

**ORDINANCE
O-16-22**

AMENDING CHAPTER 295 - PROPERTY MAINTENANCE

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

WHEREAS, the Township of Franklin recognizes an increase in the number of vacancies and abandoned properties located throughout the Township; and

WHEREAS, the Township is challenged to identify and locate responsible parties of foreclosing parties who can maintain the properties that are in the foreclosure process or that have been foreclosed; and

WHEREAS, the Township finds that the presence of vacant and abandoned properties can lead to a decline in property value, create attractive nuisances and lead to a general decrease in neighborhood and community aesthetic; and

WHEREAS, pursuant to N.J.S.A. 40:48-2, the governing body of a municipality is authorized to enact and amend ordinances as deemed necessary for the preservation of the public health, safety and welfare and as may be necessary to carry into effect the powers and duties conferred and imposed upon the municipality by law; and

WHEREAS, pursuant to P.L. 2021, c. 444, the governing body of a municipality is authorized to adopt or amend ordinances creating a property registration program for the purpose of identifying and monitoring properties within the municipality for which a summons and compliant in an action to foreclosure on a mortgage has been filed, regulate the care, maintenance, security and upkeep of such properties, and impose a registration fee on the mortgagee of such properties; and

WHEREAS, the Township has 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 Township desires to amend the Township's Code in order to participate in the County-wide registration program established by Gloucester County that will identify a contact person to address safety and aesthetic concerns to minimize the negative impacts and blighting conditions that occur as a result of the foreclosures; and

WHEREAS, the Township has a vested interest in protecting neighborhoods against decay caused by vacant and abandoned properties and concludes that it is in the best interests of the health, safety, and welfare of its citizens and residents to amend registration and certification requirements on foreclosure properties located within the Township; and

WHEREAS, upon passage, duly noticed public hearings, as required by law will have been held by the Township, at which public hearings all residents and interested persons were given an opportunity to be heard.

NOW THEREFORE, BE IT ORDAINED, by the Township Committee of the Township of Franklin, County of Gloucester, State of New Jersey, that the codified Ordinance of the Township of Franklin is hereby deleted in its entirety and replaced as follows:

SECTION 1

§ 295-1. Purpose.

- A. It is the purpose of this chapter to protect the public health, safety and welfare by establishing minimum standards for the maintenance of properties within the Township of Franklin.

- B. This chapter is hereby declared to be remedial and essential for the public interest, and it is intended that this chapter be liberally construed to effectuate the purpose stated herein.

§ 295-2. Definitions.

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

ACCESSIBLE PROPERTY/STRUCTURE

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.

APPLICABLE CODES

Shall mean to include, but not be limited to, Franklin Township's Zoning Code, Franklin Township's Code of Ordinances ("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 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 lacks maintenance as required by the Township and Zoning Codes.

BUILDING

A structure having a roof supported by columns or walls with proper footing/foundation with no more than one open side.

BULKY WASTE

All waste material including but not necessarily limited to major appliances, motor vehicle parts, tires, tree stumps, demolition materials, refuse and debris excepting garbage or recyclable trash at curbside for trash collection in compliance with the rules and regulation for trash collection.

JUNK VEHICLE

Any motorized or unmotorized vehicle, airplane, boat, vehicle trailer or trailer coach without a currently valid license plate or plates, insurance, registration and inspection and is either inoperative, rusted, dismantled, wrecked or in a condition whereby repairs to place said vehicle in an operative condition would be economically unsound or other condition that the public officer determines that it warrants such classification.

LOT

A designated parcel, tract or area of land established by a plat or otherwise as permitted by law and to effectuate the purpose of this chapter where applicable shall include the undeveloped area of a street right-of-way which is adjacent to the lot.

FORECLOSURE

The legal process by which a mortgagee terminates a mortgagor's interest in real property either to obtain legal and equitable title to the real property pledged as security for a debt or to force a sale of said property to satisfy a debt. For purposes of this article, this process begins

upon the service of a summons and complaint on the mortgagor or any interested party. For purposes of this article, the process is not concluded until the property is sold to a bona fide purchaser not related to the mortgagee in an arm's-length transaction whether by Sheriff's sale, private sale following a Sheriff's sale, or private sale following the vesting of title in the mortgagee pursuant to a judgment.

MORTGAGEE

The creditor, including but not limited to, lenders in a mortgage agreement; any agent, servant, or employee of the creditor; any successor in interest; or any assignee of the creditor's rights, interests, or obligations under the mortgage agreement, excluding governmental entities as assignee or owner.

OBNOXIOUS DEBRIS

Including but not necessarily limited to bulky waste, junk vehicles, as defined in this chapter, and material and equipment and other such conditions that the public officer determines that it warrants such classification.

