

**BOROUGH OF MOUNT ARLINGTON, COUNTY OF
MORRIS, STATE OF NEW JERSEY**

ORDINANCE NO. 12-2026

**ORDINANCE AMENDING CHAPTER 133 OF THE CODE
OF THE BOROUGH OF MOUNT ARLINGTON, COUNTY
OF MORRIS, NEW JERSEY, TO ADDRESS AND REQUIRE
THE REGISTRATION AND MAINTENANCE OF CERTAIN
REAL PROPERTY BY MORTGAGEES WITHIN THE
BOROUGH OF MOUNT ARLINGTON TO PREVENT
ABANDONED, NEGLECTED AND UNSUPERVISED
FORECLOSED PROPERTIES**

WHEREAS, the Borough Council (the “**Borough Council**”) of the Borough of Mount Arlington (the “**Borough**”) desires to protect the public health, safety, and welfare of the citizens of the Borough through the maintenance of structures and properties in the Borough; and

WHEREAS, the Borough Council recognizes properties subject to foreclosure action or foreclosed properties (hereinafter referred to as “**Registrable Properties**”) located throughout the Borough lead to a decline in community and property value, create nuisances, lead to a general decrease in neighborhood and community aesthetic, create conditions that invite criminal activity and foster an unsafe and unhealthy environment; and

WHEREAS, the Borough Council has already adopted property maintenance codes to regulate building standards for the exterior of structures and the condition of properties as a whole; and

WHEREAS, the Borough Council recognizes a more regulated method is needed to discourage Registrable Property owners and mortgagees from allowing their properties to be abandoned, neglected or left unsupervised; and

WHEREAS, pursuant to N.J.S.A. 40:48-2.12s3, the Borough may adopt an ordinance to create a property registration program for the purposes of identifying and monitoring residential and commercial properties within the municipality for which a summons and complaint in an action to foreclose on a mortgage has been filed; regulate the care, maintenance, security and upkeep of the exterior of vacant and abandoned residential and commercial properties for which a summons and complaint in an action to foreclose has been filed; and impose property registration fees on the creditor of residential or commercial properties on an annual or semi-annual basis; and

WHEREAS, the Borough Council has a vested interest in protecting neighborhoods against decay caused by Registrable Property and concludes that it is in the best interests of the health, safety, and welfare of its citizens and residents to impose registration requirements of Registrable Property located within the Borough to discourage mortgagees and property owners from allowing their properties to be abandoned, neglected or left unsupervised.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Mount Arlington, County of Morris, New Jersey as follows:

SECTION 1. Chapter 133 of the Code of the Borough of Mount Arlington (the “**Borough Code**”), respectively, be and is hereby amended and supplemented as set forth in **Exhibit A** hereto (which is incorporated by reference as if set forth at length herein), to impose registration requirements of Registrable Property located within the Borough.

SECTION 2. Chapter 133 of the Borough Code may be renumbered for codification purposes.

SECTION 3. All ordinances or part of ordinances inconsistent with, or in conflict with this Ordinance, are hereby repealed to the extent of such inconsistency.

SECTION 4. The provisions of this Ordinance are declared to be severable, and if any section, subsection, sentence, clause or phrase hereof shall, for any reason, be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses or phrases of this Ordinance, but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION 5. This Ordinance shall take effect immediately upon passage, publication and approval according to law.

EXHIBIT A

PROPOSED CHANGES TO CHAPTER 133 OF THE MOUNT ARLINGTON BOROUGH CODE

Chapter 133. Property Maintenance

Purpose and Intent.

It is the purpose and intent of the Borough Council of the Borough of Mount Arlington to establish a process to address the deterioration, crime, and decline in value of Borough neighborhoods caused by property with foreclosing or foreclosed mortgages located within the Borough, and to identify, regulate, limit and reduce the number of these properties located within the Borough. Vacant structures or structures owned by individuals who are economically strained and unable to meet their mortgage obligations are often not properly or diligently maintained, which contribute to blight, declined property values, and have a negative impact on social perception of the areas where they are located. It is the Borough Council's intent to establish a registration program as a mechanism to help protect neighborhoods from becoming blighted through the lack of adequate maintenance of properties that are in Foreclosure or Foreclosed, and to provide a mechanism to avert foreclosure actions through timely intervention, education, or counseling of property Owners.

