

ORDINANCE NO. 2023-17

AN ORDINANCE BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF BARNEGAT, COUNTY OF OCEAN, STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER 63 OF THE TOWNSHIP CODE ENTITLED “MAINTENANCE OF VACANT AND ABANDONED PROPERTIES”

NOW THEREFORE BE IT ORDAINED by the Mayor and Township Committee of the Township of Barnegat, County of Ocean and State of New Jersey as follows:

SECTION 1. Chapter 63 of the Township Code entitled “Property Maintenance” is hereby amended and supplemented to establish Article I entitled “Unlawful Maintenance of Hazards” which shall read as follows:

§ 63-1. [unchanged]

§ 63-2. [unchanged]

§ 63-3. [unchanged]

SECTION 2. Chapter 63 of the Township Code entitled “Property Maintenance” is hereby amended and supplemented to establish Article II entitled “Vacant or Abandoned Properties; Maintenance and Registration thereof” which shall read as follows:

§ 63-4. Applicability.

This chapter applies to any foreclosing, foreclosed, or vacant property, as defined herein, within the Township of Barnegat.

§63-5. Definitions.

A. Vacant and abandoned property.

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

- (1) overgrown or neglected vegetation;

- (2) 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, representatives of a common interest community association, or government employees indicating that the residence is vacant and abandoned;
- (8) windows or entrances to the property that are boarded up or closed off or multiple windowpanes that are damaged, broken and unrepaired;
- (9) doors to the property that are smashed through, broken off, unhinged, or continuously unlocked;
- (10) a risk to the health, safety or welfare of the public, or any adjoining or adjacent property owners, exists due to acts of vandalism, loitering, criminal conduct, or the physical destruction or deterioration of the property;
- (11) 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;

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- (12) 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;
- (13) a written statement issued by any mortgagor expressing the clear intent of all mortgagors to abandon the property;
- (14) any other reasonable indicia of abandonment.

B. Creditor.

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 (C.17:11C-51 through C.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 section, a creditor shall not include the State, a political subdivision of the State, or a State, county, or local government entity, or their agent or assignee, such as the servicer.

C. Owner.

Includes the title holder, any agent of the title holder having authority to act with respect to a vacant/abandoned property, any foreclosing entity subject to the provisions of N.J.S.A. 46:10B-51 (P.L. 2008, c. 127, Sec. 17 as amended by P.L. 2009, c. 296), or any other entity determined by the Township of Barnegat to have authority to act with respect to the property.

§63-6. Notice to Clerk of action to foreclose.

Any creditor serving a summons and complaint in an action to foreclose on a mortgage on commercial property in the State shall, within 10 days of serving the summons and complaint, notify the municipal clerk and township administrator of the municipality in which the property is located that a summons and complaint in an action to foreclose on a mortgage has been filed against the subject property.

A. The notice shall contain:

- (1) the full name, address, and telephone number for the representative of the creditor who is responsible for receiving complaints of property maintenance and code violations;

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- (2) 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.
- (3) the date the summons and complaint in an action to foreclose on a mortgage was filed against the subject property, the court in which it was filed, and the docket number of the filing; and
- (4) whether the property is vacant and abandoned in accordance with the definition in the ordinance;

- B. The notice may contain information about more than one property and shall be provided by mail.
- C. In the event the creditor is located out-of-State and has served a summons and complaint in an action to foreclose on a commercial property, 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.
- D. The creditor filing a summons and complaint in foreclosure shall be responsible for the care, maintenance, security and upkeep of the exterior of the vacant and abandoned residential property and, if located out-of-state, shall be responsible for appointing an in-state representative or agent to act for the foreclosing creditor.

§63-7. Registration requirements.

The owner of any property in foreclosure or vacant and abandoned property as defined herein shall, within 30 calendar days after the building enters foreclosure or becomes vacant property, or within 10 calendar days of receipt of notice by the municipality, file a registration statement for such property with the Code Enforcement Officer on forms provided by the Township for such purposes. Failure to receive notice by the municipality shall not constitute a defense for failing to register the property.

- A. Each property having a separate block and lot number as designated in official records of the municipality shall be registered separately.

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- B. The registration statement shall include the name, street address, telephone number and e-mail address (if applicable) of a person 21 years or older, designated by the owner or owners as the authorized agent for receiving notices of code violations and for receiving process in any court proceeding or administrative enforcement proceedings on behalf of such owner or owners in connection with the enforcement of any applicable code; and the name, street address, telephone number and e-mail (if applicable) of the firm and the actual name(s) of the firm's individual principal(s) responsible for maintaining the property. The individual or representative of the firm responsible for maintaining the property shall be available by telephone or in person on a twenty-four-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.
- C. The registration shall remain valid until December 31 of the year in which the application is made. The owner shall be required to renew the registration annually in the month of January. Deadline for registration renewal shall be January 31 as long as the building remains a vacant and/or abandoned property and shall pay a registration or renewal fee in the amount prescribed in by the municipal code for each vacant property registered.
- D. The owner shall notify the Clerk within 30 calendar days of any change in such registration information by filing an amended registration statement on a form provided by the Clerk for such purpose.
- E. The registration statement shall be deemed prima facie proof of the statements therein contained in any administrative enforcement proceeding or court proceeding instituted by the Township against the owner or owners of the building.
- F. Failure to comply with the registration requirements or pay the registration fees set forth in this chapter shall result in a fine of not less than \$100 but not more than \$1,250 for each offense. Each day a violation continues shall constitute a separate and

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distinct offense. The Township may enforce said penalties and unpaid fees against the property owner in Municipal Court and collect such penalties and unpaid fees consistent with the Penalty Enforcement Law of 1999, N.J.S.A. 2A:58-11.