OBNOXIOUS GROWTH

Including but not necessarily limited to tall, uncultivated grass and weeds and other such conditions the public officer determines that it warrants such classification.

PROPERTY MANAGEMENT COMPANY

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

PUBLIC OFFICER

The officer(s) who shall enforce the provisions of this chapter shall be the Township of Franklin Zoning Officer and police officers or any other person designated by resolution of the Township Committee.

TRAILER COACH

A vehicle used or so constructed as to permit its being used as a licensed conveyance upon the public streets or highways and constructed in such a manner as will permit its occupancy as a dwelling unit. This term shall also include campers and mobile homes.

UNREGISTERED VEHICLE

Any motorized or unmotorized vehicle, airplane, boat, vehicle trailer, trailer coach subject to registration laws without a currently valid license plate or plates, insurance, registration and inspection that is not in a condition of a junk vehicle.

VACANT/ABANDONED PROPERTY

Any real property located in the Township of Franklin, whether vacant or occupied, that a complaint and summons has been filed with respect to foreclosure on a mortgage, has had a lis pendens filed against it by the Lender holding a mortgage on the property, is subject to an ongoing foreclosure action by the Lender, has been transferred to the Lender under a deed in lieu of foreclosure, or meets the definition of abandoned property in N.J.S.A. 55: 19-80, et seq. The designation of a property as "abandoned" shall remain in place until such time as the property is sold or transferred to a new owner, the foreclosure action has been dismissed, and any default on the mortgage has been cured.

§ 295-3. Obnoxious growths prohibited.

It shall be unlawful for any owner or owners, occupant or occupants of any developed lot or lots or any lot or lots approved for development and/or under construction within the Township of Franklin to allow any brush, tall uncultivated grass, weeds or other obnoxious growths or impediment to grow thereon or to allow dead or dying trees which if left in the

natural state will prevent free or uninterrupted passage and said growth or decay is likely to become a public health, safety or fire hazard or has an adverse effect or impairment of visual or aesthetic scenes or vistas or is a nuisance, annoyance or interference with the overall enjoyment or general well being of the public.

§ 295-4. Obnoxious debris prohibited.

It shall be unlawful for any owner or owners, occupant or occupants of any lot or lots within the Township of Franklin to allow, store or keep the accumulation of filth, garbage, trash, debris, junk vehicles or bulky waste which will prevent free or uninterrupted passage or become a public health, safety, fire hazard thereon or which is an adverse effect or impairment of visual or aesthetic scenes or vistas or is a nuisance or annoyance or interference With the overall enjoyment or general well-being of the public.

§ 295-5. Unregistered vehicles; registered vehicles; exceptions.

- A. It shall be unlawful for any owner or owners, occupant or occupants of any lot within the Township of Franklin to keep or store more than one unregistered vehicle that is outside of an enclosed building and also no unregistered vehicle shall be used for storage or stored on vacant land. Also, any such area whereby any unregistered vehicle is kept or stored shall be located in the rear yard, and such area shall be properly screened from adjacent property owners and the general public in order to eliminate or reduce an adverse effect or impairment of visual or aesthetic scenes or vistas and to prevent such area from becoming a nuisance or annoyance or interference with the enjoyment or general well-being of any resident of this municipality.
- B. Registered vehicle trailers and coaches stored on a property are strictly prohibited unless Township Council has approved the same by way of temporary permit for limited duration set forth in a Resolution. This section shall not apply to vehicle trailers and coaches registered to the property owner and temporarily parked or stored on the property.\
- C. This section shall not apply to unregistered vehicles and equipment incidental to a permitted use and utilized as part of normal business operations, whereby the same may not be required to be registered to accomplish the purpose they serve.

§ 295-6. Special permit.

- A. The spirit and intent of this section is that permit(s) may be issued only if the public interest is not jeopardized and only if the issuance of said permit will not substantially impair the intent and purpose of this chapter. Therefore, it is hereby recognized that specific circumstances, including but not necessarily limited to antique car hobbyist and vehicle temporarily out-of-service, may allow the public officer upon application for the same to waive the one unregistered vehicle limit set forth in § 295-SA; however, under no circumstances shall more than four unregistered vehicles be permitted outside of an enclosed building. Also, this section shall only apply to passenger automobiles, motorcycles and trucks no greater than 3/4 ton gross vehicle weight, whereas trailer coaches and all other unregistered vehicles are strictly prohibited.
- B. The applicant shall apply in writing to the public officer for an annual permit to maintain unregistered vehicles as per this section and pay an annual fee of \$10 (nonrefundable before the 31st day of January each year.)
- C. Furthermore, the public officer is hereby authorized to approve a special permit subject to reasonable conditions which may be necessary in order to mitigate adverse effects of the same.
- D. Appeals to the Board of Adjustment may be taken by any interested party affected by any decision of the public officer based on or made in the enforcement of this section. The fees and procedures for a hardship/bulk variance shall apply.
- E. The public officer shall make an investigation of the application for a special permit and shall take the following into consideration:

- (1) The location of the premises and its character and relationship to the surrounding neighborhood.
- (2) The lot area, street frontage, lot depth and other physical characteristics of the premises.
- (3) The location on the premises where the vehicles will be kept and their relationship to adjacent dwellings, structures and open spaces.
- (4) Any other information that may be deemed reasonable and necessary in order to carry out the spirit and intent of this chapter.

