

**ORDINANCE OF THE TOWNSHIP OF PLAINSBORO CONCERNING VACANT
AND ABANDONED PROPERTIES AND ADDING CHAPTER 71A TO THE CODE
OF THE TOWNSHIP OF PLAINSBORO**

WHEREAS, on January 18, 2022, New Jersey adopted P.L. 2021, c.444, which concerns the state's municipalities' ability to adopt ordinances to address the risk of blight; and

WHEREAS, P.L. 2021, c.444 allows municipalities, by ordinance, to require commercial lenders foreclosing on properties to register with the municipality and provide notice of pending foreclosures to the municipality; and

WHEREAS, P.L. 2021, c.444 provides a definition of "vacant and abandoned" and allows an annual registration fee of \$500 per property plus \$2,000 per property if it is vacant and abandoned or becomes vacant and abandoned at any time after the foreclosure is filed; and

WHEREAS, the Mayor and Township Committee of the Township of Plainsboro desire to adopt an ordinance as permitted by P.L. 2021, c.444 to improve the quality of life for residents and business operators in the Township.

NOW THEREFORE, BE IT ORDAINED, by the Mayor and Township Committee of the Township of Plainsboro in the County of Middlesex and the State of New Jersey that Chapter 71A shall be added to the Code of the Township of Plainsboro as follows:

Section 1: Incorporation of Recitals

The above "Whereas" clauses are hereby incorporated into this Ordinance.

Section 2: Creation of New Chapter 71A

Chapter 71A, entitled "Vacant and Abandoned Properties: Notice, Registration, and Fees," is hereby added to the Township Code of the Township of Plainsboro as follows:

Section 71A-1 Purpose and Intent

It is the intent of this Chapter 71A as further detailed within its enabling Ordinance 22-08, to enable the Township of Plainsboro to engage in the identification, registration, monitoring, and mitigation of properties that are or may become vacant and abandoned to the fullest extent permitted by P.L. 2021, c.444, in order to combat the immeasurable and deleterious effects of blight arising from residential and commercial properties that become vacant or abandoned during the foreclosure process.

Section 71A-2 Definitions

A. All words, terms, and phrases used within this Chapter 71A shall be defined and interpreted consistent with their meanings as outlined within P.L. 2021, c.444, as may be amended from time to time.

B. A “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 21 of P.L.2009, c.53 (C.17:11C-51 through C.17:11C-89), and any entity, agent, or assignee acting on behalf of the creditor named in the debt obligation including, but not limited to, servicers, who has filed a complaint in the Superior Court seeking to foreclose upon a residential or commercial mortgage. 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. A property shall be deemed “vacant and abandoned” for purposes of this Chapter 71A if:

- 1) The property is not legally occupied by a mortgagor or tenant, and
- 2) The property cannot be legally reoccupied, because of at least two (2) 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 window panes that are damaged, broken, and unrepairs;
 - (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.

Section 71A-3 Establishment & Administration of Registry

A. The Township of Plainsboro shall create and maintain a registry of all commercial and/or residential properties within its municipal boundary for which a summons and complaint in an action to foreclose has been filed with the New Jersey Superior Court, pursuant to its authority granted by P.L. 2021, c.444. This registry will be formed and maintained to assist the Township with 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.

B. The Township may, at its discretion, create, maintain, and administer this registry independently, retain the professional services of a 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.

C. Any third parties retained to create, maintain, and/or administer the registry shall have the authority, on behalf of the Township, to:

- 1) Identify properties subject to the registration requirement;
- 2) Maintain and update the registration list;
- 3) Communicate with creditors and/or in-state representatives;
- 4) Invoice and collect payment of fees;
- 5) Monitor compliance; and
- 6) 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.

D. Any third parties retained to create, maintain, and/or administer the registry shall be required to comply with the following reporting and payment requirements:

(1) Any and all amounts collected by the third party 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, not less than once per year, or as otherwise directed by the Township's Administrator. No fees, payments, expenses, or other deductions shall be made from this payment; payment for any third party's services under this Article shall be made by the Township directly to the third party, under the terms and conditions outlined within the contract for professional services.

(2) 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 Tax Collector a certification identifying:

- (a) The address, block, lot, and contact information of any property for which registration fees under this Chapter are due and owing at the time of the certification;
- (b) The amount of the registration fees, and separately, any interest, fines, and other penalties due and owing at the time of the certification; and,

(c) The date on which the property became eligible for inclusion on the Township's registry.

E. The Township's Administrator or his/her designee shall serve as the municipal official responsible for notifying creditors, establishing and maintaining the registry, determining eligibility for designation as a vacant and abandoned property under this Article, and for imposing fees, penalties, and/or violations. The responsibilities herein may be designated to a third party, pursuant to the terms and conditions of a contract for professional services consistent with P.L. 2021, c.444.

Section 71A-4 Registration, Notice, and other Creditor Requirements

A. Within 30 days of the effective date of this Ordinance, any creditor who has initiated a summons and complaint with the New Jersey Superior Court in an action to foreclose on a commercial and/or residential mortgage for a property located within the Township: (i) prior to the effective date of this Ordinance, and (ii) which is pending as of the effective date of this Ordinance, shall provide notice in accordance with sub-section (B) of this Section.

