

**CITY OF ABSECON**

**ORDINANCE 11-2022**

**AMENDING ORDINANCE 02-2016-REQUIRING THE REGISTRATION AND  
MAINTENANCE OF CERTAIN REAL PROPERTY BY MORTGAGEE;  
PROVIDING FOR PENALTIES AND ENFORCEMENT AND REGULATION OF  
ABANDONED REAL PROPERTY WITHIN THE CITY OF ABSECON**

**NOW THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF  
ABSECON CITY, NEW JERSEY** that Ordinance 02-2016 be amended as followed:

**WHEREAS**, the present mortgage foreclosure crisis has serious negative implications for all communities trying to manage the consequences of property vacancies and abandoned real properties subject to foreclosure; and

**WHEREAS**, the City of Absecon recognizes an increase in the number of vacancies and abandoned properties located throughout the municipality; and

**WHEREAS**, the City of Absecon has determined that efforts to identify and locate responsible parties of foreclosing parties who can maintain the properties that are in the foreclosure process or that have been foreclosed would be a benefit to the health, safety and welfare of residents and visitors to the City; and

**WHEREAS**, the City of Absecon declares that vacant and abandoned properties can lead to a decline in property value, create attractive nuisances and lead to a general decrease in neighborhood and community aesthetics; and

**WHEREAS**, pursuant to N.J.S.A. 40:48-2, the governing body of a municipality 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 municipality by law; and

**WHEREAS**, pursuant to P.L. 2021, c. 444, the governing body of a municipality is authorized to adopt or amend ordinances creating a property registration program for the purpose of identifying and monitoring properties within the municipality 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 City of Absecon has already adopted property maintenance and other codes to regulate building standards for the exterior of structures and the condition of properties as a whole; and

**WHEREAS**, officials of the City of Absecon wish to amend the Municipality's Code in order to participate in the county wide registration program established by the Atlantic County Improvement Authority and that will identify a contact person to address safety and aesthetic concerns to minimize the negative impacts that occur as a result of foreclosures and vacant properties; and

**WHEREAS**, the Council of the City of Absecon has a vested interest in protecting neighborhoods against decay caused by vacant and abandoned properties and concludes that it is in the best interests of the City to amend registration and certification requirements on foreclosure properties located within the municipality.

**NOW, THEREFORE**, be it ordained by the Council of the City of Absecon, New Jersey, as follows:

1. The foregoing whereas clauses are hereby incorporated into this section of the ordinance as if fully set forth herein.
2. Purpose and intent. It is the purpose and intent of the City of Absecon to establish a process to address the deterioration and blight of neighborhoods caused by an increasing amount of abandoned, foreclosed or distressed real property located within the City of Absecon and to identify, regulate, limit and reduce the number of foreclosure properties. Council of the City of Absecon believes that participation in the county wide registration program established by the Atlantic County Improvement Authority is a mechanism which will help protect neighborhoods from becoming blighted due to the lack of adequate maintenance and security of foreclosure properties.
3. 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.
  - a. Abandoned Real Property – means any real property located in the City of Absecon whether vacant or occupied, that has had a Lis Pendens filed against it by a lender holding a mortgage on the property, or is subject to an ongoing foreclosure action by a lender, has been transferred to a lender through a Deed in Lieu of Foreclosure or for other than fair market consideration. The designation of a property as abandoned shall remain in place until such time as the property is sold or transferred to a new owner, or the foreclosure action has been dismissed.
  - b. Accessible Property/Structure – means a property that is accessible through a compromised or breached gate, fence, wall or otherwise contains a structure that is unsecured or which could allow access to interior space by unauthorized individuals.
  - c. Applicable Codes – any and all codes in effect within the City of Absecon including but not limited to the Municipal Zoning Ordinance, the New Jersey Building Code and all adopted BOCA codes, or subparts thereof, in effect in the City.
  - d. Blighted Property – means:
    - i. Properties that have broken or severely damaged windows, doors, walls or roofs which cause hazardous conditions and encourage trespassing; or
    - ii. Properties cited as a public nuisance pursuant to any applicable municipal code; or

- iii. Properties that endanger the public's health, safety or welfare because the properties or improvements thereon are dilapidated, deteriorated or violate minimal health and safety standards or minimum maintenance standards as required by all applicable codes.
- e. Enforcement Officer – means any law enforcement officer, building official, zoning inspector, code enforcement officer, fire inspector or building inspector, or other person authorized by the City of Absecon to enforce any applicable code.
- f. Foreclosure – means the legal process by which a mortgagee terminates a mortgagor's interest in real property either to obtain legal and equitable title to the real property pledged as security for a debt or to force a sale of said property to satisfy a debt. For purposes of this article, this process begins upon the service of a summons and complaint on the mortgagor or any interested party. For purposes of this article, the process is not concluded until the property is sold to a bona fide purchaser not related to the mortgagee in an arm's-length transaction whether by Sheriff's sale, private sale following a Sheriff's sale, or private sale following the vesting of title in the mortgagee pursuant to a judgment.
- g. Mortgagee - means the creditor, including but not limited to, 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, excluding governmental entities as assignee or owner.
- h. Property Management Company – means a local property manager, property maintenance company or similar entity responsible for the maintenance of abandoned real property.
- i. Vacant – means any building or structure that is not legally occupied.
- 4. Applicability: Each section set forth in this Ordinance shall be considered cumulative and not superseding or subject to any other law or provision for the same, but rather shall be an additional remedy available to the City of Absecon above and beyond any other state, county or local provision.
- 5. Establishment of a Registry: The City of Absecon or its designee shall participate in the county wide registration program established by the Atlantic County Improvement Authority which catalogs each abandoned property within the municipality containing the information provided by this article.
- 6. Registration of Foreclosure Real Property:
  - a. Any mortgagee which holds a mortgage on real property located within the City of Absecon shall perform an inspection of the property to determine vacancy or occupancy, upon default by the mortgagor as evidence by a foreclosure filing. The mortgagee shall, within ten (10) days of the inspection, register the property with the Division of Code Enforcement and the Municipal Clerk's Office, on forms as provided by the City of Absecon and indicate whether the property is vacant or occupied. A separate