§ 295-7. Violations and penalties.

Any owner or owners, occupant or occupants of any premises neglecting to remove any brush, tall uncultivated grass, weeds, dead or dying trees or other obnoxious growth, filth, garbage, trash or other obnoxious debris or junk vehicles, bulky waste, unregistered vehicles, vehicle-trailers or trailer coaches from said lands and premises in the Township of Franklin within ten (10) days after being notified to remove the same by or through the public officer shall, upon conviction before the Franklin Township Municipal Court, be subject to a fine in the sum of not more than \$100 for each first offense and not more than \$200 for each subsequent offense. Each day following such ten-day notice shall constitute a new and separate offense hereunder.

Any person who fails to register abandoned real property on an annual basis, as set forth in § 295-10, shall be subject to a fine of \$300.

§ 295-8. Noncompliance to be a lien on lands and premises; costs.

- A. Upon the failure of any owner or owners, occupant or occupants of any premises to remove brush, tall uncultivated grass, weeds, dead or dying trees or other obnoxious growth, filth, garbage, trash or other obnoxious debris, junk vehicles, bulky waste, unregistered vehicles, vehicle trailers or trailer coaches within 10 days after notification, the public officer shall cause the same to be removed; and the cost thereof shall be certified to the officer or officers whose duty it is to assess and levy the taxes of the Township of Franklin and shall thereupon be charged against said lands and premises and become and be a first and paramount lien upon said lands and premises and shall be added to and become and form a part of the taxes assessed against said lands and premises and shall be collected with and in the same manner as the taxes next to be assessed and levied upon said lands and premises, the same to bear interest at the same rate as taxes, and shall be collected and enforced by the same officers and in the same manner as taxes.
- B. The following costs to be charged and collected against said lands and premises for noncompliance with this chapter shall be as follows:
 - (1) The actual costs paid for by or on behalf of the Township of Franklin for the cleanup of said property; or
 - (2) In the event that the Township of Franklin Public Work employees perform any property maintenance, an amount equal to a minimum charge of \$500 plus \$500 per ton thereafter and \$100 per hour per employee plus \$100 per hour per piece of equipment for the time spent performing said property maintenance.

§ 295-9. Imposition and collection of fine; remedy cumulative.

The imposition and collection of the fine imposed by this chapter shall not bar the right of the Township of Franklin to collect the cost of removal in the manner as required in this chapter, and the remedy shall be cumulative.

§ 295-10. Registration of Abandoned Real Property

- A. Any mortgagee who holds a mortgage on real property shall perform an inspection of the property to determine vacancy or occupancy, upon the filing with respect to

foreclosure on a mortgage. The mortgagee shall, within ten (10) days of the inspection, register the property with the Division of Code Enforcement, or designee, on forms or website access provided by Franklin Township, and indicate whether the property is vacant or occupied. A separate registration is required for each property, whether it is found to be vacant or occupied.

- B. If the property is occupied but remains in foreclosure, it shall be inspected by the mortgagee or his/her designee monthly within ten (10) days of that inspection, update the property registration to a vacancy status on forms provided by Franklin Township.
- C. Registration pursuant to this section shall contain the name of the mortgagee and the server, the direct mailing address of the mortgagee and the server, a direct contact name and telephone number for both parties, facsimile number and e-mail address for both parties, the folio or tax number, and the name and twenty-four (24) hour contact telephone number of the property management company responsible for the security and maintenance of the property.
- D. A non-refundable annual registration fee in the amount of \$500.00 per property shall accompany the registration form or website registration.
- E. If the property is not registered, or the registration fee is not paid within thirty (30) days of when the registration or renewal is required pursuant to this section, a late fee equivalent to ten percent (10%) of the annual registration fee shall be charged for every thirty-day period (30), or portion thereof, that the property is not registered and shall be due and payable with the registration.
- F. All registration fees must be paid directly from the Mortgagee, Servicer, Trustee, or Owner. Third Party Registration fees are not allowed without the consent of Franklin Township and/or its authorized designee.
- G. 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.
- H. 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 in foreclosure.
- I. 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.
- J. Failure of the Mortgagee to properly register or to 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.
- K. Pursuant to any administrative or judicial finding and determination that any property is in violation of this article, the Township 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.
- L. Registration of foreclosure property does not alleviate the Mortgagee from obtaining all required licenses, permits and inspections required by applicable code or State Statutes.
- M. If the mortgage and/or servicing on a property is sold or transferred, the new Mortgagee is subject to all the terms of this Chapter. Within ten (10) days of the transfer, the new Mortgagee shall register the property or update the existing registration. The previous Mortgagee(s) will not be released from the responsibility of paying all previous unpaid fees, fines, and penalties accrued during that Mortgagee's involvement with the Registrable Property.
- N. If the Mortgagee sells or transfers the Registrable Property in a non-arm's length

