

“AN ORDINANCE OF THE BOROUGH OF LAKEHURST, COUNTY OF OCEAN, STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING THE REVISED GENERAL ORDINANCES OF THE BOROUGH, CHAPTER XIII ENTITLED “HOUSING AND PROPERTY MAINTAINCE”, SECTION 13-4 RESERVED”

ORDINANCE 2023-06

WHEREAS, the Governing Body desires to protect the public health, safety, and welfare of the citizens of the Borough of Lakehurst and to maintain a high quality of life for its citizens through the maintenance of structures and properties in the Borough; **and**

WHEREAS, the Governing Body recognizes properties subject to foreclosure action or foreclosed upon and vacant properties (hereinafter referred to as "Registrable Properties") located throughout the Borough can 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 Governing Body has already adopted property maintenance codes to regulate building standards for the exterior of structures and the condition of the property as a whole; **and**

WHEREAS, the Governing Body recognizes that it is in the best interest of the public health, safety, and welfare to adopt a more regulated method 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, the Governing Body is authorized to enact and amend ordinances as deemed necessary for the preservation of the public health, safety and welfare and as may be necessary to carry into effect the powers and duties conferred and imposed upon the Borough by law; **and**

WHEREAS, pursuant to P.L. 2021, c. 444, the Governing Body is authorized to adopt or amend ordinances creating a property registration program for the purpose of identifying and monitoring properties within the Borough for which a summons and compliant in an action to foreclosure on a mortgage has been filed, regulate the care, maintenance, security, and upkeep of such properties, and impose a registration fee on the mortgagee of such properties; **and**

WHEREAS, the Governing Body desires to protect neighborhoods against decay caused by Registrable Property and concludes that it is in the best interests of the health, safety, and welfare of the Borough's residents to amend, in light of recent State legislation P.L. 2021, c. 444, the registration requirements of Registrable Property located within the Borough to discourage Registrable Property Owners and Mortgagees from allowing their properties to be abandoned, neglected, or left unsupervised.

NOW THEREFORE, BE IT ORDAINED by the Mayor and Governing Body of the Borough of Lakehurst, County of Ocean, and State of New Jersey, as follows:

SECTION 1.

Chapter 13 of the Borough Code of the Borough of Lakehurst is hereby amended with the provisions set forth in this Ordinance.

SECTION 2.

Chapter 13, Section 13-4 is hereby amended and shall be entitled "Registration of Foreclosure Mortgages and Vacant Property," and shall read as follows:

CHAPTER 13-4 REGISTRATION OF FORECLOSURE MORTGAGES AND VACANT PROPERTY

§ 13-4.1. Purpose and Intent.

It is the purpose and intent of the Governing Body to amend in light of recent State legislation P.L. 2021, c. 444 the 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. It has been determined that Owner-occupied structures are generally better maintained when compared to vacant structures, even with a diligent off-site property owner. 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 residential areas where they are located. It is the Governing Body's further 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.

§ 13-4.2. Definitions.

The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

Annual Registration shall mean one (1) year from the date of the first action that requires registration pursuant to this Chapter, and every subsequent year that the property is still a registerable property. The date of the initial registration may be different than the date of the first action that required registration.

Default shall mean that 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.

Creditor 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 ordinance. For purposes of this ordinance, 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, building official, zoning inspector, code enforcement officer, fire inspector, building inspector, or other person authorized by the Borough to enforce the applicable code(s).

Foreclosure or Foreclosure Action shall mean the legal process by which a mortgagee, or other lien holder, terminates or attempts to terminate a property owner's equitable right of redemption to obtain legal and equitable title to the real property pledged as security for a debt or the real property subject to the lien. This definition shall include, but is not limited to, a complaint and summons filed with respect to foreclosure on a mortgage, a list pendens filed against it by the lender holding a mortgage on the property, a deed-in-lieu of foreclosure, sale to the mortgagee or lien holder, certificate of title and all other processes, activities, and

actions, by whatever name, associated with the described process. The legal process is not concluded until the property obtained by the mortgagee, lien holder, or their designee, by certificate of title, or any other means, is sold to a non-related bona fide purchaser in an arm's length transaction to satisfy the debt or lien.

