

**16-17**

**ORDINANCE OF THE BOROUGH OF MERCHANTVILLE,  
COUNTY OF CAMDEN AND STATE OF NEW JERSEY  
ADDING ARTICLE IV, REGISTRATION OF DEFAULTED  
MORTGAGE PROPERTY, TO CHAPTER 60B, PROPERTY  
MAINTENANCE, IN THE CODE OF THE BOROUGH OF  
MERCHANTVILLE**

**WHEREAS**, the Borough Council of the Borough of Merchantville desires to protect the public health, safety and welfare of the citizens of the Borough of Merchantville and maintain a high quality of life for the citizens of the Borough through the maintenance of structures and properties in the Borough; 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 continued mortgage foreclosure rates have 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**, properties with defaulted mortgages 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**, often times, the foreclosing party or property owners are often out of state, and there is no local contact for such a property, which makes it difficult to notice the proper party of the violations of the Borough Code, and to maintain the requisite level of maintenance and security on

such structures or lots; and

**WHEREAS**, the Borough Council recognizes there are a large number of properties with defaulted mortgages and subject to foreclosure action or foreclosed upon, (hereinafter referred to as “registrable properties”) located throughout the Borough which lead to a decline in property value, create nuisances and lead to a general decrease in neighborhood and community aesthetic; and

**WHEREAS**, the Borough Council 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 Borough Council recognizes in the best interest of the public health, safety and welfare a more regulated method is needed to discourage registrable property owners and mortgagees from allowing their properties to be abandoned, neglected or left unsupervised; and

**WHEREAS**, the Borough Council has a vested interest in protecting neighborhoods against decay caused by registrable property and concludes 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 Borough to discourage registrable property owners and mortgagees from allowing their properties to be abandoned, neglected or left unsupervised; and

**WHEREAS**, the Borough Council desires to amend the Borough’s code in order to establish a property registration process that will identify multiple parties responsible to address safety and aesthetic concerns to minimize the negative impact and conditions that occur as a result of vacancy, absentee ownership and the foreclosure process; and

**WHEREAS**, the Borough Council finds that the implementation of the following changes and additions will assist the Borough in protecting neighborhoods from the negative impact and conditions that occur as a result of vacancy, absentee ownership and lack of compliance with existing Municipal regulations and laws.

**NOW THEREFORE, BE IT ORDAINED** by the Mayor and Borough Council of the Borough of Merchantville, County of Camden, and State of New Jersey, that Article IV, Registration of Defaulted Mortgage Property, is hereby added in Chapter 60B, Property Maintenance, in the Code of the Borough of Merchantville, as follows:

**Article IV.**

**Registration of Defaulted Mortgage Property**

**ARTICLE I.           ARTICLE IV.           SECTION 60B-24           Purpose and Intent.**

It is the purpose and intent of the Borough Council to establish a process to address the deterioration, crime and decline in value of the neighborhoods of the Borough of Merchantville caused by property with defaulted mortgages located within the Borough, and to identify, regulate, limit and reduce the number of these properties located within the Borough. It is the Borough Council'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, absentee ownership, lack of adequate maintenance and security and will provide a method to expeditiously identify multiple parties and their contact person(s) for each property responsible for this protection.

**ARTICLE II.            ARTICLE IV.            SECTION 60B-25            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:

**Registrable Property** - any real property located in the Borough, whether vacant or occupied, that is encumbered by a mortgage in default, is subject to an ongoing foreclosure action by the Mortgagee or Trustee, is subject to an application for a tax deed or pending tax assessor's lien sale, 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.

**Accessible Property/Structure** – any 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.

**Semi-Annual Registration** - shall mean 6 months from the date of the first action that required registration, as determined by the Borough, 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.

**Applicable Codes** – shall include, but not be limited to, the Borough’s Zoning Code, the Borough’s Property Maintenance Code, Trash Ordinance, Residential and Commercial Recycling Ordinance, and the State Building, Construction and Fire Codes.

**Blighted Property** – shall be defined as follows:

- 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 Borough Codes; 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 applicable codes.

