

ORDINANCE O:09-2022

**AN ORDINANCE OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF MONROE
TO AMEND CHAPTER 104 OF THE CODE OF THE TOWNSHIP OF MONROE,
ENTITLED “BUILDINGS”**

WHEREAS, the mortgage foreclosure crisis has serious negative implications for the Township as it tries to manage the consequences of property vacancies and abandoned real properties; and

WHEREAS, the Township has an interest in protecting its neighborhoods against decay caused by vacant and abandoned properties; and

WHEREAS, it is in the best interest of the health, safety and welfare of the residents of the Township to impose registration and certification requirements with respect to abandoned and vacant properties within the Township.

WHEREAS, Assembly Bill #2877 was passed by the State of New Jersey and municipalities have to amend current ordinance by August of 2022; and

WHEREAS, the Township Council of the Township of Monroe has recommended certain amendments to Chapter 104 of the Code of the Township of Monroe and has determined that it is in the best interest of the Township to amend this specific section.

NOW, THEREFORE, BE IT ORDAINED by the Township Council of the Township of Monroe that the Code of the Township of Monroe is hereby amended to include the amendments herein.

SECTION I. Chapter 104, entitled “Buildings” is hereby amended as follows:

Remove all of current Article V entitled “Abandoned Real Property” and replace as follows:

Article V. Vacant and Abandoned Real Property

§ 104-36. Purpose and Intent

It is the Township's purpose and intent 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 Monroe Township, and to identify, regulate, limit and reduce the number of abandoned properties located within the Township. The Township will designate a Third-Party Administrator which will administer the registration program at no cost to the Township. All fees paid in accordance with this section will be utilized for administration of the program.

§ 104-37. 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.

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ACCESSIBLE PROPERTY/STRUCTURE

A property that is accessible through a compromised/breached gate, fence, wall, etc., or a structure that is unsecured and/or breached in such a way as to allow access to the interior space by unauthorized persons.

APPLICABLE CODES

Includes, but shall not be limited to, the Township of Monroe Zoning Code, the Monroe Township Code and the New Jersey Building Code.

BLIGHTED PROPERTY

- A. Properties that have broken or severely damaged windows, doors, walls, or roofs which create hazardous conditions and encourage trespassing; or
- B. Properties whose maintenance is not in conformance with the maintenance of other neighboring properties, causing a decrease in value of the neighboring properties; or
- C. Properties cited for a public nuisance pursuant to the Monroe Township Code; or
- D. Properties that endanger the public's health, safety, or welfare because the properties or improvements thereon are dilapidated, deteriorated, or violate minimum health and safety standards or lack maintenance as required by the Monroe Township Code and Zoning Codes.

ENFORCEMENT OFFICER

Any law enforcement officer, building official, zoning inspector, Code Enforcement Office employee, fire inspector or building inspector, or any other person authorized by the Township of Monroe to enforce the applicable code(s).

OWNER

Any person, legal entity or other party having any ownership interest, whether legal or equitable, in real property. This term shall also apply to any person, legal entity or agent responsible for the construction, maintenance or operation of the property involved.

PROPERTY MANAGEMENT COMPANY

A local property manager, property maintenance company or similar entity responsible for the maintenance of abandoned real property.

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RESPONSIBLE PARTY

"Responsible party" means the title holder of a vacant and abandoned property or a creditor responsible for the maintenance of a property pursuant to section 17 of P.L.2008, c.127 (C.46:10B-51).

STREET ADDRESS

"Street address" means an address at which a natural person who is the responsible party or an authorized agent actually resides or actively uses for business purposes, and shall include a street name or rural delivery route.

VACANT AND ABANDONED REAL PROPERTY

A. In accordance with N.J.S.A. 40:48-2.12 sec.3, 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 (2) 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;**

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- (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) any other reasonable indicia of abandonment.

B. For the purposes of this section, a residential property shall not be considered "vacant and abandoned" if, on the property:

- (1) there is an unoccupied building which is undergoing construction, renovation, or rehabilitation that is proceeding diligently to completion, and the building is in compliance with all applicable ordinances, codes, regulations, and statutes;
- (2) there is a building occupied on a seasonal basis, but otherwise secure; or
- (3) there is a building that is secure, but is the subject of a probate action, action to quiet title, or other ownership dispute.

