody, or control of a dwelling or premises or a part thereof.

OWNER

Shall mean any person, persons or entity who shall have legal or equitable title in any form whatsoever to any premises or part thereof, including any fiduciary, trustee, receiver, guardian or mortgagee in possession. Any lessee, sub lessee or assignee of a lessee of any part of any premises shall be deemed an "owner" with respect to that portion of the premises, sublet, leased or assigned.

PREMISES

Shall mean a lot, plot or parcel of land, right-of-way or multiples thereof, including the building or structures thereon.

PUBLIC OFFICER

Shall mean the individual designed by the Mayor, in accordance with N.J.S.A. 55:19-80.

REFUSE OR RUBBISH

Shall mean all discarded, useless, unusable, unused or worthless solid waste matter or materials, combustible or non-combustible, including but not limited to garbage, trash, ashes, paper, paper goods and products, wrappings, cans, bottles, containers, yard clippings, garden waste, debris, junk, glass, boxes, crockery, wood, plastic, rubber, leather, furniture, household goods, appliances, bedding, scrap lumber, scrap metal, construction material, inoperable machinery or parts thereof, garden or farming implements and supplies, dead or rotting vegetation, tires, and abandoned, inoperative or unusable automobiles and vehicles and solid commercial or industrial waste. Anything herein to the contrary notwithstanding, a compost pile of discarded foodstuffs shall not be deemed to be "refuse" or "rubbish".

UNREGISTERED MOTOR VEHICLE

Shall mean a motor vehicle without a valid and current State inspection sticker.

VACANT PROPERTY

~~Shall mean any building used or to be used as a residence which is not legally occupied or at which substantially all lawful construction operations or residential occupancy has ceased, and which is in such condition that it cannot legally be re-occupied without repair or rehabilitation; provided however, that any property that contains all building systems in working order and is being actively marketed by its owner for sale or rental, shall not be deemed vacant. Residential properties that meet the aforementioned criteria and are subject to a summons and complaint in an action for foreclosure shall be deemed vacant property in accordance with P.L. 2014 c. 35. Property deemed to be "abandoned property" in accordance with the meaning of such term in the Abandoned Properties Rehabilitation Act, N.J.S.A. 55:19-78 et seq., shall also be deemed to be vacant property for the purposes of this Article.~~

VACANT AND ABANDONED PROPERTY

A property shall be considered vacant and abandoned if it is not legally occupied by a mortgagor or tenant, which is in such condition that it cannot be legally reoccupied, because of the presence or finding of at least two of the following:

- (a) overgrown or neglected vegetation;
- (b) the accumulation of newspapers, circulars, flyers, or mail on the property;
- (c) disconnected gas, electric, or water utility services to the property;
- (d) the accumulation of hazardous, noxious, or unhealthy substances or materials on the property;
- (e) the accumulation of junk, litter, trash, or debris on the property;
- (f) the absence of window treatments such as blinds, curtains, or shutters;
- (g) the absence of furnishings and personal items;
- (h) statements of neighbors, delivery persons, or government employees indicating that the property is vacant and abandoned;
- (i) windows or entrances to the property that are boarded up or closed off, or multiple window panes that are damaged, broken, and unrepaired;
- (j) doors to the property that are smashed through, broken off, unhinged, or continuously unlocked;
- (k) a risk to the health, safety, or welfare of the public or any adjoining or adjacent property owners due to acts of vandalism, loitering, criminal conduct, or the physical destruction or deterioration of the property;
- (l) an uncorrected violation of a municipal building, housing, or similar code during the preceding year, or an order by municipal authorities declaring the property to be unfit for occupancy and to remain vacant and unoccupied;
- (m) the mortgagee or other authorized party has secured or winterized the property due to the property being deemed vacant and unprotected or in danger of freezing;
- (n) a written statement issued by a mortgagor expressing the clear intent of all mortgagors to abandon the property; or
- (o) any other reasonable indicia of abandonment.

§ 115-68 Creation of Abandoned Property List.

The Public Officer is directed to identify abandoned property for the purposes of creating an "abandoned property list" throughout the City. Each item of abandoned property so identified shall include the tax block and lot number, the name and address of the owner of record, if known, the street address of the lot and the basis for a determination that the property is abandoned.

§ 115-69 Registration required.