Mortgagee shall mean the creditor, including but not limited to, trustees; mortgage servicing companies; lenders in a mortgage agreement; any agent, servant, or employee of the creditor; any successor in interest; or any assignee of the creditor's rights, interests, or obligations under the mortgage agreement; or any other person or entity with the legal right to foreclose on the Real Property, excluding governmental entities.

Owner shall mean every person, entity, or mortgagee, 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.

Property Manager shall mean any in-state party designated by the owner or mortgagee as responsible for inspecting, maintaining, and securing the property as required in this Chapter. The in-state property manager shall be capable of receiving notices issued for violations of Borough codes or summons to appear in court, unless a different in-state individual has been identified for that purpose. The property manager shall not be considered the owner.

Real Property shall mean 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 shall mean:

- A. Any Real Property located in the Borough, whether vacant or occupied, that is encumbered by a mortgage subject to an ongoing foreclosure action by the mortgagee or trustee, has been the subject of a Foreclosure Action by a mortgagee or Trustee and a judgement has been entered, or has been the subject of a foreclosure sale where the title was transferred to the beneficiary of a mortgage involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure/sale. The designation of a "foreclosure" property as "registrable" 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 and/or the Foreclosure Action has been dismissed; or
- B. Any property that is vacant for more than thirty (30) days or any cancellation of utility or service, whichever occurs first.
 - a) Exception: If an owner can demonstrate that the vacant property has historically been used as a part-time residence, as a seasonal home, or as a rental unit the property registration is not required based on vacancy. If the property remains vacant for 180 days registration is required.

Registry shall mean file a registration statement, used by the Borough, to allow mortgagees and owners the opportunity to register properties and pay applicable fees as required in this Chapter.

Utilities and Services shall mean 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 codes. This includes, but is not limited to, electrical, gas, water, sewer, lawn maintenance, pool maintenance, and snow removal.

Vacant and Abandoned shall mean in accordance with N.J.S.A. 40:48-2.12s3(b)(8), 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 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;
- 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

§ 13-4.3. Applicability and Jurisdiction.

This Chapter applies to Foreclosure and Vacant property within the Borough.

§ 13-4.4. Establishment of a Registry.

Pursuant to the provisions of Section 13-4.2, the Borough, or its designee, shall establish a registry cataloging

each Registrable Property within the Borough, containing the information required by this Chapter.

§ 13-4.5. Inspection and registration of real property under foreclosure.

- A. Any creditor or mortgagee filing a summons and complaint in an action to foreclose real property in the Borough of Lakehurst shall, in addition to the notice provided to the municipality pursuant to N.J.S.A. 46:10B-51 or N.J.S.A. 40:48-2.12s2, register the residential or commercial property with the Township's property registration program within 10 days of filing the summons and complain in an action to foreclose, as a property in foreclosure and, as part of that registration:
1. Provide the Borough with the information regarding the creditor required by N.J.S.A. 46:10B-51 or N.J.S.A. 40:48-2.12s2;
 2. Appoint a property manager to inspect, maintain and secure the real property subject to the mortgage in foreclosure;
 3. Provide the name of the creditor or mortgagee, the mailing address of the mortgagee, email address, telephone number and name of the property manager and said person's address, email address, and telephone number, regardless of whether it is occupied or vacant.
 4. 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; and
 5. Identify whether the property is vacant and abandoned in accordance with the definition herein under §13-4.2.
 6. Register a separate registration for each property subject to a filing a summons and complaint in an action to foreclose real property
- B. Any mortgagee 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.
- C. Property inspected pursuant to Subsection A above that remains in foreclosure shall be inspected every 30 days by the creditor or mortgagee. If an inspection shows a change in the property's occupancy status, the creditor or mortgagee shall, within 10 days of that inspection, update the occupancy status of the property registration.
- D. 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;
- E. A creditor filing a summons and complaint in an action to foreclose shall, if the registered property becomes vacant and abandoned as defined in § 13-4.2 after the property is initially registered with the Borough, update the property registration with the Borough to reflect the change in the property's status within 10 days of the inspection performed under Section C above.
- F. A creditor filing a summons and complaint in an action to foreclose 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;
- G. Any mortgagee or creditor located out-of-State shall be responsible for appointing an in-State representative or agent to act for the foreclosing creditor and shall provide the name and contact of said in-State representative or agent to the Borough Clerk within 10 days of the appointment of same.
- H. At the time of initial registration, each registrant shall pay a nonrefundable annual registration fee of \$500 for each property that is required to be registered because a summons and complaint in an action to foreclose was filed by the creditor. Subsequent nonrefundable annual registrations of properties and fees in the amount of \$500 are due within 10 days of the expiration of the previous registration. An additional \$2,000 per property shall be assessed annually if the property is vacant or abandoned