C. In addition to the residential mortgage foreclosure procedures set out in the "Fair Foreclosure Act," P.L.1995, c.244 (C.2A:50-53 et seq.), a summary action to foreclose a mortgage debt secured by residential property that is vacant and abandoned may be brought by a lender in the Superior Court. In addition, a lender may, at any time after filing a foreclosure action, file with the court, in accordance with the Rules Governing the Courts of the State of New Jersey, an application to proceed in a summary manner because the residential property that is the subject of the foreclosure action is believed to be "vacant and abandoned"; provided, however, that this section shall not apply to a foreclosure of a timeshare interest secured by a mortgage.

D. (1) In addition to the service of process required by the Rules of Court, a lender shall establish, for the entry of a residential foreclosure judgment under this section, that a process server has made two unsuccessful attempts to serve the mortgagor or occupant at the residential property, which attempts must

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be at least 72 hours apart, and during different times of the day, either before noon, between noon and 6 P.M., or between 6 P.M. and 10 P.M.

(2) In addition to any notices required to be served by law or the Rules of Court, a lender shall, with any order to show cause served as original service of process or a motion to proceed summarily, serve a notice that the lender is seeking, on the return date of the order to show cause, or on the date fixed by the court, to proceed summarily for entry of a residential foreclosure judgment because the property is vacant and abandoned.

(3) When a property is deemed vacant and abandoned as herein defined, a lender shall not be required to serve the debtor with the notice to cure required by section 6 of the "Fair Foreclosure Act," P.L.1995, c.244 (C.2A:50-58).

E. (1) The court may enter a final residential mortgage foreclosure judgment under this section upon a finding, (a) by clear and convincing evidence, that the residential property is vacant and abandoned as defined under subsection a. of this section, and (b) that a review of the pleadings and documents filed with the court, as required by the Rules of Court, supports the entry of a final residential mortgage foreclosure judgment.

(2) A final residential mortgage foreclosure judgment under this section shall not be entered if the court finds that:

(a) the property is not vacant or abandoned; or

(b) the mortgagor or any other defendant has filed an answer, appearance, or other written objection that is not withdrawn and the defenses or objection asserted provide cause to preclude the entry of a final residential mortgage foreclosure judgment.

§ 104-38. Effect on other provisions.

These sections shall be considered cumulative and not superseding or subject to any other law or provision for same, but rather be an additional remedy available to Monroe Township above and beyond any other state, county or local provisions for same.

§ 104-39. Establishment of registry

Pursuant to the provisions of § 104-40, the Township of Monroe shall designate a third party to create the registration program cataloging each abandoned property within the municipality, containing the information required by this chapter.

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§ 104-40. Registration Requirements of abandoned real property

- A. Any mortgagee who holds a mortgage on real property located within the Township of Monroe shall perform an inspection of the property to determine vacancy or occupancy, upon a filing of a Summons and Complaint. The mortgagee shall, within ten (10) days of the inspection, register the property with the Monroe Township Code Enforcement Office, or designee, using the website access provided by the Township of Monroe, 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, it shall be inspected by the mortgagee or his designee monthly until:
- (1) the mortgagor or other party remedies the default, or
 - (2) it is found to be vacant or shows evidence of vacancy at which time it is deemed abandoned, and the mortgagee shall, within ten (10) days of that inspection, update the property registration to a vacancy status.
- C. Registration pursuant to this section shall contain the name of the mortgagee and the servicer, the direct mailing address of the mortgagee and the servicer, a direct contact name and telephone number for both parties, facsimile number and e-mail address for both parties, tax lot and block for the property, and the name and twenty-four-hour contact telephone number of the property management company responsible for the security and maintenance of the property.
- D. A nonrefundable annual registration fee of \$500 shall be collected as a pass through fee to the designated Third Party Administrator (per the State Legislation enacted on January 18, 2022) per property shall accompany the website registration. An additional fee of \$2,000 per property annually if the property is vacant or abandoned pursuant to the above definition when the summons and complaint in an action to foreclose is filed, or becomes vacant and abandoned pursuant to the definition in the ordinance at any time thereafter while the property is in foreclosure.
- E. All registration fees must be paid directly from the mortgagee, servicer, trustee, or owner. Third-party registration fees are not allowed without the consent of Monroe Township and/or its authorized designee.
- F. This section shall also apply to properties that have 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.

