ORDINANCE 0010 – 2022

WASHINGTON TOWNSHIP
GLOUCESTER COUNTY

ORDINANCE AMENDING CHAPTER 179 OF THE CODE OF THE TOWNSHIP OF WASHINGTON ENTITLED "ABANDONED REAL PROPERTY"

WHEREAS, the Township of Washington (the "Township") is a municipal corporation organized and operating under the laws of the State of New Jersey; and

WHEREAS, New Jersey has recently adopted legislation concerning the institution and maintaining of Vacant and Abandoned Property ("VAP") registries; and

WHEREAS, the Governing Body of the Township has determined that it would be appropriate to amend the Township's current VAP registry Ordinance to reflect the new State legislation; and

WHEREAS, pursuant to N.J.S.A. 40:48-2, the Governing Body 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 Township by law; and

NOW, THEREFORE, BE IT ORDAINED by the Governing Body of the Township of Washington that the Code of the Township of Washington is hereby amended, revised and/or supplemented as follows:

SECTION 1. Chapter 179, Article VI of the Code of the Township of Washington is hereby repealed and replaced in its entirety to read as follows:

ARTICLE VI – ABANDONED REAL PROPERTY

§ 179-75 Purpose.

It is the purpose and intent of the Township of Washington to establish a process to address the deterioration and blight of Township of Washington neighborhoods caused by an increasing amount of abandoned, foreclosed or distressed real property located within the Township of Washington, and to identify, regulate, limit and reduce the number of abandoned properties located within the Township of Washington. It is the Township of Washington's further intent to participate in the county-wide registration program established by Gloucester County and administered by Community Champions Corporation as a mechanism to protect neighborhoods from becoming blighted due to the lack of adequate maintenance and security of abandoned and foreclosed properties.

§ 179-76 Definitions.

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

Includes, but is not limited to, the Township of Washington's Zoning Code, the Code of the Township of Washington 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 of Washington 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 Township of Washington Zoning and Construction Codes.

CREDITOR

A State chartered bank, savings bank, savings and loan association or credit union, any person required to be licensed under the provisions of the "New Jersey Residential Mortgage Lending Act," sections 1 through 21 39 of P.L.2009, c.53 (C.17:11C-51 through C.17:11C-89), and any entity, agent, or assignee acting on behalf of the creditor named in the debt obligation including, but not limited to, servicers, who has filed a complaint in the Superior Court seeking to foreclose upon a residential or commercial mortgage. A creditor shall not include the State, a political subdivision of the State, or a State, county, or local government entity, or their agent or assignee, such as the servicer.

ENFORCEMENT OFFICER

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

OWNER

The title holder, any agent of the title holder having authority to act with respect to a vacant property, and foreclosing entity subject to the provisions of P.L. 2021, c.444, or any other entity determined by the Township to have authority to act with respect to the property.

PROPERTY MAINTENANCE COMPANY

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.

VACANT AND ABANDONED PROPERTY

Any property not legally occupied by an Owner or tenant, which is in such condition that it cannot be legally reoccupied, because of the presences or finding of at least two of the following:

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 window panes 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 Township building, housing, or similar Code section during the preceding year, or an order by Township authorities declaring the property to be unfit for human occupancy and to remain vacant and unoccupied;
m. a 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.

§ 179-77 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 Township of Washington above and beyond any other state, county or local provisions for same.

§ 179-78 Maintenance requirements.

a. Properties subject to this article 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 creditor 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 Chapter 1, Article II, of the Code of the Township of Washington. Pursuant to a finding and determination by the Township of Washington's Code Enforcement Officer or a court of competent jurisdiction, the Township of Washington may take the necessary action to ensure compliance with this section.
h. In addition to the above, the property is required to be maintained in accordance with the applicable code(s) of the Township of Washington.

§ 179-79 Security requirements.

a. Properties subject to this article 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 creditor 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.

§ 179-80 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 of Washington.

§ 179-81 Other provisions; inspection upon sale.

a. If the Enforcement Officer has reason to believe that a property subject to the provisions of this article is posing a serious threat to the public health, safety and welfare, the Code Enforcement Officer may temporarily secure the property at the expense of the creditor and/or owner. Any person who is found to be in violation of this section is, upon written request, entitled to a hearing before the Enforcement Officer.

b. The Enforcement Officer shall have the authority to require the creditor 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 Code Enforcement Board or Special Magistrate may direct the Township of Washington to abate the violations and charge the creditor with the cost of the abatement.
d. If the creditor does not reimburse the Township of Washington for the cost of temporarily securing the property, or of any abatement directed by the Code Enforcement Board or Special Magistrate, within 30 days of the Township of Washington sending the creditor the invoice, then the Township of Washington may lien the property with such cost, along with an administrative fee of $500 to recover the administrative personnel services.

§ 179-82 Opposition or obstruction to enforcement; 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 article shall be punishable as provided in the applicable code(s) or a court of competent jurisdiction.