[Adopted by Ord. Nos. 4-2017 and 14-2018]

A. Sixty days after the effective date of this Article or 30 days after a building or lot becomes abandoned as defined within this Article, the owner shall file a registration statement for each

such abandoned property with the Public Officer, on forms provided by the Public Officer for such purpose. The registration shall remain valid for one year. The owner shall be required to renew the registration annually as long as the building or lot continues to be abandoned as defined herein and shall pay a registration or renewal fee in the amount prescribed within this subsection.

B. The owner shall notify the Public Officer within 30 days of any change in the registration information by filing an amended registration statement on a form provided by the Public Officer for such purpose.

C. The registration statement shall be deemed prima facie proof that the statements therein contained in any administrative enforcement proceedings or court proceedings instituted by the City of South Amboy against the owner or owners of the property.

§ 115-70 Content of registration.

A. The owner of abandoned property shall provide the following information to the Public Officer on the registration form or forms prescribed by the Public Officer:

(1) Name, address, email address and contact telephone number of the owner; the owner's address must include a street address; a post office box is not acceptable;

(2) Name, address, email address and contact telephone number of any local agent(s) or representative for the building or lot;

(3) Name, address, email address and contact telephone number of the person assigned to the property for the security and maintenance of the building or lot;

(4) Common address and tax assessor's block and lot designation of the building and lot;

(5) The date on which the building became abandoned.

(6) Proof of utility (gas, electric, water) connections or disconnections; and

(7) Any other information reasonably required by the City to ensure the safety of all persons and to prevent neglect.

B. Any government entity that owns abandoned property will be exempt from the provisions of this Article. For purposes of this Article, the holder of a Federal Housing Administration ("FHA") mortgage, United States Housing and Urban Development ("HUD") mortgage or any other federally insured mortgage shall not be considered a government entity and shall not be exempt from the provisions of this Article. The owner of any property that is acquired by the owner through the foreclosure of an FHA mortgage, HUD mortgage or any other federally insured mortgage shall also not be exempt from the provisions of this Article.

C. By designating an authorized agent under the provisions of this Article, the owner consents to receive any and all notices of code violations concerning the registered abandoned property and all process in any court proceeding or administrative enforcement proceeding brought to enforce code provisions concern the registered abandoned property by service of the notice of process on the authorized agent. Any owner who has designated an authorized agent under the provisions of this section shall be deemed to consent to the continuation of the agent's designation for the purposes of this section until the owner notifies the City of a change of an authorized agent or until the owner files a new annual registration.

D. The owner is required to update the form within 30 days of a change of any information contained within the form.

§ 115-71 Identification of additional abandoned properties.

[Ord. No. 14-2018]

The Public Officer may identify abandoned properties through his/her routine inspection process as well as through notification by residents, or other community groups that a property may be eligible for inclusion on the registry. Notice will be served upon, or sent by mail, to the owner and will be deemed received by the owner, upon personal delivery; or five days after service by first class mail.

§ 115-72 Registration for Creditors.

[Ord. No. 14-2018]

A. Every creditor filing an action to foreclose on a mortgage of any residential property within the City shall, within 10 days thereof, notify the Public Officer for the City in writing by mail of said filing (See N.J.S.A. 46:10B-51). The notice shall identify the date the summons and complaint in an action to foreclose on a mortgage was filed against the subject property, the court in which it was filed, and the docket number of the filing. The notice shall also include the street address, lot and block number of the property, the full name and contact information of an individual located within the State who is authorized to accept service on behalf of the creditor.

and shall identify whether the property is vacant and abandoned in accordance with the definition contained in this ordinance. If there is any change in the name, address, or telephone number for a representative, agent, or individual authorized to accept service on behalf of a creditor required to register pursuant to the property registration program following the filing of the summons and complaint, the creditor shall update the property registration program within 10 days of the change in that information.

B. The notice shall also contain the name and contact information of the representative of the creditor who is responsible for receiving complaints of property maintenance and code violations. If there is any change in the name, address, or telephone number for a representative, agent, or individual authorized to receive complaint of property maintenance and code violations on behalf of a creditor required to register pursuant to the property registration program, the creditor shall update the property registration program within 10 days of the change in that information. In the event the creditor that has served a summons and complaint in an action to foreclose on a residential property is located out of state, the notice shall also contain the full name and contact information of an in-state representative or agent who shall be responsible for the care, maintenance, security and upkeep of the exterior of the property if it becomes vacant and abandoned. An out-of-State creditor subject to this ordinance found by the City of South Amboy's municipal court, or by any other court of competent jurisdiction, to be in violation of the requirement to appoint an in-State representative or agent shall be subject to a fine of \$2,500 for each day of the violation. Any fines so imposed on a creditor for the failure to appoint an in-State representative or agent shall commence on the first day after the expiration of the 10-day period set forth in §115-72A.