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- G.** Properties subject to this section shall remain under the annual registration requirement and the inspection, security and maintenance standards of this section as long as they remain vacant and the complaint for foreclosure filed.
- H.** Any person or 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.
- I.** Failure of the mortgagee and/or owner to properly register or to modify the registration form from time to time to reflect a change of circumstances as required by this chapter is a violation of the chapter and shall be subject to enforcement.
- J.** Pursuant to any administrative or judicial finding and determination that any property is in violation of this chapter, the Township of Monroe may take the necessary action to ensure compliance with this chapter and place a lien on the property for the cost of the work performed to benefit the property and bring it into compliance.
- K.** A creditor located out-of-State shall be responsible for appointing an in-State representative or agent to act for the foreclosing creditor;

§ 104-41. Maintenance requirements.

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 as defined above and by N.J.S.A. 40:48-2.12s3.

Failure of the mortgagee and/or owner to properly maintain the property may result in a violation of the applicable code(s) and issuance of a summons where the fine shall not exceed \$1,500.00 in accordance with the Monroe Township Code. Pursuant to a finding and determination by the Monroe Township enforcement official, or a court of competent jurisdiction, Monroe Township may take the necessary action to ensure compliance with this section.

In addition to the above, the property is required to be maintained in accordance with the applicable code(s).

§ 104-42. 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

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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 reglazing of the window.

- C. If a complaint and summons has been filed, and the property has become vacant or abandoned, a property manager shall be designated by the mortgagee 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.

§ 104-43. Public nuisance.

All abandoned real property is hereby declared to be 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 Monroe Township.

§ 104-44. Enforcement; lien; penalties.

- A. Enforcement measures. The provisions of this article shall be enforced by the enforcement officer or other designated party. The enforcement officer or other designated party is hereby authorized to conduct all inspections as may be necessary to ensure compliance. Adherence to this article does not relieve any person, legal entity or agent from any other obligations set forth in any applicable code which may apply to the registered property.
- B. Notice to abate. Where any enforcement officer or other designated party fully designated shall have determined that any registered property is in violation of this article, the enforcement officer shall issue a notice to abate directing the registrant to correct the violation and abate the nuisance within the time set forth in the notice to abate. The time for abatement shall not be less than 30 days from the registrant's receipt of the notice to abate, except that if the violation presents an imminent threat to public health and safety, the time for abatement shall be within 10 days of of the registrant's receipt of notice to abate.
- C. Service of notice. Service of the notice to abate shall be made by regular mail and certified mail, return receipt requested to the address set forth in the registration for receipt of complaints of property maintenance and code violations.
- D. Failure to Comply. If the registrant fails to comply with the notice to abate within the time set forth in the notice to abate for compliance, the enforcement officer shall be permitted to enter upon said lands for the purposes of correcting the violation and abating the nuisance, take the necessary action to ensure compliance with the notice to abate and place a lien on the registered property for the cost of the work performed to benefit the registered property and bring it into compliance.

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- E.** Additional rights. The enforcement officer shall be entitled to take any other action authorized by law to obtain compliance with this Article V. Nothing in this article shall limit the rights of the enforcement officer to pursue any other action permitted in the Township Code or any other law against the registrant for failing to comply with any provision(s) of this article.
- F.** Failure to register. Failure to any creditor, person, owner or legal entity to properly register or modify the registration form from time to time to reflect a change of circumstances as required by this article is a violation of the article and shall be subject to enforcement.

§ 104-45. Violations and penalties.

- A.** Failure to register. Any person or legal entity who fails to register a registered property as required pursuant to this article, as it may be amended, and/or pay the required registration fee, upon conviction in the Municipal Court of the Township of Monroe, or such other court having jurisdiction, shall be subject to a civil penalty in an amount of \$500, plus the costs of registration, for each unregistered registered property.
- B.** Failure to appoint an in-state agent. Any out-of-state creditor who shall fail to appoint an in-state representative or agent as required in § 104-40, as it may be amended, upon conviction in the Municipal Court of the Township of Monroe, or such other court having jurisdiction, shall be subject to a civil penalty in an amount of \$2,500 per day of the violation, provided no such penalty shall commence until the day after the thirty (30) day period provided for the initial registration.
- C.** Any person, firm or corporation which shall violate any provision of this chapter shall, upon conviction thereof, shall be subject to a fine of \$2,500 for each day of the violation pursuant to N.J.S.A. 40:48-2.12s3 as determined by the court. Each day that a violation continues shall be deemed a separate offense.