A. Definitions. The following words, terms and phrases shall have the meanings indicated:

ANNUAL REGISTRATION

Shall occur twelve (12) months from the date of the first action that requires registration, as determined by the Borough of Mount Arlington, or its designee, and every subsequent twelve (12) months. The date of the initial registration may be different than the date of the first action that required registration.

CREDITOR

The 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. 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.

DEFAULT

Shall occur when the mortgagor has not complied with the terms of the mortgage on the property, or the promissory note, or other evidence of the debt, referred to in the mortgage or deed of trust.

ENFORCEMENT OFFICER

Any law enforcement officer, building official, zoning inspector, code enforcement officer, fire inspector, building inspector, or other person authorized by the Borough to enforce the applicable code(s).

EVIDENCE OF VACANCY

Any condition that on its own, or combined with other conditions present, would lead a reasonable person to believe that the property is vacant. Such conditions may include, but are not limited to: overgrown and/or dead vegetation; past due utility notices and/or disconnected utilities; accumulation of trash junk or debris; abandoned vehicles, auto parts and/or materials; the absence of furnishings and/or personal items consistent with habitation or occupancy; the presence of an unsanitary, stagnant swimming pool; the accumulation of newspapers, circulars, flyers and/or mail; statements by neighbors, passers-by, delivery agents or government agents; and/or the presence of boards over doors, windows or other openings in violation of applicable code.

FORECLOSURE OR FORECLOSURE ACTION

The process by which a property, placed as security for a real estate loan, is sold at public sale to satisfy the debt if the borrower defaults, as evidenced by the Creditor's filing of a summons and complaint.

OWNER

Every person, entity, or Creditor, who alone or severally with others, has legal or equitable title to any Real Property as defined by this Chapter; has legal care, charge, or control of any such property; is in possession or control of any such property; and/or is vested with possession or control of any such property. The Property Manager shall not be considered the Owner.

PROPERTY MANAGER

Any in-state party designated by the Owner or Creditor as responsible for inspecting, maintaining and securing the property as required in this Chapter.

REAL PROPERTY

Any residential or commercial land and/or buildings, leasehold improvements and anything affixed to the land, or portion thereof identified by a property parcel identification number, located in the Borough limits.

REGISTRABLE PROPERTY

- (a) Any Real Property located in the Borough, whether Vacant or occupied, that is (i) subject of a Foreclosure Action; (ii) has been the subject of a Foreclosure Action and a judgment has been entered but the property has not yet been sold; (iii) has been the subject of a Foreclosure sale and title was transferred to the Mortgagee or an affiliate entity of the Creditor; or (iv) transferred to the Creditor or an affiliated entity of the Creditor under a deed in lieu of Foreclosure or Foreclosure sale. The designation of a Real Property as a Registrable Property pursuant to this subsection shall remain in place until such time as the property is sold to a non-related bona fide purchaser in an arm's length transaction or the Foreclosure Action has been dismissed; or
- (b) Any property that is vacant for more than 30 days or any cancellation of Utility or Service, whichever occurs first.

REGISTRY

A web-based electronic database of searchable Real Property records, used by the Borough to allow Creditors the opportunity to register properties and pay applicable fees as required in this Chapter.

UTILITIES AND SERVICES

Any utility and/or service that is essential for a building to be habitable and/or perform a service necessary to comply with all Borough of Mount Arlington codes. This includes, but is not limited to, electrical, gas, water, sewer, trash service, lawn maintenance, and pool maintenance.

VACANT AND ABANDONED

Any real property that is not legally occupied by a mortgagor or tenant, which is in such condition that it cannot be legally reoccupied, and the presence or finding of at least two of the following:

- (1) overgrown or neglected vegetation;
- (2) the accumulation of newspapers, circulars, flyers, or mail on the property;
- (3) disconnected gas, electric, or water utility services to the property;
- (4) the accumulation of hazardous, noxious, or unhealthy substances or materials on the property
- (5) the accumulation of junk, litter, trash, or debris on the property
- (6) the absence of window treatments such as blinds, curtains, or shutters;
- (7) the absence of furnishings and personal items;

- (8) statements of neighbors, delivery persons, or government employees indicating that the property is vacant and abandoned;
- (9) windows or entrances to the property that are boarded up or closed off, or multiple windowpanes that are damaged, broken, and unrepaired;
- (10) doors to the property that are smashed through, broken off, unhinged, or continuously unlocked;
- (11) 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;
- (12) 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;
- (13) 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;
- (14) a written statement issued by a mortgagor expressing the clear intent of all mortgagors to abandon the property; or
- (15) any other reasonable indicia of abandonment.