B. Within 10 days of filing a summons and complaint with the New Jersey Superior Court in an action to foreclose on a commercial and/or residential mortgage for a property located within the Township, the creditor shall notify the Township Clerk, or his/her designee, of the action. Such notice shall include:

- 1) The address, block, and lot of the subject property;
- 2) 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;
- 3) Whether the property is vacant and abandoned in accordance with the definition in this Chapter 71A;
- 4) The full name, address, and telephone number for the representative of the creditor who is responsible for receiving notice of complaints of property maintenance and code violations;
- 5) The full name, address, and telephone number of 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; and
- 6) If the creditor is out-of-State, the full name, address, and telephone number of an in-State representative or agent who shall be responsible for any care, maintenance, security, or upkeep of the property, and for receiving notice of complaints of property maintenance and code violations.
- 7) The notice requirements herein represent a continuing obligation throughout the pendency of the foreclosure action. After initial notice to the Township, creditors subject to the notice requirement shall update the Township's property registration program within 10 days of any change in the information contained in the original or any subsequent notices.

C. Creditors of any commercial and/or residential mortgage required to notify the Township pursuant to this section shall:

- 1) Register the property with the Township's property registration program as a property in foreclosure, within 30 days of notifying the Township;

- 2) Be subject to the registration fee, notice requirements, and penalties for non-compliance established within this Chapter 71A;
- 3) Update the property registration within 10 days of any change in the information contained in the original notice to the Township;
- 4) If an out-of-state creditor, appoint an in-state representative or agent to act for the foreclosing creditor, whose contact information shall be contained within the initial notice to the Township;
- 5) Within 10 days of the property becoming vacant and abandoned at any time during the pendency of the foreclosure action, the creditor shall:
 - (a) Assume responsibility for the care, maintenance, upkeep, and security of the exterior of the property;
 - (b) Secure the property against unauthorized entry;
 - (c) Post a sign on the inside of the property, visible to the public, containing the name, address, and telephone number of the creditor, or an out-of-State creditor's in-State representative or agent, for the purpose of receiving service of process;
 - (d) 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;
 - (e) Provide proof, within 10 days of receiving a request by the Township or its designee, that the above conditions have been satisfied.
 - (f) Cure any violations of the above requirements within 30 days of receiving a notice of violation, or if deemed to present an imminent threat to public health and safety, within 10 days of receiving such notice.
- 6) Update the property registration within 10 days of the creditor becoming aware that the property is deemed vacant and abandoned as defined herein.

D. If at any time the creditor is deemed to be in violation of the above requirements, and/or if the property is deemed to be in violation of any other applicable local or state maintenance, health, or safety codes, the Code Official or his/her designee shall notify the creditor using the contact information provided in the property registry established by this Chapter 71A.

Section 71A-5 Fees, Violations & Penalties

A. All fees, penalties, and/or fines established within this Article 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. Creditors required to notify the Township and register a property as one in foreclosure shall be required to pay the following annual registration fee, per property, due at the time of registration: \$500.00.

C. If a property registered with the Township's registration program as a property in foreclosure is vacant and abandoned at the time of registration, or becomes vacant and abandoned at any time during the pendency of the foreclosure proceeding, the Creditor shall pay an additional annual registration fee, per property, due at the time the determination that the property is vacant and abandoned is made, of: \$2,000.00.

D. Violations

- 1) An out-of-State creditor subject to the notice and registration requirements of this Chapter 71A 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 of the violation. The violation shall be deemed to commence on the day after the creditor's initial 10 or 30-day requirement to notify the Township of applicable foreclosure actions.
- 2) A creditor subject to the notice and registration requirements of this Chapter 71A, found to be in violation of any part of this ordinance (with the exception of a violation pursuant to sub-section (D)(1) of this Section 71A-5, shall be subject to a fine of \$1,500 for each day of the violation. The violation shall be deemed to commence on the 31st 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 11th day following the creditor's receipt of such notice.

E. If the Township expends public funds in order to abate a nuisance or correct a violation on a commercial property in situations in which the creditor was given notice pursuant to this Chapter 71A, but 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 but not limited to the recourse provided under N.J.S.A. 55:19-100, et seq.

Section 3: Repealer, Severability, Applicability, Effective Date

- (a) All ordinances or parts thereof which are inconsistent with the provisions of this Ordinance are, to the extent of such inconsistency, hereby repealed.
- (b) In the event any section, clause, sentence, phrase or provision of this Ordinance is declared unconstitutional, unenforceable, or invalid by a court of competent jurisdiction, such a decision shall not affect the remaining portions of this Ordinance, and the Ordinance shall be interpreted consistent with its original intent to the fullest extent permissible by law.
- (c) The fines and penalties established within this Ordinance shall be considered cumulative, and not superseding, as a remedy available to the Township in addition to those which may also apply under any other applicable Township ordinance, or other applicable local, County, or State law or regulation.
- (d) This Ordinance shall become effective immediately upon adoption and publication in the manner prescribed by law.

Introduced at a Meeting of the Township Committee of the Township of Plainsboro on June 08, 2022 and published on June 10, 2022. Adopted at a Meeting held on July 13, 2022 and published on July 15, 2022.