C. A creditor filing a summons and complaint in an action to foreclose on a vacant and abandoned property, or a creditor who has previously filed a summons and complaint to foreclose on a residential property which subsequently becomes vacant and abandoned, shall within 30 calendar days after assuming ownership of the vacant and abandoned property, whichever is earlier; or within 10 calendar days of receipt of notice from the City, and annually thereafter, file a registration statement for such vacant and abandoned property with the Public Officer consistent with Section **115-69**, for such purposes. Any failure to receive notice from the City shall not constitute grounds for failing to register the vacant and abandoned property.

D. Each vacant and abandoned property having a separate block and lot number as designated in the official tax maps of the City shall be registered separately.

E. The registration statement shall include the name, street address, telephone number and email address (if applicable) of a person 18 years or older, designated by the creditor as the

authorized agent for receiving notices of code violations and for receiving process in any court proceeding or administrative enforcement proceeding on behalf of such creditor in connection with the enforcement of any applicable code. *If there is any change in the name, address, or telephone number for a representative, agent, or individual authorized to accept service on behalf of a creditor required to register pursuant to the property registration program following the filing of the summons and complaint, the creditor shall update the property registration program within 10 days of the change in that information.*

F. The registration statement shall include the name, street address, telephone number and email address (if applicable) of the firm and the actual name(s) of the firm's individual principal(s) responsible for maintaining the abandoned and vacant property. The individual or representative of the firm responsible for maintaining the abandoned and vacant property shall be available by telephone or in person on a 24 hour per day, seven day per week basis. The two entities may be the same or different persons. Both entities shown on the statement must maintain offices in the State of New Jersey or reside within the State of New Jersey.

G. The registration shall remain valid for one year from the date of registration except for the initial registration which shall be valid through December 31st of the year in which it was filed. The creditor shall be required to renew the registration annually as long as the building remains vacant and abandoned and shall pay a registration or renewal fee in the amount prescribed in Section 8 for each vacant and abandoned property registered.

H. The annual renewal shall be completed by January 1st each year. The initial registration fee shall be pro-rated for registration statements received less than 10 months prior to that date.

I. The creditor shall notify the Public Officer within 30 calendar days of any change in the registration information by filing an amended registration statement on a form provided by the City Clerk for such purpose.

§ 115-73 Abandoned Property Inspection.

After filing a registration statement or a renewal of a registration statement and upon reasonable notice, the owner and/or creditor of any abandoned property shall provide access to the City to conduct an exterior and interior inspection of the building to determine compliance with the Municipal Code, during the period covered by the initial registration or any subsequent renewal.

§ 115-74 Maintenance requirements for owners and/or creditors; failure to maintain.

A. The owner and/or creditor of any abandoned property shall immediately upon possession or the filing of a summons and complaint in an action to foreclose on a residential property within the City be immediately responsible for the care, maintenance, security and upkeep of the exterior of the property, after the property becomes vacant and abandoned and shall:

(1) Enclose and secure the building against unauthorized entry in accordance with the applicable provisions of the Code of the City of South Amboy and as per the specifications established by the Department of Housing and Urban Development ("HUD") for securing abandoned and/or vacant properties.

(2) Post a sign affixed to the building indicating the name, address and telephone number of the owner, the owner's authorized agent for the purpose of service of process (if designated pursuant to this section) and the person responsible for the day to day supervision and management of the property, if such person is different from the owner or authorized agent. The sign shall be of a size and placed in such a location so as to be visible from the nearest public street or sidewalk, whichever is nearer, but shall be no smaller than 8" x 10" and shall state: **WARNING: THIS BUILDING IS SECURED PURSUANT TO CHAPTER 115 OF THE CITY OF SOUTH AMBOY REVISED GENERAL ORDINANCES. ANYONE ENTERING THIS BUILDING WITHOUT AUTHORIZATION WILL BE SUBJECT TO ARREST.**"

(3) Secure the building from unauthorized entry and maintain the sign until the building is again legally occupied or demolished or until repair or rehabilitation of the property is complete.

(4) Ensure that all bushes and trees are trimmed and that they do not interfere with the neighboring property.