- G. An out-of-state creditor shall include the full name and contact information of the in-state representative or agent in the notice to be provided pursuant to N.J.S.A. 46:10B-51.

§63-8. Registration fees.

Registration Type	Fee
- Property in Foreclosure or Vacant and/or Abandoned Property (Initial)	\$ 250
- Property in Foreclosure or Vacant and/or Abandoned Property (First renewal)	\$ 500
- Property in Foreclosure or Vacant and/or Abandoned Property (Second renewal)	\$ 1,000
- Property in Foreclosure or Vacant and/or Abandoned Property (Third or more renewal)	\$ 2,500

§63-9. Security Requirements.

The owner of any property in foreclosure or vacant and abandoned property as defined herein shall take the following security measures:

- A. Secure the property against unauthorized entry, including, but not limited to, closing any holes in the structure's roof, floor, or exterior walls; re-glazing or boarding of any broken windows; and abating any known latent or concealed dangerous conditions. For the purposes of the measures required under this section, the use of tarps to cover any such holes or windows shall be insufficient.

- B. Post a sign affixed to the inside of the property and visible to the public indicating the name, address, and telephone number of the responsible party, any authorized agent designated by the responsible party for the purpose of receiving service of process, and the person responsible for maintaining the property if different from the responsible party or authorized agent. If no such area exists, such information shall be posted on a stake of sufficient size to support the posting in a location that is at all times visible from the street to the front of the property but not readily accessible to vandals. Exterior posting shall be constructed of and printed with weather-resistant materials.

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- C. The person responsible for maintaining the property shall inspect the property on a biweekly basis to ensure that the property is in compliance with this section. Upon the request of the Township of Barnegat, or its authorized representative, the local property manager shall provide a copy of the inspection reports to the code enforcement officer.

§63-10. Violations.

- A. The construction official or other public officer appointed in the Township pursuant to N.J.S.A. 40:48-2.3 et seq. or any other local official responsible for administration of any property maintenance or public nuisance code is authorized to issue a notice to the creditor filing the summons and complaint in an action to foreclose, if the construction official, public officer or other authorized municipal official determines that the creditor has violated this article by failing to provide for the care, maintenance, security and upkeep of the exterior of the property. Such notice shall require the person or entity to correct the violation within 30 days of receipt of the notice, or within 10 days of receipt of the notice if the violation presents an imminent threat to the public health and safety. The issuance of a notice pursuant to this, shall constitute proof that a property is "vacant and abandoned" for the purposes of P.L. 2012 c.70 (N.J.S.A. 2A:50-73).
- B. An out-of-state creditor subject to this article found by the Municipal Court of the Township of Barnegat or any other court of competent jurisdiction to be in violation of the requirement to appoint an in-state representative or agent pursuant to this article shall be subject to a fine of up to \$2,500 for each day of the violation. Any fines imposed on a creditor for failure to appoint an in-state representative or agent shall commence on the day after the ten-day period set forth in Paragraph 1, Subsection a of N.J.S.A. 46:10B-51 for providing notice to the municipal clerk that a summons and complaint in an action to foreclose on the mortgage has been served.
- C. Any creditor subject to this article found by the municipal court of the Township of Barnegat, or any other court of competent jurisdiction, to be in violation of the Township's Property Maintenance Code and who has failed to correct, abate or otherwise bring the property into compliance to correct a care, maintenance, security or upkeep violation cited in the notice shall be subject to a fine of \$1,500 for each day of the violation. Any fines imposed pursuant to this

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subsection shall commence 31 days following receipt of the notice, except if the violation prevents an imminent risk to the public health and safety, in which case any fines shall commence 11 days following receipt of the notice.

- D. No less than 20% of any monies for fines collected pursuant to this article shall be utilized by the Township of Barnegat for municipal code enforcement purposes.

SECTION 3. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 4. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

SECTION 5. This ordinance shall take effect after second reading and publication as required by law.

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing ordinance was introduced and passed by the Township Committee on first reading at a meeting of the Township Committee of the Township of Barnegat on **the 2nd day of May, 2023**, and will be considered for second and final passage at a meeting of the Township Committee to be held on the **8th day of June, 2023, at 10:00 a.m.** at the Municipal Building located at 900 West Bay Avenue, Barnegat, New Jersey, at which time and place any persons desiring to be heard upon the same will be given the opportunity to be so heard.

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Donna M. Manno, RMC
Municipal Clerk