

**TOWN OF WEST NEW YORK
COUNTY OF HUDSON, STATE OF NEW JERSEY**

ORDINANCE # 14/17

**AN ORDINANCE OF THE TOWN OF WEST NEW YORK, CREATING CHAPTER 415,
ENTITLED REGISTRATION OF DEFAULTED MORTGAGE PROPERTY**

WHEREAS, the Mayor and Board of Commissioners of the Town of West New York (“Town”) desires to protect the public health, safety and welfare of the citizens of the Town and maintain a high quality of life for its citizens through the maintenance of structures and properties in the Town; and

WHEREAS, properties that are neglected and have unsecured, accessible structures have a negative impact on community value, create conditions that invite criminal activity, and foster an unsafe and unhealthy environment for children; and

WHEREAS, the present mortgage foreclosure crisis has serious negative implications for all communities trying to manage the consequences of properties that have defaulted mortgages, are in the foreclosure process, foreclosed upon and/or mortgagee owned; and

WHEREAS, often times, the foreclosing party or property owners are an absentee responsible party, and there is no local contact for such a property, which makes it difficult to notice the proper party of the violations of the Town’s Code, and to maintain the requisite level of maintenance and security on such structures or lots; and

WHEREAS, the Mayor and Board of Commissioners of the Town of West New York recognizes an increase in the number of properties with defaulted mortgages and subject to foreclosure action or foreclosed upon, (hereinafter referred to as “registrable properties”) located throughout the Town which can lead to a decline in property value, create nuisances and lead to a general decrease in neighborhood and community aesthetic; and

WHEREAS, the Mayor and Board of Commissioners of the Town of West New York have 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 Mayor and Board of Commissioners of the Town of West New York recognize it is in the best interest of the public health, safety and welfare of the residents of the Town to have a more regulated method to discourage registrable property owners and mortgagees from allowing their properties to be abandoned, neglected or left unsupervised; and

WHEREAS, the Mayor and Board of Commissioners of the Town of West New York have a vested interest in protecting neighborhoods against decay caused by registrable property and conclude that it is in the best interests of the health, safety, and welfare of its citizens and residents to impose registration requirements of registrable property located within the Town of

West New York to discourage registrable property owners and mortgagees from allowing their properties to be abandoned, neglected or left unsupervised; and

WHEREAS, the Mayor and Board of Commissioners of the Town of West New York desire to amend the Town’s code in order to establish a property registration process that will identify a contact person to address safety and aesthetic concerns to minimize the negative impact and conditions that occur as a result of the foreclosure process; and

WHEREAS, upon passage, duly noticed public hearings, as required by law, will have been held by the Mayor and Board of Commissioners of the Town of West New York, at which public hearings all residents and interested persons were given an opportunity to be heard;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Board of Commissioners of the Town of West New York that Ordinance #14/17 shall be enacted as follows:

The Mayor and Board of Commissioners of the Town of West New York find that the implementation of the following changes and additions will assist the Town in protecting neighborhoods from the negative impact and conditions that occur as a result of vacancy and lack of compliance with existing Town regulations and laws.

1. That the foregoing “Whereas” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon the adoption hereof.
2. That the Mayor and Board of Commissioners of the Town of West New York do hereby amend the Town’s Ordinances by creating Chapter 415 entitled “Registration of Defaulted Mortgage Property,” to read as follows:

**CHAPTER 415 ARTICLE I
REGISTRATION OF DEFAULTED MORTGAGE PROPERTY**

SECTION 415-1. PURPOSE AND INTENT

It is the purpose and intent of the Mayor and Board of Commissioners of the Town of West New York to establish a process to address the deterioration, crime and decline in value of Town neighborhoods caused by properties with defaulted mortgages located within the Town of West New York, and to identify, regulate, limit and reduce the number of these properties located within the Town. It is the Mayor and Board of Commissioners of the Town of West New York’s further intent to establish a registration requirement as a mechanism to protect neighborhoods from the negative impact and conditions that occur as a result of vacancy, lack of adequate maintenance and security and will provide a method to expeditiously identify a contact person for each property responsible for this protection.

It is not the intent of this article to determine the rights and liabilities of persons under agreements to which the Town is not a party. This article shall not be construed to alter the terms of any lease or other agreement between a landlord and a tenant or others relating to property that is the subject of this Article; provided that no provision of any lease or other agreement shall

be construed to excuse compliance with this article. Additionally, a violation of this article shall not in and of itself create a negligence per se standard or otherwise expand existing liability in tort for either a landlord or a tenant.

SECTION 415-2. 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.

