

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

ORDINANCE #10/22

**ORDINANCE AMENDING CHAPTER 304 OF THE TOWN OF WEST NEW YORK
CODE ENTITLED “REAL PROPERTY” TO ESTABLISH PROPERTY
REGISTRATION RULES AND PROCEDURES**

WHEREAS, like many other densely populated municipalities within New Jersey, the Town of West New York (the “Town”) contains a significant number of vacant and abandoned buildings which present substantial concerns for a municipality when such properties are not properly maintained and secured; and

WHEREAS, it is well-established that properties that are neglected can cause challenges including the diminution of neighboring property values, the potential rise in criminal activity, public health and safety hazards, heightened risk of fires, and the reduction of municipal revenues; and

WHEREAS, due to the increased risk of blight presented by foreclosure properties, the State of New Jersey has provided municipalities with statutory tools to identify such properties, to monitor their status/condition, and mitigate the risk that these properties become vacant and abandoned and ultimately lead to blight within the community; and

WHEREAS, pursuant to N.J.S.A. § 40:48-2.12s3, the State of New Jersey has provided municipalities with the authority to adopt ordinances to establish a property registration program to identify and monitor residential and commercial properties within the municipality that is subject to a pending foreclosure action; and

WHEREAS, the foregoing statute additionally authorizes municipal ordinances to regulate the maintenance, security and upkeep of the exterior condition of vacant and abandoned residential and commercial foreclosure properties and to impose additional property registration fees to be paid by the creditors of such properties on an annual or semi-annual basis; and

WHEREAS, the Mayor and the Board of Commissioners for the Town of West New York seek to amend Chapter 304 of the West New York Code to establish additional requirements and annual registration fees for vacant and abandoned residential and commercial properties for which a summons and complaint to foreclose upon a mortgage has been filed.

NOW, THEREFORE, BE IT ORDAINED that the Mayor and the Board of Commissioners of the Town of West New York do hereby authorize Chapter 304 of the Revised General Ordinances of the Code of the Town of West New York to be amended as follows:

SECTION ONE

The term entitled “EVIDENCE OF VACANCY” within the section entitled “Definitions” under §304-2 of the Revised Ordinances for the Town of West New York is hereby deleted in its entirety.

SECTION TWO

The following terms within the “DEFINITIONS” section established under §304-2 of the Revised Ordinances for the Town of West New York are hereby amended as follows:

“OWNER”

An “Owner” shall include the title holder, any agent of the title holder having authority to act with respect to vacant/abandoned property, any foreclosing entity subject to the provisions of N.J.S.A. §46:10B-51, or any other entity determined by the Town of West New York to hold the authority to act with respect to the property.

“VACANT AND ABANDONED PROPERTY”

A property or parcel is considered vacant and abandoned when 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 of at least two conditions set forth under the definition for “VACANT AND ABANDONED CONDITIONS” below. “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 30 days.

SECTION THREE

The following terms are added to the “DEFINITIONS” section established under §304-2 of the Revised Ordinances for the Town of West New York:

“VACANT AND ABANDONED PROPERTY CONDITIONS”

- (a) overgrown or neglected vegetation;
- (b) the accumulation of newspapers, circulars, flyers, or mail on the property;
- (c) disconnected gas, electric, or water utility services to the property;
- (d) the accumulation of hazardous, noxious, or unhealthy substances or materials on the property;

- (e) the accumulation of junk, litter, trash, or debris on the property;
- (f) the absence of window treatments such as blinds, curtains, or shutters;
- (g) the absence of furnishings and personal items;
- (h) statements of neighbors, delivery persons, or government employees indicating that the property is vacant and abandoned;
- (i) windows or entrances to the property that are boarded up or closed off, or multiple windowpanes that are damaged, broken, and unrepaired;
- (j) doors to the property that are smashed through, broken off, unhinged, or continuously unlocked;
- (k) 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;
- (l) 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;
- (m) 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;
- (n) a written statement issued by a mortgagor expressing the clear intent of all mortgagors to abandon the property; or

- (o) any other reasonable indicia of abandonment.

“CREDITOR”

Defined as a mortgagee or an agent or assignee of a mortgagee, such as the servicer, who has filed a complaint in the Superior Court seeking to foreclose upon a residential or commercial mortgage. If the entity seeking to foreclose upon the residential or commercial mortgage changes as a result of an assignment, transfer, or otherwise after the filing of the foreclosure complaint in the Superior Court, the new entity shall be deemed the creditor for purposes of this section. For purposes of this section, a creditor shall not include the State, a political subdivision of the State, a State, county, or local government entity, or their agent or assignee, such as the servicer, excluding governmental entities as assignee or owner.

SECTION FOUR

§304-4 of the Town of West New York Code of Ordinances shall be amended to provide as follows:

Establishment of registry. Pursuant to the provisions set forth under §304-5, the Town or its designee shall establish a registry cataloging each “registrable property” and each “vacant and abandoned property” as defined by the information set forth in this Chapter.