transaction to a related entity or person, the transferee is subject to all the terms of this Chapter. Within ten (10) days of the transfer, the transferee shall register the property or update the existing registration. Any and all previous unpaid fees, fines, and penalties, regardless of who the Mortgagee was at the time registration was required, including but not limited to unregistered periods during the Foreclosure process, are the responsibility of the transferee and are due and payable with the updated registration. The previous Mortgagee will not be released from the responsibility of paying all previous unpaid fees, fines, and penalties accrued during that Mortgagee's involvement with the Registrable Property.

§ 295-11. Maintenance Requirements

- A. Properties subject to this chapter shall be kept free of weeds, overgrown brush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspapers, circulars, flyers, notices, except those required by federal, state or local law discarded personal items including, but not limited to, furniture, clothing, large and small appliances, printed material or any other items that give the appearance that the property is abandoned.
- B. The property shall be maintained free of graffiti or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior structure.
- C. Front, side, and rear yards, including landscaping, shall be maintained in accordance with the applicable code(s) at the time registration was required.
- D. Yard maintenance shall include, but not be limited to, grass, ground covers, bushes, shrubs, hedges or similar plantings, decorative rock or bark or artificial turf/sod designed specifically for residential installation. Acceptable maintenance of yards and/or landscape shall not include weeds, gravel, broken concrete, asphalt or similar material.
- E. Maintenance shall include, but not be limited to, watering, irrigation, cutting and mowing of required ground cover or landscape and removal of all trimmings.
- F. Pools and spas shall be maintained so the water remains free and clear of pollutants and debris and shall comply with the regulations set forth in the applicable code(s).
- G. 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 citation or Notice of Violation in accordance with § 295-7.
- H. If the Township expends public funds in order to abate a nuisance or correct violation on a residential property in situations in which the mortgagee and/or owner was given notice, but failed to abate the nuisance or correct the violation as directed, the Township shall have the same recourse against the creditor as it would have against the title owner of the property pursuant to § 295-8.
- I. In addition to the above, the property is required to be maintained in accordance with the applicable code(s).

§ 295-12. Security Requirements

- A. Properties subject to this Chapter 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 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 mortgage on a property is in default, 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 article, and any other applicable laws.

§ 295-13. 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 the Township.

§ 295-14. Inspections for Violations

Adherence to this article does not relieve any person, legal entity or agent from any other obligations set forth in any applicable 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 Township's Code Enforcement Division within forty-five (45) days for a final courtesy inspection report.

§ 295-15. Opposing, Obstructing Enforcement Officer; Penalty.

Whoever opposes, obstructs or resists any enforcement officer or any person authorized by the enforcement office in the discharge of duties as provided in this chapter shall be punishable as provided in the applicable code(s) or a court of competent jurisdiction.

§ 295-16. Immunity of Enforcement Officer

Any 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 article.

SECTION 2. If any section, sentence, clause, provision or portion of this Ordinance shall be held to be invalid or unconstitutional by any Court of the competent jurisdiction, such holdings shall not effect or impair any other section, sentence, clause, provision or portion of this Ordinance.

SECTION 3. This Ordinance shall take effect immediately upon its final passage, adoption and publication provided by law

ATTEST:

TOWNSHIP OF FRANKLIN

Barbara Freijomil, Clerk

John Bruno, Mayor

CERTIFICATION

I, Barbara Freijomil, Clerk of the Township of Franklin, County of Gloucester, do here certify that the foregoing Ordinance was introduced at the Regular Meeting of the Township of Franklin held on June 14, 2022 and thereafter duly advertised in the legal newspaper of the Township at least seven (7) days prior to it being considered for final passage and adoption at a subsequent meeting to be held on July 12, 2022 at which time any person interested therein will be given an opportunity to be heard.

Barbara Freijomil, Municipal Clerk

Introduced June 14, 2022

Name	Motion	Second	Yes	No	Abstain	Absent
Doyle						
Deegan						
Petsch-Wilson						
Flaim						
Bruno						

Adopted July 12, 2022

Name	Motion	Second	Yes	No	Abstain	Absent
Doyle						
Deegan						
Petsch-Wilson						
Flaim						
Bruno						