

**BOROUGH OF WOODBINE
COUNTY OF CAPE MAY**

ORDINANCE NO. 616-2023

**AN ORDINANCE AMENDING ORDINANCE 2014-547, AS AMENDED,
CHAPTER 11 OF THE CODE OF THE BOROUGH OF WOODBINE ENTITLED THE
REGISTRATION AND MAINTENANCE OF VACANT PROPERTIES.**

WHEREAS, the Borough of Woodbine (the “Borough”) contains structures which are vacant and abandoned in whole or large part; and

WHEREAS, in many cases, the owners or responsible parties of these structures are neglectful of them or are not maintaining or securing them to an adequate standard or restoring them to productive use; and

WHEREAS, it has been established that vacant and abandoned structures cause severe harm to the health, safety, and general welfare of the community, including diminution of neighboring property values, increased risk of fire and potential increases in criminal activity and public health risks; and

WHEREAS, the Borough incurs disproportionate costs in order to deal with the problems of vacant and abandoned structures, including but not limited to, excessive police calls, fire calls, and property inspections and maintenance; and

WHEREAS, it is in the public interest for the Borough to establish minimum standards of accountability on the owners, creditors or other responsible parties of vacant and abandoned structures in order to protect the health, safety and general welfare of the residents of the Borough; and

WHEREAS, it is in the public interest for the Borough to impose a fee in conjunction with registration of vacant and abandoned structures and to require creditors to be responsible for the maintenance of abandoned residential structures under certain circumstances in light of the disproportionate costs imposed upon the Borough by the presence of these structures; and

WHEREAS, the Borough has adopted Ordinance 2014-547 requiring the registration and maintenance of such abandoned and vacant properties; and

WHEREAS, as a result of the adoption of the Assembly, Bill No. 2877 introduced February 20, 2020 and becoming effective January 6, 2022, it is necessary to make certain changes to the existing Ordinance so as to allow more tools for which the municipal enforcement officers have in order to further protect agents and prevent properties within the borough of Woodbine from becoming abandoned, vacant or becoming a nuisance.

NOW, THEREFORE, BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF WOODBINE that Ordinance 2014-547, Chapter 11 of the Code of the Borough of Woodbine be deleted in its entirety and replaced, as follows:

SECTION 1. Definitions.

As used in this ordinance, the following terms shall have the meanings indicated:

ABANDONED, VACANT AND NUISANCE PROPERTY

Any property, residential or commercial which is in such condition that it cannot be legally occupied, and at which at least two of the following conditions exist:

- (1) Overgrown or neglected vegetation
- (2) The 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, or government employees indicating that the property is vacant and abandoned;
- (9) Windows or entrances to the property that are boarded up or closed off, or multiple window panes that are damaged, broken, and unrepaired;
- (10) Doors to the property that are smashed through, broken off, unhinged, or continuously unlocked;
- (11) 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;
- (12) 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;

- (13) 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;
- (14) A written statement issued by a mortgagor expressing the clear intent of all mortgagors to abandon the property; or
- (15) Construction was initiated on the property and was discontinued prior to completion, leaving the building unsuitable for occupancy, and no substantial construction has taken place for at least 6 months as of the date of determination by the public officer pursuant to this section;
- (16) At least one installment of property tax remains unpaid and delinquent on that property in accordance with Chapter 4 of Title 54 of the Revised Statutes as of the date of determination by the Public Officer pursuant to this section;
- (17) The property has been determined to be a nuisance by the Public Officer in accordance with N.J.S.A. 55:19-82
- (18) The property or any portion thereof is determined to be abandoned property in accordance with the meaning of such term in ABANDONED PROPERTY REHABILITATION ACT, N.J.S.A. 55:19-78 at. seq.
- (19) Any other reasonable indicia of abandonment.

COMMERCIAL PROPERTY

Any real estate which is defined as a “commercial” use in Chapter 26 of the Code of the Borough of Woodbine.

CREDITOR

Shall mean any 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.

INITIATION OF THE FORECLOSURE PROCESS

Shall mean any of the following actions taken by a lienholder or mortgage holder or mortgagee

- (A) taking possession of the Property

- (B) delivering a Creditors 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.

FORECLOSING

The process by which property, residential or commercial, placed as security for 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.