pursuant to § 13-4.2 when the summons and complaint in an action to foreclose is filed or becomes vacant and abandoned pursuant to § 13-4.2 at any time thereafter while the property is in foreclosure. 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.

- I. If the mortgage and/or servicing on a property is sold or transferred, the new mortgagee is subject to all the terms of this chapter. Within 10 days of the transfer, the new mortgagee shall register the property or update the existing registration. The previous mortgagee(s) will not be released from the responsibility of paying all previous unpaid fees, fines, and penalties accrued during that mortgagee's involvement with the registrable property.
- J. If the mortgagee 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 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 mortgagee 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 mortgagee will not be released from the responsibility of paying all previous unpaid fees, fines, and penalties accrued during that mortgagee's involvement with the registrable property.
- K. This section shall also apply to properties that have been the subject of a foreclosure sale where title is transferred to the mortgagee as well as any properties transferred to the mortgagee under a deed in lieu of foreclosure or by any other legal means.
- L. Properties subject to this section shall remain subject to the annual registration requirement and the inspection, security, and maintenance standards of this section as long as the property remains registrable.
- M. Failure of the mortgagee and/or property owner of record to properly register or to modify the registration to reflect a change of circumstances as required by this chapter is a violation of this chapter and shall be subject to enforcement by any of the enforcement means available to the Township.
- N. 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 bring the property into compliance.
- O. Registration of foreclosure property does not alleviate the mortgagee and/or owner from obtaining all required licenses, permits and inspections required by applicable code or state statutes. Acquisition of required licenses, permits and inspections or registration of rental property does not alleviate the requirement for the property to be registered under this section. The mortgagee and/or owner is expected to update the status of the property in the event of a mortgagee-managed rental.

§ 13-4.6 Maintenance Requirements.

- A. 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.
- B. 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 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.

- C. 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.
- D. 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.
- E. Maintenance shall include, but not be limited to, watering, irrigation, cutting and mowing of required ground cover or landscape and removal of all trimmings. All Trimmings and cuttings must be removed immediately. Any vegetation waste onsite after three days will be considered the accumulation of rubbish which is subject to penalties.
- F. 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).
- G. Failure of the Mortgagee, 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. Pursuant to a finding and determination by the Borough Police, Magistrate or a court of competent jurisdiction, the Borough may take the necessary action to ensure compliance with this section.
- H. In addition to the above, the property is required to be maintained in accordance with the applicable code(s) of the Borough.
- I. Dispose of tin cans, plastic containers, ceramic pots, or similar water-holding containers that have accumulated on your property to reduce mosquito breeding.

§ 13.4-7 Security Requirements.