**Enforcement Officer** – any Law Enforcement Officer, Building Official, Zoning Inspector, Code Enforcement Officer, Fire Inspector of Building Inspector, or other person authorized by the Borough to enforce the applicable code(s).

**Default** - 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.

**Evidence of vacancy** - 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 or other coverings over doors, windows or other openings in violation of applicable code.

**Foreclosure** - 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

**Local Property Management Company** – a property manager, property management company or similar entity responsible for the maintenance and security of registrable real property within 20 driving miles of the Borough limits. Upon review of credentials the Borough, or its designee, may allow a non-local property manager to be listed.

**Mortgagee** - the creditor, including but not limited to, trustees; mortgage service 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.

**Owner** – 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.

**Property Management Company** – a local property manager, property maintenance company or similar entity responsible for the maintenance of registrable real property.

**Real Property** - 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 Borough limits. Developed lots are considered improved land.

**Rental Property** – any property that contains a single-family rental dwelling unit or multi-family rental dwelling units for use by residential tenants, including but not limited to, the following: mobile homes, mobile home spaces, town homes and condominium unit(s). A rental dwelling unit includes property that is provided to an individual or entity for residential purposes upon payment of rent or any other consideration in lieu of rent, regardless of relationship between lessor and lessee

**Vacant** – any parcel of land in the Borough 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.

**ARTICLE III.      ARTICLE IV.      SECTION 60B-26      Applicability.**

The sections of this Article 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 Borough above and beyond any other State, County, or Borough provisions for same.

**ARTICLE IV.      ARTICLE IV.      SECTION 60B-27      Establishment of Registry.**

Pursuant to the provisions of Section 60B-28 of this Article, the Borough, or its designee, shall establish a registry cataloging each Registrable Property within the Borough, containing the information required by this Article.

**ARTICLE V.      ARTICLE IV.      SECTION 60B-28      Registration of Defaulted Mortgage Real Property.**

A. Any Mortgagee who holds a mortgage on real property located within the Borough 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 Officer, 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 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 Officer, 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 and, within 5 days of the transfer, must register the property and pay a registration fee in accordance with this Article. Any previous unpaid semi-annual registration fees are the responsibility of the new Mortgagee or Trustee and are due and payable with their initial registration.

E. 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 and pay a registration fee in accordance with this Article. Any previous unpaid semi-annual registration fees are the responsibility of the new Registrable property owner and are due and payable with their initial registration.

F. 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.

G. A non-refundable semi-annual registration fee established by resolution by the Borough Council, shall accompany each registration pursuant to this section.

H. 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 Borough and/or its authorized designee.

I. 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.

J. 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.

K. 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.

L. 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 and any resulting monetary penalties.

M. Pursuant to any administrative or judicial finding and determination that any property

is in violation of this article, the Borough 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.

**ARTICLE VI.      ARTICLE IV.      SECTION 60B-29      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 newspaper 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 the applicable code of the Borough. Pursuant to a finding and determination by the Borough's Code Enforcement Borough Council, Special Magistrate or Hearing Officer, or a court of competent jurisdiction, the Borough 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 Borough.

**ARTICLE VII. ARTICLE IV. SECTION 60B-30 Security Requirements.**

A. Properties subject to these Sections shall be maintained in a secure manner so as not to be accessible to unauthorized persons.

B. A "secure manner" shall include, but not be limited to, the closure and locking of windows, doors, gates and other openings of such size that may allow a child to access the interior of the property or structure. Broken windows, doors, gates and 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 re-glazing of the window.

C. If a property is registrable, and the property has become vacant or blighted, a local property manager shall be designated by the Mortgagee or Owner 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.

**ARTICLE VIII.      ARTICLE IV.      SECTION 60B-31      Public Nuisance.**

All registrable 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 Borough.

**ARTICLE IX.      ARTICLE IV.      SECTION 60B-32      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.

**ARTICLE X.      ARTICLE IV.      SECTION 60B-33      Additional Authority.**

A.      If the Code 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 mortgagee or Owner, and may bring the violations before the applicable hearing officer as soon as possible to address the conditions of the property.