OWNER

- (1) Has legal or equitable title to any dwelling, dwelling unit, mobile dwelling unit or parcel of land, vacant or otherwise; or
- (2) 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, administratrix, trustee or guardian, of the estate of the holder of legal title; or
- (3) Is a mortgagee in possession of any such property;
- (4) Is an agent, trustee or other person appointed by the courts and vested with possession or control of any such property; or
- (5) 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
- (6) Every person who operates a rooming house; or
- (7) Is a trustee who holds, owns or controls mortgage loans for mortgage-backed securities transactions and has initiated the foreclosure process.
- (8) Any person or entity responsible for the maintenance or upkeep of a property pursuant to N.J.S.A. 46:10 B-51, and as required under section 530-11.
- (9) Owner shall also be defined as a **“RESPONSIBLE PARTY.”**

PROPERTY

Shall mean any real estate, residential or commercial property, or portion thereof, located in the Borough, including buildings or structures situated on the Property. Property does not include property owned or subject to the control of the Borough or any of its governmental bodies or agencies.

PUBLIC OFFICER

The Director, Department of Public Works, or his designee, is hereby designated as the Public Officer of the Borough and shall exercise the powers prescribed by this Ordinance.

RESIDENTIAL PROPERTY

Shall mean any property that contains one or more dwelling units used, intended or designed to be occupied for living purposes.

RESPONSIBLE PARTY

Shall mean the title holder of a vacant and Abandoned property or a Creditor responsible for the maintenance of a property pursuant to N.J.S.A. 46:10B-51.

SECURING

Shall mean taking measures that assist in making the property inaccessible to unauthorized persons

SECTION 2 . Registration Requirements.

The Owner, Creditor or Responsible Party of any Abandoned, Vacant and Nuisance Property as defined herein shall, within 90 calendar days after the building becomes Vacant and Abandoned Property or within 30 calendar days after assuming ownership of the Vacant and Abandoned Property, whichever is later; or 10 calendar days of receipt of notice by the Borough that the property is deemed vacant and abandoned, file a registration statement for such Vacant Property with the Code Enforcement Office on forms provided by the Borough through the Commissioner of the Department of Community Affairs for such purposes. Failure to receive notice by the Borough shall not constitute grounds for failing to register the property.

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

B. The registration statement shall include the name, street address, telephone number, and e-mail address (if applicable) of a person 21 years of age or older, designated by the Owner or Owners as the authorized agent or Responsible Party for receiving notices of code violations and for receiving process in any court proceeding or administrative enforcement proceeding 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 address (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 a 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 for one year from the date of registration. The Owner shall be required to renew the registration annually as long as the building remains a Vacant and Abandoned Property and shall pay a registration or renewal fee in the amount prescribed in Section 8 of this Ordinance for each Vacant and Abandoned Property registered.

D. The annual renewal shall be completed by January 1st of each year. The initial registration fee shall be prorated for registration statements received less than 10 months prior to that date.

E. The Owner shall notify the Code Enforcement Office within 30 calendar days of any change in the registration information by filing an amended registration statement on a form provided by the Borough for such purpose.

F. 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 Borough against the Owner or Owners of the building.

G. The Owner shall maintain insurance in accordance with Section 6 of this Ordinance.

H. The registration statement may include any additional information that the Public Officer may reasonably require.

SECTION 3. Restoration.

Any Owner of Vacant and Abandoned Property who plans to restore the property to productive use and occupancy during the twelve-month period following the date of the initial registration of the property shall file a sufficiently detailed statement of the Owner's plans for restoration of the property with the registration statement. Any Owner who within the initial registration period completes restoration of the property whereby the property no longer is defined as a Vacant Property may request a pro-rated refund of the Vacant Property registration fee from the Code Enforcement Office upon presentation of a certificate of occupancy who shall forward the request to the Public Officer for approval.

SECTION 4. Access.

The Owner of any Vacant Property registered under this Ordinance shall provide access to the Borough to conduct exterior and interior inspections of the building to determine compliance with municipal codes, upon reasonable notice to the property Owner or the designated agent. Such inspections shall be carried out on weekdays during the hours of 9:00 a.m. and 4:00 p.m., or such other time as may be mutually agreed upon between the Owner and the Borough.

SECTION 5. Responsible owner or agent.

A. An Owner who meets the requirements of this Ordinance with respect to the location of his or her residence or workplace in the State of New Jersey may designate himself or herself as agent or as the individual responsible for maintaining the property.