The definition excludes: (i) buildings under active construction; (ii) buildings occupied on a seasonal basis; and (iii) a secured building subject to a probate action, action to quiet title, or ownership dispute.

B. Applicability and Jurisdiction. This Chapter applies to Foreclosing, Foreclosed, and Vacant property within the Borough of Mount Arlington.

C. Establishment of a Registry. Pursuant to the provisions of Section ## the Borough, or its designee, shall establish a registry cataloging each Registrable Property within the Borough, containing the information required by this Chapter.

D. Inspection and Registration of Real Property Under Foreclosure.

- (1) Any Creditor who holds a mortgage on Real Property located within the Borough shall perform an inspection of the property upon Default by the mortgagor as evidenced by the filing of a Foreclosure Action, Lis Pendens, or Notice of Trustee's Sale. Inspection means a careful examination of the property to determine occupancy and if it is in compliance with all applicable building, maintenance, and housing codes. The Creditor is 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.

- (2) Property inspected pursuant to subsection (a) above that remains in Foreclosure shall be inspected every thirty (30) days by the Creditor or Creditor's designee. If an inspection shows a change in the property's occupancy status the Creditor shall, within ten (10) days of that inspection, update the occupancy status of the property registration.
- (3) Within ten (10) days of the date any Creditor files a Foreclosure Action, the Creditor shall register the Real Property with the Borough Registry, and, at the time of registration, indicate whether the property is Vacant, and if so, shall designate in writing a Property Manager to inspect, maintain, and secure the Real Property subject to the mortgage under a Foreclosure Action. A separate registration is required for each property under a Foreclosure Action, regardless of whether it is occupied or vacant.
 - (a) Creditors who have existing registrable property on the effective date of this ordinance have 30 calendar days from the effective date to register the property as indicated in this section. A separate registration is required for each property, whether it is vacant or occupied.
- (4) Initial registration pursuant to this section shall contain the name of the mortgagee and the mortgage servicer, the direct mailing address of both parties, a direct contact name and telephone number for both parties, an e-mail address for both parties, the folio or tax number, the date the foreclosure action was filed, along with the court and docket number, the full name, address, and telephone number for the mortgagee's Property Manager responsible for receiving complaints of property maintenance and code violations and the full name and contact information for any 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. In the event the mortgagee serving a summons and complaint in an action to foreclose on a property is located out-of-State, the notice shall also contain the full name, address, and telephone number 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.
- (5) If there is any change in the name, address or telephone number for any representative, agent or individual authorized to accept service or maintain the property on behalf of a creditor, the creditor shall update its registration within 10 days of the change in that information.
- (6) At the time of initial registration each registrant shall pay a non-refundable Annual Registration fee of \$500.00 for each property under foreclosure. Subsequent annual registrations of properties under foreclosure and fees in the amount of \$500 are due within 10 days of the expiration of the previous registration. There shall be an additional fee of \$2,000 per property annually if the property is vacant or abandoned when the summons and complaint in an action to foreclose is filed or becomes vacant

and abandoned at any time thereafter while the property is in foreclosure. Said fees shall be used to offset the costs of: (1) registration and registration enforcement, (2) code enforcement and mitigation related to defaulted properties, (3) post-closing counseling and foreclosure intervention limited to owner-occupied persons in default, which may not include cash and mortgage modification assistance, and (4) for any related purposes as may be adopted in the policy set forth in this chapter. Said fees shall be deposited to a special account in the Borough's department dedicated to the cost of implementation and enforcement of this chapter and fulfilling the purpose and intent of this chapter. None of the funds provided for in this section shall be utilized for the legal defense of foreclosure actions.