- A. Accessible Property/Structure – means a property that is accessible through a comprised/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.
- B. Applicable Codes – means to include, but not be limited to, the Town’s Zoning Ordinance, the Town’s Property Maintenance Ordinance, Solid Waste Ordinance, Residential and Commercial Recycling Ordinance, and the State and Town Building and Fire Codes.
- C. Blighted Property – means:
 - 1. Properties that have broken or severely damaged windows, doors, walls, or roofs which create hazardous conditions and encourage trespassing; or
 - 2. Properties whose maintenance is not in conformance with the maintenance of other neighboring properties causing a decrease in value of the neighboring properties; or
 - 3. Properties cited for a public nuisance pursuant to the Town Codes; or
 - 4. 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 lacks maintenance as required by the applicable codes.
- D. Enforcement Officer – means any Law Enforcement Officer, Building Official, Zoning Official, Code Enforcement Officer, Fire Inspector, Building Inspector, or other person authorized by the Town to enforce the applicable code(s).
- E. Evidence of Vacancy - means any condition that on its own, or combined with other conditions present, would lead a reasonable person to believe that the property is vacant. Such conditions may include, but are not limited to: overgrown and/or dead vegetation; past due utility notices and/or disconnected utilities; accumulation of trash junk or debris; abandoned vehicles auto parts or materials; the absence of furnishings and/or personal items consistent with habitation or occupancy; the presence of an unsanitary, stagnant swimming pool; the

accumulation of newspapers, circulars, flyers and/or mail, or statements by neighbors, passers-by, delivery agents or government agents; or the presence of boards over doors, windows or other openings in violation of applicable code.

- F. 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.
- G. Foreclosure - shall mean the legal process by which a mortgagee, or other lien holder, terminates 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, public notice of default, 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 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
- H. Mortgagee - means 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.
- I. Owner – Owner means any person, firm, corporation or other legal entity who, individually or jointly or severally with others, holds the legal or beneficial title to any building, facilities, equipment or premises subject to the provisions of this chapter.
- J. Real Property - means any improved residential or commercial land, buildings, leasehold improvements and anything affixed to the land, or portion thereof identified by a property parcel identification number, located in the Town limits. Developed lots are considered improved land.
- K. Registrable Property – means:
 - 1. any real property located in the Town , whether vacant or occupied, that is encumbered by a mortgage in default, is 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 “default/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 or the foreclosure action has been dismissed and any default on the mortgage has been cured.

- L. Semi-Annual Registration - shall mean 6 months from the date of the first action that requires registration, as determined by the Town, or its designee, and every subsequent 6 months. The date of the initial registration may be different than the date of the first action that required registration
- M. Vacant – means any parcel of land in the Town that contains any building or structure that is not lawfully occupied or inhabited by human beings as evidenced by the conditions set forth in the definition of "Evidence of Vacancy" above which is without lawful tenant, or lawful occupant or without a certificate of occupancy. Vacant property does not mean property that is temporarily unoccupied while the residents are away on vacation, personal matters or business, or is not intended by the owner to be left vacant, so long as the period does not exceed thirty (30) days.

SECTION 415 - 3. APPLICABILITY

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 the Town above and beyond any other State or Town provisions for same.

SECTION 415 - 4. ESTABLISHMENT OF A REGISTRY

Pursuant to the provisions of Section 4, the Town or its designee, shall establish a registry cataloging each Registrable Property within the Town, containing the information required by this Article.

SECTION 415 - 5. REGISTRATION OF DEFAULTED MORTGAGE REAL PROPERTY

- A. Any Mortgagee who holds a mortgage on real property located within the Town shall perform an inspection of the property to determine vacancy or occupancy, upon default by the mortgagor. The Mortgagee shall, within ten (10) days of the inspection, register the property with the Code Enforcement Department, or its designee, on forms or other manner as directed, 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. Registration pursuant to this section shall contain the name, direct mailing address, a direct contact name, telephone number, and e-mail address for the Mortgagee/Trustee, and the Mortgage Servicer, and the name and twenty-four (24) hour contact phone number of the local property management company

responsible for the security and maintenance of the property who has the authority to make decisions concerning the abatement of nuisance conditions at the property, as well as any expenditure in connection therewith.