B.      The Code Enforcement Officer shall have the authority to require the Mortgagee or Owner 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 Borough, in its discretion, may abate the violations and charge the Mortgagee or Owner with the cost of the abatement.

D. If the Mortgagee or Owner does not reimburse the Borough for the cost of temporarily securing the property, or of any abatement directed by the Code Enforcement Officer or Court, within thirty (30) days of the Borough sending the Mortgagee or Owner the invoice then the Borough may lien the property with such cost, along with an administrative fee as determined in the Borough's fee ordinance to recover the administrative personnel services. In addition to filing a lien the Borough can pursue financial penalties against the Mortgagee or Owner.

**ARTICLE XI.           ARTICLE IV.           SECTION 60B-34           Immunity of Enforcement Officer.**

The Code Enforcement Officer or any person authorized by the Borough 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.

**ARTICLE XII.      ARTICLE IV.      SECTION 60B-35      Enforcement; Penalties.**

A.      Enforcement: the requirements of this Article may be enforced as follows:

1)      Any person who violates any provision of this Article shall, upon conviction, be subject to one or more of the following: a fine not exceeding two thousand dollars (\$2,000.); and/or imprisonment for a term not exceeding ninety (90) days; and/or a period of community service not exceeding ninety (90) days.

2)      By an action for injunctive relief, civil penalties, or both, through a court of competent jurisdiction;

3)      By condemnation and demolition pursuant to Title 20 of the New Jersey Statutes, or by the nuisance abatement process;

4)      By revocation or temporary suspension of necessary permits and/or certificates or occupancy;

5)      By any other process permitted at law or equity; and

6)      Use of any one of the enforcement process or theory does not preclude the Borough from seeking the same, different, or additional relief through other enforcement methods.

B.      Separate offenses. A violation of this ordinance shall constitute a separate offense for each day it shall continue or recur. Each condition which exists in violation of this ordinance is a separate violation.

1)      Each day a property remains unregistered when required to be registered by this ordinance is a separate offense for each day it shall continue or recur.

- 2) Each day a property is not inspected as required by this ordinance is a separate offense.
- 3) Each day a property is not secured as required by this ordinance is a separate offense.
- 4) Each day a condition violating the Borough's minimum housing codes or property maintenance codes exists on a property subject to registration under this ordinance is a separate offense.

C. Persons responsible for violations. The Owner, Mortgagee, Trustee or Servicer as those terms are defined in this ordinance, and their duly authorized officers, employees or agents employed in connection therewith who has assisted in the commission of the violation or failed to perform as required by the ordinance shall be guilty of the violation.

### **ARTICLE XIII.**

All Ordinances contrary to the provisions of this Ordinance in the Borough of Merchantville are hereby repealed to the extent that they are inconsistent herewith.

### **ARTICLE XIV.**

This Ordinance shall take effect after passage and publication according to law.

**THE BOROUGH OF MERCHANTVILLE**

**BY:** \_\_\_\_\_  
**EDWARD F. BRENNAN, MAYOR**

**ATTEST:**

\_\_\_\_\_  
**DENISE BROUSE, BOROUGH CLERK**

The foregoing ordinance was introduced by Mayor and Council at a meeting held on November 28, 2016. This Ordinance will be considered for adoption on final reading and public hearing to be held on December 12, 2016 at 7:30 p.m in the Council Meeting Room, Merchantville Borough Hall, 1 West Maple Avenue, Merchantville, New Jersey.

The purpose of this Ordinance is to amend Article IV. in Chapter 60B in the Code of the Borough of Merchantville to permit regulation of defaulted mortgage properties in the Borough of Merchantville.

A copy of this Ordinance is available at no charge to the general public between the hours of 8:30 AM to 4:30 PM, Monday through Friday (Legal Holidays excluded), at the Office of the Borough Clerk, Merchantville Borough Hall, 1 West Maple Avenue, Merchantville, New Jersey.