- (7) If the mortgage and/or servicing on a Registrable Property is sold or transferred, the new Creditor / Servicer is subject to all the terms of this Chapter. Within ten (10) days of the transfer, the new Creditor shall register the property, if not already registered, or update the existing registration. The previous Creditor(s) / Servicer(s) will not be released from the responsibility of paying all previous unpaid fees, fines, and penalties accrued during their involvement with the Registrable Property.
- (8) If the Creditor sells or transfers the Registrable Property in a non-arm's length transaction to a related entity or person, the transferee is subject to all the terms of this Chapter. Within ten (10) days of the transfer, the transferee shall register the property or update the existing registration. Any and all previous unpaid fees, fines, and penalties, regardless of who the Creditor was at the time registration was required, including, but not limited to, unregistered periods during the Foreclosure process, are the responsibility of the transferee and are due and payable with the updated registration. The previous Creditor will not be released from the responsibility of paying all previous unpaid fees, fines, and penalties accrued during that Creditor's involvement with the Foreclosed Property.
- (9) If the Foreclosing or Foreclosed Property is not registered, or the registration fee is not paid within thirty (30) days of when the registration or renewal is required pursuant to this section, a late fee equivalent to ten percent (10%) of the Semi-Annual Registration fee shall be charged for every thirty-day period (30), or portion thereof, the property is not registered and shall be due and payable with the registration.
- (10) This section shall also apply to properties that have been the subject of a foreclosure sale where title is transferred to the Creditor as well as any properties transferred to the Creditor under a deed in lieu of foreclosure or by any other legal means.
- (11) Properties subject to this section shall remain subject to the Semi-Annual Registration requirement, and the inspection, security, and maintenance standards of this section as long as the property remains Registrable Property.

- (12) Any person or corporation that has registered a property under this section must report any change of information contained in the registration within ten (10) days of the change to the Borough.
- (13) Failure of the Creditor to properly register or to modify the registration to reflect a change of circumstances as required by this ordinance is a violation of this Chapter and shall be subject to enforcement by any of the enforcement means available to the Borough.
- (14) If any property is in violation of this Chapter, the Borough may take the necessary action to ensure compliance with and/or place a lien on the property for the cost of the outstanding obligation and any additional cost incurred to the property into compliance.

E. Maintenance Requirements

- (1) Properties subject to this Chapter shall be kept free of weeds, overgrown brush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspaper circulars, flyers, notices, except those required by federal, state or local law, discarded personal items including, but not limited to, furniture, clothing, large and small appliances, printed material, or any other items that give the appearance that the property is abandoned.
- (2) Registrable Property shall be maintained free of graffiti or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior structure.
- (3) Front, side, and rear yards, including landscaping, of Registrable Property shall be maintained in accordance with the applicable code(s) at the time registration is required.
- (4) Registrable yard maintenance shall include, but not be limited to, grass, ground covers, bushes, shrubs, hedges or similar plantings, decorative rock or bark or artificial turf/sod. Acceptable maintenance of yards and/or landscape shall not include weeds, gravel, broken concrete, asphalt or similar material.
- (5) Maintenance shall include, but not be limited to, watering, irrigation, cutting and mowing of required ground cover or landscape and removal of all trimmings.
- (6) Pools and spas shall be maintained so the water remains free and clear of pollutants and debris and shall comply with the regulations set forth in the applicable code(s).
- (7) Failure of the Creditor, Owner, and transferees to properly maintain the property as required by this Chapter may result in a violation of the applicable code(s) and issuance of a citation or notice of violation in accordance with the applicable code of the Borough of Mount Arlington. The Creditor, Owner and /or transferees shall have

thirty (30) days after receipt of such notice to correct the violation, or within ten (10) days of receipt of the notice if the violation presents an imminent threat to public health and safety. Pursuant to a finding and determination by the Borough of Mount Arlington Sheriff, Magistrate or a court of competent jurisdiction, the Borough of Mount Arlington may take the necessary action to ensure compliance with this section.

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

F. Security Requirements

- (1) Properties subject to these Sections shall be maintained in a secure manner so as not to be accessible to unauthorized persons.
- (2) A “secure manner” shall include, but not be limited to, the closure and locking of windows, doors, gates and other openings of such size that may allow a child to access the interior of the property or structure. Broken windows, doors, gates, and other openings of such size that may allow a child to access the interior of the property or structure must be repaired. Broken windows shall be secured by re-glazing of the window.
- (3) If a property is Registrable, and the property has become vacant or blighted, a Property Manager shall be designated by the Creditor to perform the work necessary to bring the property into compliance with the applicable code(s), and the Property Manager must perform regular inspections to verify compliance with the requirements of this Chapter, and any other applicable laws.
- (4) In addition to the above, the property is required to be secured in accordance with the applicable code(s) of the Borough.
- (5) Failure of the Creditor to properly inspect and secure a property subject to this Chapter is a violation and shall be subject to enforcement by any of the enforcement means available to the Borough. The Borough may take the necessary action to ensure compliance with this section and recover costs and expenses in support thereof.

