

ORDINANCE NO. 20-01

**BOROUGH OF NORTH PLAINFIELD
COUNTY OF SOMERSET
STATE OF NEW JERSEY**

AN ORDINANCE TO AMEND, REVISE AND SUPPLEMENT THE BOROUGH CODE OF THE BOROUGH OF NORTH PLAINFIELD, CHAPTER XI, PROPERTY MAINTENANCE CODE, MOST NOTABLY SECTION 11-13, TITLED “VACANT PROPERTY REGISTRATION”.

WHEREAS, the Borough wishes to amend, revise and supplement the Borough Code of the Borough of North Plainfield as it relates to Chapter XI of the Borough Code specifically as to the Property Maintenance Code, provisions of Section 11-13, entitled “Vacant Property Registration”.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of North Plainfield, County of Somerset, State of New Jersey that the Borough Code of the Borough of North Plainfield, Chapter XI, Property Maintenance Code, is hereby amended, revised and supplemented as to Section 11-13, currently titled “Vacant Property Registration,” more particularly Section 11-13.1, “Definitions” and Section 11-13.2, “Registration of Vacant and Foreclosing Properties Required; Notice” as follows:

11-13.1 Definitions.

Days shall mean consecutive calendar days.

Evidence of vacancy – means:

any condition, readily apparent to the public officer from an exterior visual inspection, which on its own or combined with other conditions present on or concerning the property, would lead a reasonable person to believe a property is vacant. Such conditions include but are not limited to:

1. a property that is under a current Notice of Default and/or Notice of Sheriff's Sale and/or pending Tax Lien Sale and/or has been foreclosed upon by the Mortgagee and/or has been conveyed to the mortgagor, beneficiary or trustee via a Deed in lieu of Foreclosure;
2. over grown and/or dead vegetation;
3. accumulation of newspapers, circulars, flyers and/or mail readily apparent to the public officer from an exterior visual inspection;
4. any disconnected utility as determined by the public officer from the respective utility company;
5. accumulation of trash, junk and/or debris on the premises;
6. the absence of window coverings such as curtains, blinds and/or shutters; and/or,
7. statements by neighbors, passerby, delivery agents, and/or government employees that the property is not currently occupied or inhabited by any person or persons.

Foreclosing shall mean the process by which property, placed as security for a real estate or other loans, is prepared for sale to satisfy the debt if the borrower is in default under the terms of the loan.

Initiation of Foreclosure Process shall mean any of the following actions taken by a lienholder and/or mortgage holder and/or mortgagee:

- a. Taking possession of the property.
- b. Delivering a creditor's or mortgagee's notice of intention to foreclose to the borrower.
- c. Commencing a foreclosure action or filing a lis pendens in the Superior Court of New Jersey.

Lienholder or Mortgage Holder or Mortgagee shall mean the creditor, including but not limited to, service companies, lenders in a mortgage agreement and any agent, servant or employee of the mortgagee, or any successor in interest and/or assignee of

the mortgagee's rights, interests or obligations under a mortgage agreement. Collectively herein referred to as "creditor."

Owner shall mean every person, entity, service company, property manager and/or real estate agency, who alone or severally with others:

- a. Has legal or equitable title to any dwelling, dwelling unit, mobile dwelling unit or parcel of land, vacant or otherwise; or,
- b. Has care, charge or control of any dwelling, dwelling unit or parcel of land, vacant or otherwise, in any capacity, including but not limited to agency, executor, executrix, administrator, trustee or guardian, of the estate of the holder of legal title; or,
- c. Is a mortgagee in possession of any such property; or,
- d. Is an agent, trustee or other person appointed by the courts and vested with possession or control of any such property; or,
- e. Is an officer or trustee of the association of unit owners of the condominium. Each such person is bound to comply as if he were the owner; or,
- f. Every person who operates a rooming house; or,
- g. Is a trustee who holds, owns or controls mortgage loans for mortgage-backed securities transactions and has initiated the foreclosure process.

Property shall mean any residential real estate, residential property and/or any portion thereof, which is located in the Borough of North Plainfield, including all buildings and/or structures situated on the Property. For the purpose of this section only, "Property" does not include property owned or subject to the control of the Borough or any of its governmental bodies or agencies or other governmental bodies or agencies.

Public Officer shall mean the Zoning Officer or Assistant Zoning Officer or designee(s) of the Borough of North Plainfield, as designated by the Mayor.

Residential Property shall mean any property that contains one (1) or more dwelling units ~~used~~ occupied, intended to be occupied and/or designed to be occupied for living purposes.

Securing shall mean taking measures that assist in making the property inaccessible to unauthorized persons.

Vacant Property shall mean any building used or to be used as a residence that is not legally occupied or at which substantially all lawful construction operations or residential occupancy has ceased, ~~and~~ or that is in such condition that it cannot legally be reoccupied without repair or rehabilitation, and shows evidence of vacancy. ~~provided, however, that any property that contains all building systems in working order and is being actively marketed by its owner for sale or rental, should not be deemed vacant.~~

- a. Property determined to be “abandoned property”, in accordance with the meaning of such term in the Abandoned Properties Rehabilitation Act, N.J.S.A. 55:19-78, et seq., 81 shall also be deemed to be vacant property for the purpose of this section. Property determined to be “nuisance property”, in accordance with the meaning of such term in the Abandoned Properties Rehabilitation Act, N.J.S.A. 55:19-82, shall also be deemed to be vacant property for the purpose of this section.
- b. A property which contains both residential and non-residential space may be considered vacant so long as two-thirds (2/3) or more of the total net square footage of the building was previously legally occupied as residential space and none of the residential space has been legally occupied for at least six (6) months

at the time of the determination of abandonment by the public officer and the property otherwise meets the criteria of either a vacant, abandoned or nuisance property as set forth in this Ordinance.