SECTION FIVE

§304-5 of the Town of West New York Code of Ordinances shall be amended to provide as follows:

§304-5 Registration Requirements.

1. Property Registration Program Requirements

- 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, as evidenced by a foreclosure filing, by the mortgagor. The mortgagee shall, within 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, the creditor, and the name and 24-hour contact phone number of the local property management company responsible for the security and maintenance at the property and to make decisions regarding the abatement of nuisance conditions and any expenditures required at the property. A Creditor filing a foreclosure action in connection with a residential or commercial property shall, in addition to providing notice as required by law, register the subject property with the Town’s Property Registration Program, which shall require providing the following information: the Creditor’s contact information as set forth in this paragraph herein, the date the summons and complaint to foreclose on the mortgage was filed against the subject property, the court in which it was filed, the docket number of the filing, and whether it is “vacant and abandoned” as defined by §304-2 of this Chapter.
- c. Mortgagees who have existing registrable property on the effective date of this article 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 and/or servicing on a Registrable 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.
- e. A nonrefundable annual registration fee of \$500.00 shall accompany each registration pursuant to this section. If a property falls within the definition for "vacant and abandoned" as provided under §304-2, there shall be an annual registration fee of \$2,000.00.
- f. 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 Foreclosed Property.
- g. As long as the property is subject to registration with the Town's Property Registration Program, it shall be inspected monthly by the mortgagee, or designee. If an inspection shows a change in the property's occupancy status, the mortgagee shall update the occupancy status of the property registration within 10 days of that inspection.
- h. Each individual property on the Registry that has been registered for six (6) months or more prior to the Effective Date shall have thirty (30) days to renew the registration and pay the non-refundable \$500.00 annual registration fee. Properties registered less than six (6) months prior to the Effective Date shall renew the registration upon expiration and every twelve (12) months thereafter and shall pay the non-refundable \$500.00 annual registration fee.
- i. If the Foreclosing or Foreclosed 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, the property is not registered and shall be due and payable with the registration.
- 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 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 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 foreclosure mortgage from all the requirements of this article as long as the borrower is in foreclosure.
- 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 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.
 - q. The creditor filing a summons and complaint in an action to foreclose shall, if the registered property becomes “vacant and abandoned” as defined under §304-2, after the property is initially registered with the municipality, update the property registration with the municipality to reflect the change in the property’s status.
 - r. A creditor filing a summons and complaint for foreclosure against a Property, the creditor shall be responsible for the care, maintenance, security, and upkeep of the exterior at the property, if it is “vacant and abandoned” at any time while the property is registered with the Town’s Property Registration Program.
 - s. A creditor located out-of-State shall be responsible for appointing an in-State representative or agent to act for the foreclosing creditor.
 - t. A creditor filing a summons and complaint in an action to foreclose on a property, that is or becomes “vacant and abandoned”, relating to the care, maintenance, security, and upkeep of the exterior of the property, shall be required to maintain the property as required by the Town of West New York including but not limited to the requirements set forth within Chapter 299. The creditor is required to secure the premises against unauthorized entry and post a sign that is affixed to the inside of the property and visible to the public, indicating the name, address, and telephone number of the creditor or an out-of-State creditor’s in-State representative or agent for the purpose of receiving service of process, or acquire and otherwise maintain liability insurance by procuring a vacancy policy, covering any damage to any person or any property caused by any physical condition of the property while registered with the property registration program.
2. The Construction Official or his/her designee shall be responsible for administration of any property maintenance or public nuisance code to issue a notice to the creditor filing the summons and complaint in an action to foreclose, if the Construction Official or his/her designee determines that the creditor has violated the provisions of this Chapter. In the case of a violation for failure to provide care, maintenance, security, and upkeep of the exterior of vacant and abandoned property, such notice shall require the person or entity to correct the violation within 30 days of receipt of the notice, or within 10 days of receipt of the notice if the violation presents an imminent threat to public health and safety.

SECTION SIX

Chapter 304 shall be amended to include an additional section entitled “Third Party Collection of Registration Fee”:

Third-Party Collection of Registration Fees. The Town is authorized to contract with and set the compensation of a private entity, pursuant to the “Local Public Contracts Law,” P.L.1971, c.198 (c.40A:11-1 et seq.) to assist the Town in the implementation and administration of the property registration program established by this Chapter. The Town may delegate to a private Third-Party Entity any duties under the property registration program, including, without limitation, identifying properties located within the Town that are subject to the registration requirements set forth herein, maintaining and updating the property registrations for the Town,

communicating with the creditors or the in-State representative or agent appointed by creditors located out of State of such properties, invoicing and collecting payment from the creditors for such properties any fees authorized and established by this Chapter, and monitoring compliance with the registration requirements provided herein. The Third-Party Unit may be authorized to conduct additional property registration services on behalf of the Town pursuant to a shared services agreement subject to the “Uniform Shared Services and Consolidation Act,” P.L.2007, c.63 (C.40A:65-1 et al.). Property Registration fees imposed by this ordinance and adopted by the Town pursuant to N.J.S.A. § 40:48-2.12s3 shall be considered a municipal charge pursuant to the “tax sale law,” R.S.54:5-1 et seq., regardless of whether the fees are being collected by a Third-Party Entity or by the Town directly. Contracts between the Town of West New York and a Third-Party Entity are subject to rules and regulations adopted by the Local Finance Board of the Department of Community Affairs for such contracts entered with third-party entities for the implementation and administration of a municipal Property Registration Program.