registration is required for each property, whether it is found to be vacant or occupied.

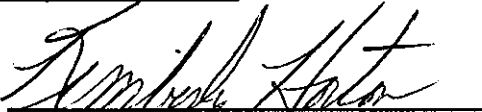
- b. If the property is occupied but remains in foreclosure, it shall be inspected by the mortgagee or its designee monthly and, within ten (10) days of that inspection, update the property registration to a vacancy status on forms provided by the municipality.
- c. A registration pursuant to this section shall contain the name of the mortgagee and the company servicing the mortgage, the direct mailing address of the mortgagee and the company servicing the mortgage, a direct contact name and telephone number for both parties, a facsimile number for both parties, an email address for both parties, identifying account number used by both parties for the property and the name of a 24-hour contact telephone number of the property management company responsible for the security and maintenance of the property.
- d. An non-refundable annual registration fee in the amount of Five Hundred Dollars (\$500) per property, shall be required to be submitted with the registration form.
- e. If the 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 annual registration fee shall be charged for every thirty-day period (30), or portion thereof, that the property is not registered and shall be due and payable with the registration.
- f. All registration fees must be paid directly from the mortgagee, servicing company, trustee or owner. Third party registration fees are not allowed without the consent of the municipality and/or its authorized designee.
- g. This section shall also apply to properties that have been subject of a foreclosure sale where the title was transferred to a beneficiary of the mortgagor involved in the foreclosure and any properties transferred under a Deed in Lieu of Foreclosure.
- h. The properties subject to this section shall remain under the annual registration requirement and the inspection, security and maintenance standards of the City of Absecon shall remain in effect as long as any property remains in foreclosure.
- i. Any person or other legal entity 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.
- j. Failure of the mortgagee to properly register or to modify the registration form from time to time to reflect the change of circumstances as required by this article shall be considered a violation of this article and shall be subject to enforcement and the penalty provisions as contained herein.
- k. To the extent that the Absecon Municipal Court or other Court of proper jurisdiction determines that any property is in violation of this article, the City of Absecon may take the necessary action to insure the property is in conformity with applicable codes and may place a lien on the property for the cost of any work performed to obtain such compliance. This lien shall be collected and enforced in the same manner as taxes.

- l. Registration of foreclosure property does not alleviate the Mortgagee from obtaining all required licenses, permits and inspections required by applicable code or State Statutes.
  - m. 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 ten (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.
  - n. 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 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 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.
  - o. Registration pursuant to this article shall be deemed as registration pursuant to Section 150 of the Code of the City of Absecon.
- 7. Maintenance requirements. All properties must be maintained in conformity with the Codes of the City of Absecon and the Laws of the State of New Jersey.
- 8. Security Requirements:
  - a. Each property subject to this Article shall be maintained in a secure manner so as not to be accessible by 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. The close and repair of any broken windows, doors, gates, and other openings of such size that may allow a child to access the interior of the property.
  - c. If a property has become vacant or abandoned, a property manager shall be designated by the mortgagee to perform the work necessary to bring the property in compliance with applicable codes and the property manager must perform regular inspections to verify compliance with the requirements of this article.
- 9. Public Nuisance: All vacant and abandoned properties are hereby declared to be a public nuisance, the abatement of which pursuant to the police powers hereby declared to be necessary for the health, welfare and safety of the residents of the City of Absecon.
- 10. Penalties. Any person who shall violate the provisions of this section shall be subject to a fine up to One Thousand Two Hundred Fifty Dollars (\$1,250) and/or thirty (30) days of community service and/or thirty (30) days in the County Jail all in the discretion of the Municipal Court Judge.
- 11. Immunity of Enforcement Officer: Any enforcement officer or any person authorized by the City of Absecon to enforce the sections herein shall be immune from prosecution, civil or criminal, or for reasonable, good faith entry, or other actions, upon the real property in the discharge of his/her official duties.

12. Severability: If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any Court of competent jurisdiction then said holding shall in no way affect the validity of the remaining portions of this Ordinance.
13. Repeal: All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.
14. Effective Date: This Ordinance shall become effective upon final passage and publication pursuant to law.

**DATED: August 4<sup>th</sup>, 2022**

**SIGNED:**

  
Kimberly Horton, Mayor

**ATTEST:**

  
Carie A. Crone, RMC, Municipal Clerk

Passed on first reading at a regular meeting of the Municipal Council held on July 7<sup>th</sup>, 2022. Laid over and advertised for public hearing and final adoption on August 4<sup>th</sup>, 2022. Notice is hereby given that the foregoing Ordinance was approved for final adoption by the Municipal Council of the City of Absecon at a regular meeting held on August 4<sup>th</sup>, 2022.