B. By designating an authorized agent under the provisions of this section the Owner consents to receive any and all notices of code violations concerning the registered Vacant Property and all process in any court proceeding or administrative enforcement proceeding brought to enforce code provisions concerning the registered building by service of the notice or process on the authorized agent. Any Owner who has designated an authorized agent under the provisions of this section shall be deemed to consent to the continuation of the agent's designation for the purposes of this section until the Owner notifies the Borough in writing of a change of authorized agent or until the Owner files a new annual registration statement.

C. Any Owner who fails to register a Vacant and Abandoned Property under the provisions of this Ordinance shall further be deemed to consent to receive, by posting on the building, in plain view, and by service notice at the last known address of the Owner of the property on record with the Borough by regular and certified mail, any and all notices of code violations and all process in an administrative proceeding brought to enforce code provisions concerning the building.

SECTION 6. Owner and/or Creditor requirements.

The Owner and /or Creditor of any structure that has become Vacant and Abandoned Property, and any person responsible for maintaining any such building that has become vacant shall, no sooner than 45 calendar days of the structure becoming vacant or within 30 calendar days of the Owner taking title to the property, do the following:

A. Board and secure the structure and all unattached accessory structures, garages or similar structures as provided for in the applicable codes of the Borough or as set forth in rules and regulations promulgated by the Construction Code Official.

B. Ensure that the exterior grounds of the structure, including yards, fences, sidewalks, walkways, rights-of-way, alleys, retaining walls, attached or unattached accessory structures and driveways, are well maintained and free from trash, debris, loose litter, and grass and weed overgrowth.

C. Post a sign, affixed and protected from the elements to the structure indicating the name, address and telephone number of the owner and the owner's authorized agent for the purpose of service of process, and the name, address and telephone number of the entity responsible for maintenance of the property, which may be the same as the owner or authorized agent. The sign shall include the words "No Trespassing" and "to report problems with this building, call...", shall be of sufficient size and shall be placed in a location where it is clearly visible from the nearest public street or sidewalk, whichever is nearer. The sign shall be no smaller than eight (8) inches by ten (10) inches.

D. Continue to maintain the structure in a secure and closed condition, keep the grounds in a clean and well-maintained condition, and ensure that the sign is visible and intact until the building is again occupied, demolished, or until repair and/or rehabilitation of the building is complete.

E. A Creditor serving a summons and complaint in an action to foreclose on a mortgage on residential and or commercial property or any portion thereof, in the Borough shall, within 10 days of serving the summons and complaint notify the Borough Clerk that a summons and complaint in an action to foreclose on a mortgage has been filed against the property. 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. The Borough clerk shall forward a copy of the notice to the public officer to or shall otherwise provide to any other local official responsible for administration of any property maintenance or public nuisance code. In the event that the property being foreclosed upon is an affordable unit pursuant to the Fair Housing Act, N.J.S.A. 52:27. D – 301 et seq., 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 who was authorized to accept service on behalf of the Creditor. The notice shall be provided to the Borough clerk within 10 days of service of a summons and complaint in an action to foreclose on a mortgage against the subject property. The Notice shall also provide the name and contact information 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/or abandoned.

F. The Owner of any Vacant Property shall acquire and otherwise maintain liability insurance, in an amount of not less than \$300,000 for buildings designed primarily for residential use, and not less than \$1,000,000 for any other building, including, but not limited to, buildings designed for manufacturing, industrial, storage or commercial uses, covering any damage to any person or any property caused by any physical condition of or in the building or property subject to the provisions of this ordinance. Said insurance shall provide a rider for payment of all demolition costs should the vacant building become abandoned and require the Borough to demolish the building. Any insurance policy acquired or renewed after the building has become vacant shall provide for written notice to the Public Officer within 30 calendar days of any lapse, cancellation or change in coverage. The Owner shall attach evidence of the insurance to the Owner's registration statement. Any registration statement submitted that does not include such evidence shall be deemed to be an invalid registration. Insurance must name Borough of Woodbine as party or payee for demolition costs should the Borough deem demolition is required.