- A. Properties subject to these Sections shall be maintained in a secure manner so as not to be accessible to unauthorized persons.
- B. 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.
- C. If a property is Registrable, and the property has become vacant or blighted, a Property Manager shall be designated by the Mortgagee and/or Owner 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.
- D. In addition to the above, the property is required to be secured in accordance with the applicable code(s) of the Borough.
- E. Post a sign with the name, address and telephone number of the creditor or out-of-state creditor's in-state representative or agent for the purpose of receiving service of process. There shall also be posted the name of the property manager, email address and twenty-four-hour contact telephone number of the

property manager. The property manager shall be available to be contacted by the Borough Monday through Friday between 8:30 a.m. and 4:00 p.m., legal holidays excepted. The sign shall be placed in a window facing the street and shall be visible from the street. The posting shall be no less than 18 inches by 24 inches and shall be of a font that is legible from a distance of 45 feet.

- F. Failure of the Mortgagee and/or property Owner of record to properly inspect and secure a property subject to this Chapter, and post and maintain the signage noted in this section, 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.

§ 13.4-8 Supplemental Provisions.

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.

§ 13.4-9 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.

§ 13.4.10 Additional Authority.

- A. If the Code 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 Mortgagee or Owner, and may bring the violations before the code enforcement, Governing Body, or municipal court 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.
- B. The Police Chief, Code Enforcement Officer, Governing Body, or municipal court shall have the authority to require the Mortgagee or Owner 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.
- C. 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 Police Chief, Code Enforcement, Governing Body, or municipal court may direct the Borough to abate the violations and charge the Mortgagee or Owner with the cost of the abatement.
- D. If the Mortgagee or Owner does not reimburse the Borough for the cost of temporarily securing the property, or of any abatement directed by the Police Chief, Code Enforcement officer, Governing Body, or municipal court, within thirty (30) days of the Boroughs ending the Mortgagee or Owner the invoice then the Borough may lien the property with such cost, along with an administrative fee as determined in the Township's fee ordinance to recover the administrative personnel services. In addition to filing a lien the Borough may pursue financial penalties against the Mortgagee or Owner.

- E. The Borough may contract with an entity to implement this Chapter, and, if so, any reference to the Code Enforcement Officer herein shall include the entity the Borough contracts with for that purpose.

§ 13.4-11. 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.

§ 13.4-12. 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.

§ 13.4-13. Penalties.

- A. A creditor or mortgagee found by the municipal court of the Borough in which the property subject to the ordinance is located, or by any other court of competent jurisdiction, to be in violation, shall be subject to a fine of \$1,500 for each day of the violation. Any fines imposed pursuant to this paragraph shall commence thirty-one (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 eleven (11) days following receipt of the notice.
- B. An out-of-State creditor found by the municipal court of the Borough in which the property subject to the ordinance is located, or by 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. Any fines imposed on a creditor for the failure to appoint an in-State representative or agent shall commence on the day after the 10-day period set forth in N.J.S.A. 46:10B-51 or N.J.S.A. 40:48-2.12s3 for providing notice to the municipal clerk that a summons and complaint in an action to foreclose on a mortgage has been served.

Registration fees and penalties outlined in this Chapter may be modified by an amendment to this Chapter, passed and adopted by the Governing Body of the Borough of Lakehurst.

SECTION 3.

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 4.

In accordance with the provisions of P.L. 2021, Chapter 444, this ordinance, and the amendments to Chapter 13 of the Borough Code shall take effective immediately upon final passage and publication as required by law.

Hon. Harry Robbins
Mayor

NOTICE

NOTICE IS HEREBY GIVEN that an ordinance #2023-06 entitled “AN ORDINANCE OF THE BOROUGH OF LAKEHURST, COUNTY OF OCEAN, STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING THE REVISED GENERAL ORDINANCES OF THE BOROUGH, CHAPTER XIII ENTITLED “HOUSING AND PROPERTY MAINTAINCE”, SECTION 13-4 RESERVED” was finally adopted after a public hearing and Council approval at a meeting of the governing body held on the 6th day of April 2023.

Maryanne Capasso, RMC
Municipal Clerk