- c. A property may be determined to be vacant under this Ordinance if the public official determines that the property is abandoned pursuant to *N.J.S.A. 55:19-81* and/or a nuisance pursuant to *N.J.S.A. 55:19-82* or *N.J.S.A. 40:48-2.3*.

11-13.2 Registration of Vacant and Foreclosing Properties Required; Notice.

- a. Effective May 1, 2016, the owner of any vacant property, as defined herein, shall, within sixty (60) calendar days after the building becomes vacant property or within thirty (30) calendar days after assuming ownership of the vacant property, whichever is sooner, shall file a registration statement for each such vacant property with the Public Officer on forms provided by the Borough of North Plainfield for such purposes. The owner shall be required to renew the registration annually on the first (1st) day of January as long as the building remains vacant property and shall pay a registration or renewal fee in the amount prescribed herein for each vacant property registered.
- b. Effective May 1, 2016, a lienholder, mortgage holder or mortgagee (collectively known as “creditor”) serving a summons and complaint in an action to foreclose on a mortgage on residential property within the Borough shall, within ten (10) calendar days of serving the summons and complaint, serve notice on the Borough Clerk that a summons and complaint in an action to foreclose on a mortgage has been filed against this property and provide same to the Borough Clerk. The notice shall contain the name and contact information for the

representative of the creditor who is responsible for receiving complaints of property maintenance and code violations and shall be provided by mail, or electronic communication, at the discretion of the Borough Clerk. In the event that the property being foreclosed on is an affordable housing unit pursuant to the Fair Housing Act, then the creditor shall identify that the property is subject to the Fair Housing Act. The notice shall also include the street address, lot and block number of the property and the full name and contact information of an individual located within the State of New Jersey who is authorized to accept service on behalf of the creditor. The notice shall be provided to the Borough Clerk within ten (10) calendar days of service of a summons and complaint in an action to foreclose on a mortgage against the subject property.

- c. Any creditor that has initiated a foreclosure proceeding on any residential property prior to May 1, 2016, that is pending in Superior Court, shall provide to the Borough Clerk a listing of all residential properties in the Borough of North Plainfield for which the creditor has foreclosure action(s) pending within the Borough by street address and lot and block number.
- d. Any owner or creditor of any building that meets the definition of “vacant property”, prior to May 1, 2016, shall file a registration statement for that property on or before June 30, 2016. The registration statement shall include the information required herein, as well as any additional information that the Public Officer may reasonably require. Failure to do so will be considered a violation subject to Section 11-13.6 below.

- e. The owner or creditor shall notify the Public Officer within thirty (30) calendar days of any change in the registration information by filing an amended registration statement on a form provided by the Public Officer for such purposes.
- f. The registration statement shall be deemed prima facie proof of the statements therein contained and any administrative enforcement proceeding or court proceeding instituted by the Borough against the owner or creditor of the building shall use the registration statement as prima facie proof.
- g. A property shall be removed from the registration list of vacant properties only upon the issuance of a certificate of occupancy or a rental certificate of occupancy by the Borough of North Plainfield.
- h. An owner or lienholder of any property which is added to the vacant property list may challenge the inclusion of their property on the vacant property list by filing an appeal with the public official in accordance with the procedures set forth in the Abandoned Properties Act, N.J.S.A. 55:19-55(e-f).

NOW, THEREFORE, BE IT FURTHER ORDAINED that:

1. All ordinances or portions of ordinances that are inconsistent with this Ordinance shall be repealed as to their inconsistencies only.
2. If any provision or paragraph of this Ordinance shall be held invalid by any court of competent jurisdiction, the same shall not affect the other provisions or paragraphs of this Ordinance, except so far as the provision or paragraph so declared invalid shall be separable from the remainder or any portion thereof.
3. This Ordinance shall take effect, after final passage, twenty (20) days following action or inaction by the Mayor as provided by law or an override of a mayoral

veto by the Council, whichever is applicable and publication in accordance with law, unless a resolution is adopted, pursuant to *N.J.S.A.* 40:69A-181(b), declaring an emergency and providing that this Ordinance shall take effect at an earlier date.

INTRODUCED: January 27, 2020
PASSED: January 27, 2020
PUBLISHED: February 1, 2020
ADOPTED: February 10, 2020

ROLL CALL: AYES: Corzo, La Ronde, Merrill, Miller, Schaefer, Singleterry,
Stabile
NAYS: None
ABSTAIN: None
ABSENT: None

APPROVED BY THE MAYOR: Yes XXX No _____

The above is a true copy of the Ordinance adopted by the Borough of North Plainfield on 10 February 2020.

ATTEST:

BOROUGH OF NORTH PLAINFIELD

Richard K. Phoenix, RMC
Borough Clerk
Borough of North Plainfield

Frank A. "Skip" Stabile, Jr.
Council President

Date signed: 10 February 2020

Date signed: 10 February 2020

Michael Giordano, Mayor

Date signed: _____, 2020