§ 104-46. Inspections for violations.

Adherence to this chapter does not relieve any person, legal entity or agent from any other obligations set forth in any applicable Monroe Township code(s) which may apply to the property. Upon sale or transfer of title to the property, the owner shall be responsible for all violations of the applicable code(s), and the owner shall be responsible for meeting with the Monroe Township Code Enforcement office within forty-five (45) days for a final courtesy inspection report.

§ 104-47. Additional authority.

- A.** If the 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

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welfare, the enforcement officer may temporarily secure the property at the expense of the mortgagee and/or owner, and may bring the violations before the Monroe Township Code Enforcement Office as soon as possible to address the conditions of the property.

- B.** The Monroe Township Code Enforcement Office shall have the authority to require the mortgagee and/or owner of record of any property 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 Monroe Township Code Enforcement Office may direct the Township to abate the violations and charge the mortgagee with the cost of the abatement.
- D.** If the mortgagee does not reimburse the Township for the cost of temporarily securing the property, or of any abatement directed by the Code Enforcement Office within thirty (30) days of the Township sending the mortgagee the invoice, then such amount, together with an administrative fee of \$500 to address the Township's administrative expenses shall be a lien against the property and recorded and collected as provided by the statutes of the State of New Jersey.

§ 104-48. Opposing or obstructing enforcement officer; penalty.

Any person, firm or corporation which shall oppose, obstruct or resist any enforcement officer or any person authorized by this chapter in the discharge of duties as provided in this chapter shall be subject to penalties as set forth in § 104-45.

§ 104-49. Immunity of enforcement officer.

Any code enforcement officer or any person authorized by the Township 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.

§ 104-49.1. Waiver Period.

Any fees between November 10, 2021 through March 23, 2022 are hereby waived.

SECTION II. All prior Ordinances or parts of Ordinances inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

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SECTION III. If any word, phrase, clause, section or provision in this Ordinance shall be found by any Court of competent jurisdiction to be unenforceable, illegal, or unconstitutional, such word phrase, clause, section or provision shall be severable from the balance of the Ordinance and the remainder of the Ordinance shall remain in full force and effect.

SECTION IV. This Ordinance shall take effect twenty (20) days after final passage and publication as required by law.

TOWNSHIP OF MONROE

CNCL. PRES., GREGORY A. WOLFE

ATTEST:

**Twp. Clerk, Aileen Chiselko, RMC
or Deputy Clerk, Jennifer Harbison, RMC**

CERTIFICATION OF CLERK

The foregoing Ordinance was introduced at a meeting of the Township Council of the Township of Monroe held on the 25th day of April 2022, and will be considered for final passage and adoption at a meeting of the Township Council of the Township of Monroe to be held on 9th day of May 2022 at the Municipal Building, 125 Virginia Avenue, Williamstown, New Jersey 08094, at which time any person interested therein will be given an opportunity to be heard.

**Twp. Clerk, Aileen Chiselko, RMC
or Deputy Clerk, Jennifer Harbison, RMC**

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ROLL CALL VOTE

1st Reading

	AYES	NAYS	ABSTAIN	ABSENT
Cncl. Falcone				
Cncl. Fox				
Cncl. Garbowski				
Cncl. McKinney				
Cncl. O'Reilly				
Cncl. Valcourt				
Cncl. Pres. Wolfe				
Tally:				

2nd Reading

	AYES	NAYS	ABSTAIN	ABSENT
Cncl. Falcone				
Cncl. Fox				
Cncl. Garbowski				
Cncl. McKinney				
Cncl. O'Reilly				
Cncl. Valcourt				
Cncl. Pres. Wolfe				
Tally:				

The foregoing ordinance was hereby approved by the Mayor of the Township of Monroe on this _____ day of _____, 2022.

MAYOR RICHARD DiLUCIA