SECTION SEVEN

Chapter 304 shall be amended to include an additional section entitled “Third Party Collection of Registration Fee”:

Unpaid Registration to become Municipal Lien. Notwithstanding the provisions of N.J.S.A. §40A:5-15 to the contrary, the Town of West New York is authorized to contract with a Third-Party Entity to be responsible for the collection of the property registration fees as set forth within this Chapter. Such fees collected by the third-party entity shall be provided to the Town of West New York pursuant to the timeframe specified in the contract between the Town and the Third-Party Entity. Amounts collected by the Third-Party Entity on behalf of the Town shall be paid over in full to the Town without any amount deducted for payment for services rendered by the Third Party. Once the collected fees are paid to the Town, the officer charged with the custody of the Town’s general funds shall deposit all such funds within 48 hours after the receipt thereof to the credit of the municipality in its designated legal depository. This amount shall include any additional amounts collected on the Town’s behalf including interest and penalties assessed for late payment of property registration fees established within this Chapter at the rate of interest and penalties rate fixed by the Town for late payment of property taxes, assessment, and other municipal charges as provided under R.S. 54:4-67. The Third-Party Entity shall at least once a year, or as requested by the Town’s municipal tax collector, file a certification as may be required by the tax collector to enforce tax liens for all unpaid property registration program fees due and owing at the time the certification is filed.

SECTION EIGHT

Violations and penalties.

1. A municipal court summons shall be issued for any Creditor that fails to comply with the Property Registration Requirements as set forth within this Chapter.
2. An out-of-State creditor subject to this ordinance found by the municipal court of the Town of West New York, or by any other court of competent jurisdiction, to be in violation of the requirement to appoint an in-State representative or agent pursuant to the ordinance shall be subject to a fine of \$2,500 for each day of the violation.
3. A creditor subject to this ordinance found to be in violation by the Town of West New York Municipal Court, or by any other court of competent jurisdiction, excluding only a violation addressed by paragraph (2) of this subsection, shall be subject to a fine of \$1,500 for each day of the violation. Any fines imposed pursuant to this paragraph shall commence 31 days following receipt of the notice of violation, except if the violation presents an imminent risk to public health and safety, in which case any fines shall commence 11 days following receipt of the notice.

4. Late payment of property registration fees established within this Chapter shall be subject to the same rate of interest and penalties fixed by the Town for late payment of property taxes, assessment, and other municipal charges as provided under R.S. 54:4-67.

SECTION NINE

Portion of revenue to support code enforcement. 20% of all revenue generated by the application of this Chapter shall be utilized for the sole purpose of carrying out municipal activities related to Code Enforcement, abatement of nuisance conditions, and other activities designed to minimize blight and/or promote the productive use of properties within the Town of West New York.

SECTION TEN

Severability. The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause or phrase thereof for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses and phrases of this Ordinance, but shall remaining in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION ELEVEN

Repealer. All Ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only however, to the extent of such conflict or inconsistency, it being the legislative intent that all Ordinances or part of ordinances now existing or in effect unless the same being conflict or inconsistent with any provision of this Ordinance shall remain in effect.

SECTION TWELVE

Codification. It is the intention of the Mayor and Board of Commissioners of the Town of West New York that the provisions of this article shall become and be made a part of the Town Code of Ordinances, and that the sections of this article 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.

SECTION THIRTEEN

This Ordinance shall take effect upon passage and publication as required by law.

SUMMARY OF ORDINANCE

This Ordinance amends Chapter 304 entitled “Real Property” within the Town of West New York Code to include additional property registration requirements and fees in accordance with N.J.S.A. § 40:48-2.12s3.

Introduced: June 8, 2022

Adopted: July 13, 2022

Statement

The foregoing ordinance having been previously adopted for first reading and published was further considered by the Mayor and Board of Commissioners of the Town of West New York on **July 13, 2022** and at said date was duly and finally adopted after public hearing thereon.

Adelanny Plaza, RMC
Town Clerk

Commissioner Victor M. Barrera

Commissioner Cosmo A. Cirillo, PhD.

Commissioner Margarita A. Guzman

Commissioner Yoleisy Yanez

Mayor Gabriel Rodriguez
BOARD OF COMMISSIONERS

Attest: _____
Adelanny Plaza, RMC
Town Clerk