§ 179-83 Immunity of Enforcement Officer.

Any Enforcement Officer or any person authorized by the Township of Washington 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.

§ 179-84 Establishment and administration of registry for properties in foreclosure.

a. The Township shall create and maintain a registry of all commercial and/or residential properties within the Township for which a summons and complaint in an action to foreclose has been filed with the New Jersey Superior Court, pursuant to its authority granted by P.L. 2021, c.444. This registry will be formed and maintained to assist the Township with regulating the maintenance, security, and upkeep of properties which may become vacant and abandoned during the foreclosure process, in order to prevent the deleterious effects of blight associated with vacant and abandoned properties that are not maintained.
b. The Township may, at its discretion, create, maintain, and administer this registry independently, retain the professional services of a third party pursuant to the Local Public Contracts Law, N.J.S.A. 40A:11-1, *et seq.*, or participate in a Shared Services Agreement with other local units, Counties, and/or County Improvement Authorities for the creation, maintenance, and administration of the registry pursuant to the Uniform shared Services and Consolidation Act, N.J.S.A. 40A:65-1 *et seq.*
c. Any third parties retained to create, maintain, and/or administer the registry shall have the authority, on behalf of the Township, to
    1. Identify properties subject to the registration requirement;
    2. Maintain and update the registration list;
    3. Communicate with creditors and/or in-state representatives;
    4. Invoice and collect payment of fees;
    5. Monitor compliance; and
    6. Such other functions, within the scope of P.L. 2021, c.444, which may be deemed necessary to carry out its function on behalf of the Township.
d. Any third parties retained to create, maintain, and/or administer the registry shall be required to comply with the following reporting and payment requirements:
    1. Any and all amounts collected by the third party as part of its administration of the Township's registry, including registration fees, interest, and penalties, shall be paid, in full, directly to the Township, or Gloucester County, and/or the Gloucester County Improvement Authority, as applicable, not less than once per year, or as otherwise directed by the Township's Zoning Officer or designee. No fees, payments, expenses, or other deductions shall be made from this payment; payment for any third party's services under this Article shall be made by the Township, or as applicable, the County/County Improvement Authority, directly to the third party, under the terms and conditions outlined within the contract for professional services.

2. Not less than once per year on the first business day of each calendar year, or as otherwise may be requested by the Tax Collector, any third party administering the Township's registry shall file with Tax Collector a certification identifying:
    i. The address, block, lot, and contact information of any property for which registration fees under this Article are due and owing at the time of the certification;
    ii. The amount of the registration fees, and separately, an interest, fines, and other penalties due and owing at the time of the certification; and
    iii. The date on which the property became eligible for inclusion on the Township's registry.

§ 179-85 Registration, notice, and other creditor requirements.

a. Within thirty (30) days of the effective date of this Ordinance, any creditor who has initiated a summons and complaint with the New Jersey Superior Court in an action to foreclose on a commercial and/or residential mortgage for a property located within the Township: (i) prior to the effective date of this Ordinance, and (ii) which is pending as of the effective date of this Ordinance, shall provide notice in accordance with sub-section (b) of this Section 179-79
b. Within ten (10) days of filing a summons and complaint with the New Jersey Superior Court in an action to foreclose on a commercial and/or residential mortgage for a property located within the Township, the creditor shall notify the Township Clerk, or his/her designee, of the action. Such notice shall include:
    1. The address, block and lot of the subject property;
    2. The date the summons and complaint in an action to foreclose on a mortgage was filed against the subject property, the court in which it was filed, and the docket number of the filing;
    3. Whether the property is vacant and abandoned in accordance with the definition in this Article;
    4. The full name, address, and telephone number for the representative of the creditor who is responsible for receiving notice of complaints of property maintenance code violations;
    5. The full name, address, and telephone number of any persons or entity retained by the creditor or a representative of the creditor to be responsible for any care, maintenance, security, or upkeep of the property; and
    6. If the creditor is out-of-State, the full name, address, and telephone number of an in-State representative or agent who shall be responsible for any care, maintenance, security, or upkeep of the property, and for receiving notice complaints of property maintenance and code violations.
    7. The notice requirements herein represent a continuing obligation throughout the pendency of the foreclosure action. After initial notice to the Township, creditors subject to the notice requirement shall update the Township's property registration program within ten (10) days of any change in the information contained in the original or any subsequent notices.
c. Creditors of any commercial and/or residential mortgage required to notify the Township pursuant to this Section shall:
    1. Register the property with the Township's property registration program as a property in foreclosure within thirty (30) days of notifying the Township;
    2. Be subject to the registration fee, notice requirements, and penalties for non-compliance established within this Article;
    3. Update the property registration within ten (10) days of any change in the information contained in the original notice to the Township;
    4. If an out-of-State creditor, appoint an in-State representative or agent to act for the foreclosing creditor, whose contact information shall be contained within the initial notice to the Township;
    5. Within ten (10) days of the property becoming vacant and abandoned at any time during the pendency of the foreclosure action, the creditor shall:
        i. Assume responsibility for the care, maintenance, upkeep, and security of the exterior of the property;
        ii. Secure the property against unauthorized entry;
        iii. Post a sign on the inside of the property, visible to the public, containing 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;

iv. Acquire and maintain a vacancy insurance policy which covers any damage to any person or property caused by any physical condition of the property while registered with the Township's property registration program;
v. Provide proof, within ten (10) days of receiving a request by the Township or its designee, that the above conditions have been satisfied;
vi. Cure any violations of the above requirements within thirty (30) days of receiving a notice of violation, or if deemed to present an imminent threat to public health and safety, within ten (10) days of receiving such notice.