G. In the event the Owner of a residential or commercial property vacates or abandons any property on which a foreclosure proceeding has been initiated as defined herein or if a residential property becomes vacant at any point subsequent to a Creditor filing the Summons and Complaint in an action to foreclose on a mortgage against the subject property, but prior to vesting of title in the Creditor or any Third Party, and/or the property is found by the Public

Officer or other authorized Borough Official to be a nuisance, in violation of any applicable State or Local Code regarding the care, maintenance, security or insurance requirements of this Ordinance, then the Public Officer or other authorized Borough Official shall cause a notice to be sent by certified and regular mail notifying the Creditor of the violation and directing the Creditor to correct the same. The Creditor shall be obligated to abate the nuisance or correct the violations in the same manner and to the same extent as the title Owner of the property, to such standards or specifications as may be required by State Law or Borough Code. The notice shall advise the Creditor that the nuisance or violations must be abated or corrected within thirty (30) days of the receipt of the notice or within ten (10) days of the receipt of said notice if the violation presents an imminent threat to public health and safety. The issuance of a notice pursuant to this paragraph shall constitute proof that the property is “vacant and abandoned” for the purposes of N.J.S.A. 2A:50-73.

SECTION 7. Rules and Regulations issued by Public Officer.

The Public Officer may issue rules and regulations for the administration of the provisions of this Ordinance. Such administratively promulgated rules and regulations shall be in writing and shall be provided to the Owners and/or Creditors of properties registered under this Ordinance or their designated agents within 30 calendar days of their effective date.

SECTION 8. Fees.

The registration and renewal fee for each building that is Vacant and Abandoned shall be as follows:

- A. Initial registration: \$250.00.
- B. First renewal: \$500.00
- C. Second and subsequent renewal: \$1,000.00
- D. All commercial properties required to be registered as being in the foreclosure process but are not required to be registered as vacant, abandoned and/or nuisance properties as defined herein shall pay a registration fee of \$500 per year and a like sum each year thereafter until the property no longer has to be registered as a property in foreclosure.
- E. All commercial properties required to be registered as being in the foreclosure process and are vacant, abandoned or nuisance pursuant to terms herein shall pay an additional \$2000.00 per property annually and an additional \$2000 per year at all times thereafter while the property is in foreclosure in addition to the fees set forth in subsection A herein above.
- F. The Borough may contract with and set the compensation of a private entity pursuant to Local Public Contracts Laws to assist the Borough in the implementation and administration of the registration program. The Borough may delegate any duties under

this Section including, without limitation, identifying properties located within the Borough that are subject to registration requirements, maintaining and updating the property registration for the Borough, invoicing and collecting payment from the Creditors for such properties any and all fees authorized in accordance herewith. All property registration fees required shall be considered a municipal charge pursuant to N.J.S.A. 54:5-1 et seq. regardless of whether said fees are being collected by a third party or by the Borough directly. All fees collected by any third-party entity on behalf of the Borough shall be paid in full without any amount deducted therefrom which funds shall be deposited within 48 hours after receipt thereof. Such amounts shall include all interest and penalties fixed at the same rate as late payments for property taxes, assessments, and other municipal charges in accordance with N.J.S.A. 54:4-67 for late payment of the property registration fees imposed in accordance herewith. The third-party entity shall at least once per year or sooner as requested by the Tax Collector, file a certification to enforce tax liens for all unpaid registration fees due and owing.

SECTION 9. Violations and penalties.

A. An out-of-state Creditor or Owner found by the Woodbine Borough Municipal Court or any other Court of Competent Jurisdiction to be in violation of the requirement to appoint an in-state representative or agent pursuant to Section 6 E of the Ordinance shall be subject to a fine of not less than \$500.00 or more than \$1,500.00 for each day of the violation Any fines imposed on a Creditor or Owner in accordance with this Paragraph shall commence on the day after the ten (10) day period set forth in Section 6 E of this Ordinance.

B. Any Creditor found by the Woodbine Borough Municipal Court or any other Court of Competent Jurisdiction to be in violation of the requirement to correct a nuisance, care, maintenance, security, insurance, or upkeep violation listed in a notice issued pursuant hereto shall be subject to a fine of \$1,500.00 per day for each day the violation remains unabated.

C. Each day a violation continues in violation of any section of this Ordinance shall be considered a new, separate, and subsequent offense.

BE IT FURTHER ORDAINED that if any section, subsection, paragraph, sentence or other part of this Ordinance is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance, but shall be confined in its effect to the section, subsection, paragraph, sentence or other part of this Ordinance directly involved in the controversy in which said judgment shall have been rendered and all other provisions of this Ordinance shall remain in full force and effect.

BE IT FURTHER ORDAINED this Ordinance shall take effect immediately upon final adoption and publication in the manner prescribed by law.