G. Provisions Supplemental. The provisions of this Chapter are cumulative with and in addition to other available remedies. Nothing contained in this Chapter shall prohibit the Borough from collecting on fees, fines, and penalties in any lawful manner; or enforcing its codes by any other means, including, but not limited to, injunction, abatement, or as otherwise provided by law or ordinance.

H. Public Nuisance. All Registrable Property is at risk of being a public nuisance and if vacant or blighted can constitute a public nuisance, the abatement of which pursuant to the police power is hereby declared to be necessary for the health, welfare, and safety of the residents of the Borough.

I. Additional Authority

- (1) 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 code Enforcement Officer may temporarily secure the property at the expense of the Creditor and may bring the violations before the Borough Council, code enforcement or special magistrate as soon as possible to address the conditions of the property. Nothing herein shall limit the Borough from abating any nuisance or unsafe condition by any other legal means available to it.
- (2) The Sheriff, code enforcement, Borough Council or special magistrate shall have the authority to require the Creditor affected by this section, to implement additional maintenance and/or security measures including, but not limited to, securing any and all doors, windows or other openings, employment of an on-site security guard or other measures as may be reasonably required to help prevent further decline of the property.
- (3) If there is a finding that the condition of the property is posing a serious threat to the public health, safety and welfare, then the Sheriff, code enforcement, Borough Council or special magistrate may direct the Borough to abate the violations and charge the Creditor with the cost of the abatement.
- (4) If the Creditor does not reimburse the Borough for the cost of temporarily securing the property, or of any abatement directed by the Sheriff, code enforcement officer, code enforcement, Borough Council or special magistrate, within thirty (30) days of the Borough sending the Creditor the invoice then the Borough may lien the property with such cost, along with an administrative fee as determined in the Borough's fee ordinance to recover the administrative personnel services. In addition to filing a lien the Borough may pursue financial penalties against the Creditor.
- (5) The Borough may contract with an entity pursuant to the Local Public Contracts Law to implement this Chapter, and, if so, any reference to the Enforcement Officer herein shall include the entity the Borough contracts with for that purpose.

J. Opposing, Obstructing Enforcement Officer; Penalty. Whoever opposes obstructs or resists any Enforcement Officer or any person authorized by the enforcement office in the discharge of duties as provided in this Chapter shall be punishable as provided in the applicable code(s) or a court of competent jurisdiction.

K. Immunity of Enforcement Officer. Any Enforcement Officer or any person authorized by the Borough to enforce the sections here within shall be immune from prosecution, civil or criminal, for reasonable, good faith entry upon Real Property while in the discharge of duties imposed by this Chapter.

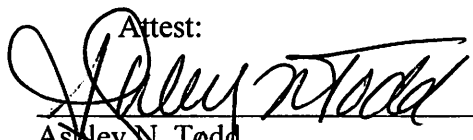
L. Penalties and Notices. Unless otherwise provided for in this Chapter, a violation of this Chapter is declared unlawful.

- (1) Any out-of-State Creditor found by the municipal court or any other court of competent jurisdiction to be in violation of the requirement to appoint an in-State representative or agent pursuant to the ordinance shall be subject to a fine of \$2,500 for each day of the violation.
- (2) Any Creditor found by the municipal court or any other court of competent jurisdiction to be in violation of any other requirements set forth herein shall be subject to a fine of \$1,500 for each day of the violation.
- (3) No less than 20 percent of any monies collected pursuant to this section shall be utilized for municipal code enforcement purposes.

M. Amendments. Registration fees and penalties outlined in this Article may be modified by an amendment to this Article, passed and adopted by the Borough Council.

N. Severability. It is hereby declared to be the intention of the Borough that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance.

Attest:



Ashley N. Todd
Acting Municipal Clerk



Michael Stanzilis
Mayor