6. Update the property registration within ten (10) days of the creditor becoming aware that the property is deemed vacant and abandoned as defined herein.

d. If at any time the creditor is deemed to be in violation of the above requirements, and/or if the property is deemed to be in violation of any other applicable local or state maintenance, health, or safety codes, the Code Official or his/her designee shall notify the creditor using the contact information provided in the property registry established by this Article.

§ 179-86 Fees.

a. All fees, penalties, and/or fines established within this Article and assessable pursuant to the Township's authority outlined within P.L. 2021, c.444 shall be deemed a municipal charge in accordance with N.J.S.A. 54:5-1, *et seq.*
b. Creditors required to notify the Township and register a property as one in foreclosure shall be required to pay an annual registration fee of five hundred dollars ($500.00) per property, due at the time of registration.
c. If a property registered with the Township's registration program pursuant to § 179-84 and § 179-85 as a property in foreclosure is determined to be vacant and abandoned at the time of registration, or becomes vacant and abandoned at any time during the pendency of the foreclosure proceeding, the creditor shall pay an additional annual registration fee of two thousand dollars ($2,000) per property, due at the time the determination that the property is vacant and abandoned is made.

§ 179-87 Violations and penalties.

a. Any person who shall violate the provisions of this article may be cited and fined as provided in the Code of the Township of Washington and New Jersey Statutes.
b. An out-of-state creditor subject to the notice and registration requirements of this Article, found to be in violation of the requirement to appoint an in-State representative or agent, shall be subject to a fine of two thousand five hundred dollars ($2,500.00) for each day of the violation. The violation shall be deemed to commence on the day after the creditor's initial ten (10) or thirty (30) day requirement to notify the Township of applicable foreclosure actions.
c. A creditor subject to the notice and registration requirements of this Article found to be in violation of any other Section of this Article shall be subject to a fine of one thousand five hundred dollars ($1,500.00) for each day of the violation. The violation shall be deemed to commence on the 31st day following the creditor's receipt of a notice of violation, or if deemed to present an imminent threat to public health and safety, on the 11th day following the creditor's receipt of such notice.
d. If the Township expends public funds in order to abate a nuisance or correct a violation on a commercial property in situations in which the creditor was given notice pursuant to this Article, 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 Owner of the property, including but not limited to the recourse provided under N.J.S.A. 55:19-100, *et seq.*

SECTION 2. Except as set forth in Section 1, the balance of the Code of the Township of Washington shall not be affected by this Ordinance.

SECTION 3. All Ordinances contrary to the provisions of this Ordinance are hereby repealed to the extent that they are inconsistent herewith.

SECTION 4. If the provisions of any section, subsection, paragraph, subdivision, or clause of this Ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of this Ordinance.

SECTION 5. This Ordinance shall take effect thirty (30) days after final passage by Council or twenty (20) days after approval by the Mayor, whichever comes first.

INTRODUCTION: April 27, 2022

Members	Motion	Second	Ayes	Nays	Abstain	Absent	Recuse
DellaPia			X				
Williams			X				
Bennett	X		X				
Dougherty		X	X				
Longfellow			X				

TOWNSHIP OF WASHINGTON

By: _____
Sean Longfellow, Council President

I, Christine Ciallella, do hereby attest the above Ordinance O010-2022 was introduced at the Township of Washington Meeting on April 27, 2022. A public hearing will occur on May 11, 2022 at 7:00PM.

ATTEST:

_____
Christine Ciallella, RMC, CMR
Township Clerk

ADOPTION: May 11, 2022

Members	Motion	Second	Ayes	Nays	Abstain	Absent	Recuse
DellaPia			X				
Williams	X		X				
Bennett			X				
Dougherty		X	X				
Longfellow			X				

I, Christine Ciallella, do hereby attest the above Ordinance O010-2022 was adopted at the Township of Washington Meeting on May 11, 2022 by Township Council after a public hearing which was scheduled for May 11, 2022. Said Ordinance shall take effect in accordance with the law.

ATTEST:

Christine Ciallella

Christine Ciallella, RMC, CMR
Township Clerk

On this 13 day of May 2022, I hereby approve the above Ordinance **O010-2022**.

Joann Gattinelli

JOANN GATTINELLI, MAYOR