(5) Ensure that grass does not exceed eight inches in height and that all grass clippings are removed from the lot when the grass is cut.

(6) Lots must be clear of all garbage, litter and debris. Abandoned properties must be clear of all vehicles: cars, boats, campers, etc.

(7) All sidewalks bordering abandoned properties must be maintained and cleared of snow, ice, tripping hazards, obstructions, garbage, litter and debris.

(8) The owner and/or creditor shall perform regular weekly inspections of the abandoned property to ensure compliance with the requirements of this section.

B. Failure to maintain. If the owner and/or creditor of the abandoned properties fails to comply with the provisions of this Article, the City shall take the necessary steps to bring the property into compliance with this section. All costs incurred by the City in connection with its efforts to bring the property into compliance shall be forwarded to the Tax Collector for inclusion as a municipal lien on the property.

§ 115-75 Fees, Penalties and Enforcement.

A. The ~~initial~~ annual registration fee for each abandoned property, including any property required to be registered because a summons and complaint in an action to foreclose was filed by a creditor, shall be \$250.00. ~~\$500. The fee for subsequent renewals shall be \$1,000. There shall be an additional fee of two thousand dollars (\$2,000)~~ five hundred dollars (\$500) per property annually if the property is vacant or abandoned as defined in this ordinance when the summons and complaint in an action to foreclose is filed, or becomes vacant and abandoned pursuant to the definition of the ordinance at any time thereafter while the property is in foreclosure. The registration shall remain valid for one year from the date of registration except for the initial registration which shall be valid through December 31st of the year in which it was filed. The owner and/or creditor shall be required to renew the registration annually as long as the building remains vacant and abandoned, and shall pay a registration or renewal fee in the amount prescribed in this Article for each vacant and abandoned property registered. The annual renewal shall be completed by January 1st of each year. The initial registration fee shall be pro-rated for registration statements received less than 10 months prior to that date.

~~**B.** Any owner who is not in full compliance with this Article or who otherwise violates any provision of this Article or of the rules and regulations issued hereunder shall be subject to a fine of not less than \$250 and not more than \$1,000. Every day that a violation continues shall constitute a separate and distinct offense. Fines assessed under this section shall be recoverable from the owner and shall be a lien on the property.~~

(1) Except as provided in subsection (2) below, any owner who is not in full compliance with this Article or who otherwise violates any provision of this Article or of the rules and regulations issued hereunder shall be subject to a fine of not less than \$250 and not more than \$1,000. Every day that a violation continues shall constitute a separate and distinct offense. Fines assessed under this section shall be recoverable from the owner and shall be a lien on the property.

(2) A creditor subject this ordinance found by the South Amboy municipal court, or by any other court of competent jurisdiction, to be in violation, excluding only a violation addressed by paragraph (1) of this subsection, of the ordinance shall be subject to a fine of \$1,500 for each day of the violation. Any fines imposed pursuant to this paragraph shall commence 31 days following receipt of the notice of violation, except if the violation presents an imminent risk to

public health and safety, in which case any fines shall commence 11 days following receipt of the notice.

C. For purposes of this Article, failure to file a registration statement in time, failure to provide correct information on the registration statement, and/or failure to comply with any other provision of this section shall be deemed to be a violation hereunder.

D. The Public Officer shall be authorized to issue a notice to an owner and/or creditor that has filed a summons and complaint in an action to foreclose on a residential property within the City, if the Public Officer determines that an owner and/or creditor has failed to provide for the care, maintenance, security and/or upkeep of a vacant property.

E. Where an owner and/or creditor is an out of state owner and/or creditor, the notice shall be issued to the representative or agent that has been identified by the owner and/or creditor pursuant to Sections **115-70** and **115-72**.

F. The notice referenced in paragraph D above shall require the owner and/or creditor to correct the violation within **20** ~~30~~ days of receipt of the notice, or within ~~ten (10)~~ **5** days of receipt of the notice of the violation present an imminent threat to public health and safety.

G. The issuance of notice pursuant to paragraph D above shall constitute proof that a residential property is vacant and abandoned for the purposes of this Article.

§ 115-76 Effect of Article on Code provisions.

It is the intent of the City Council to incorporate the additions, amendments and/or supplements contained in this Article into the Code. All of the remaining provisions of Chapter **115** of the Code shall remain unchanged and have full force and legal effect. All other resolutions and ordinances governing property maintenance enacted and inconsistent herewith are hereby modified pursuant to the terms of this Article.