- C. Mortgagees who have existing registrable property on the effective date of this ordinance have 30 calendar days from the effective date to register the property with the Code Enforcement Department, or its designee, on forms or other manner as directed, and indicate whether the property is vacant or occupied. A separate registration is required for each property, whether it is vacant or occupied.
- D. If the mortgage on a registrable property is sold or transferred, the new Mortgagee is subject to all the terms of this Article. Any previous unpaid registration fees are the responsibility of the new Mortgagee or Trustee and are due and payable with their initial registration. Except if it is determined that the transferee is exempt from paying fees then the previous mortgagee will not be released from the responsibility of paying all previous unpaid fees and fines, regardless of who the mortgagee was at the time when registration was required, including but not limited to unregistered periods during the foreclosure process. The provisions of this section are cumulative with and in addition to other available remedies. Moreover, the Code Enforcement Department is authorized and empowered to refer the previous mortgagee's non-payment of previous fees and fines to a court of competent jurisdiction for disposition.
- E. If the servicing rights for a mortgage on a registrable property are sold or transferred, the registration must be updated to include all the new Servicer information within 10 days of the servicing transfer.
- F. If the Mortgagee owner of a foreclosed real property sells or transfers the property to a non-arm's length related person or entity, the transferee is subject to all the terms of this Article and within 5 days of the transfer register the property. Any previous unpaid registration fees are the responsibility of the new Registrable property owner and are due and payable with their initial registration. Except if it is determined that the transferee is exempt from paying fees then the previous mortgagee will not be released from the responsibility of paying all previous unpaid fees and fines, regardless of who the mortgagee was at the time when registration was required, including but not limited to unregistered periods during the foreclosure process. The provisions of this section are cumulative with and in addition to other available remedies. Moreover, the Code Enforcement Department is authorized and empowered to refer the previous mortgagee's non-payment of previous fees and fines to a court of competent jurisdiction for disposition.
- G. As long as the property is Registrable it shall be inspected by the Mortgagee, or designee, monthly. If an inspection shows a change in the property's occupancy status the mortgagee shall, within ten (10) days of that inspection, update the occupancy status of the property registration.

- H. A non-refundable registration fee of \$500.00 shall accompany each registration pursuant to this section.
- I. If a lis pendens, deed-in-lieu of foreclosure, or other public notice of foreclosure is filed on a property and the property was not registered and the registration fee paid at least 30 days prior to the filing date, a late fee of \$100 shall be charged per property and shall be due and payable with the registration. This section shall apply to the initial registration and registration renewals. Registrations delinquent greater than 30 days are subject to additional fines as described herein.
- J. All registration fees must be paid directly from the Mortgagee, Trustee, Servicer, or Owner. Third Party Registration fees are not allowed without the consent of the Town and/or its authorized designee.
- K. Properties subject to this section shall remain under the semi-annual registration requirement, and the inspection, security and maintenance standards of this section as long as they are registrable.
- L. Until the mortgage or lien on the property in question is satisfied, or legally discharged, the desire to no longer pursue foreclosure, the filing of a dismissal of lis pendens and/or summary of final judgment and/or certificate of title, voluntary or otherwise, does not exempt any Mortgagee holding the defaulted mortgage, from all the requirements of this article as long as the borrower is in default.
- M. 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.
- N. Failure of the Mortgagee to properly register or to modify the registration information 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 and any resulting monetary penalties and/or property liens
- O. Pursuant to any administrative or judicial finding and determination that any property is in violation of this article, the Town may take the necessary action to ensure compliance with and place a lien on the property for the cost of the work performed to benefit the property and bring it into compliance.
- P. Properties subject to this chapter shall be in accordance with the applicable code(s) of the Town.

SECTION 415 – 6. 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.

SECTION 415 – 7. REPEALER

All ordinances or parts of ordinances in conflict herewith, are hereby repealed.

SECTION 415 – 8. CODIFICATION

It is the intention of the Mayor and Board of Commissioners of the Town of West New York, that the provisions of this Ordinance shall become and be made a part of the Town Code of Ordinances; and that the sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and the word “ordinance” may be changed to “section”, “article”, or such other appropriate word or phrase in order to accomplish such intentions.

E SECTION 415 – 9. SEVERABILITY

This ordinance shall take effect upon passage and publication as required by law (according to local and state requirements).

SUMMARY OF ORDINANCE

This Ordinance establishes a property registration process that will identify a contact person to address safety and aesthetic concerns to minimize the negative impact and conditions that occur as a result of the foreclosure process.

Introduced: 4/20/17

Notice

The foregoing Ordinance was adopted for first reading by the Mayor and Board of Commissioners of the Town of West New York, New Jersey, on **April 20, 2017** and ordered published, and will be further considered before final passage at a public hearing on **May 18, 2017 at 6:30 p.m.** at the Commission Chambers, Municipal Building, West New York, NJ. A copy of this Ordinance has been posted on the bulletin board upon which public notices are customarily posted on in the Town Hall of the Town of West New York, and a copy (at no charge) is available up to and including the time of such meeting to the members of the public of the Town who shall request such copies, at the Office of the Town Clerk in said Town Hall in West New York, N.J.

Carmela Riccio, RMC
Town Clerk