

City of Lambertville
ORDINANCE NUMBER 23-2022

*An Ordinance to Amend the Lambertville City Code, 2014, Chapter 4: Police Regulations,
Adding Section 15: Registration and Maintenance of Abandoned and Vacant Buildings*

WHEREAS, mortgage foreclosures often result in the abandonment and neglect of residential and commercial properties; and

WHEREAS, periodically property owners have abandoned their property and have failed to maintain or secure them to an adequate standard; which affects the health, safety, and welfare of residents and visitors of the City, including diminution of neighboring property values, increased risk of fire, potential increases in criminal activity, and potential increases in health risks; and

WHEREAS, P.L. 2014, c. 35, authorizes municipalities to adopt ordinances for the purpose of regulating the care, maintenance, security and upkeep of the exterior of vacant and abandoned properties for which a creditor has filed an action to foreclose; and

WHEREAS, it is in the public interest for the City of Lambertville to establish a mechanism to identify and track vacant and abandoned properties in the City which are in foreclosure, to establish standards for the maintenance of those properties and to enforce those standards of maintenance; and

WHEREAS, it is also in the public interest to impose a fee in conjunction with the registration of vacant and abandoned properties/structures in light of the disproportionate costs imposed of the City by the presence of these structures; and

WHEREAS, the City has reviewed recent amendments to Titles 2A 40 and 46 of the New Jersey Statutes regarding vacant and abandoned property and the responsibility of foreclosing creditors; and

WHEREAS, Chapter 444, approved January 18, 2021, revised several parts of the statutory law and supplementing Title 40 of the Revised Statutes requires that municipalities receive notice of the initiation of a foreclosure action with residential properties as well as commercial properties; and

WHEREAS, as a result of such legislation, certain amendments to the Lambertville City Code, 2014 are required.

NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the City of Lambertville, in the County of Hunterdon, in the State of New Jersey that Chapter 4 entitled Police Regulations, adding Section 15, Registration and Maintenance of Vacant Buildings is hereby added as follows:

SECTION 1: REGISTRATION AND MAINTENANCE OF VACANT AND ABANDONED BUILDINGS

I. **PURPOSE:** This ordinance authorizes the City of Lambertville to govern the maintenance of vacant or abandoned property in the City of Lambertville, establishing registration requirements and levying a registration fee on owners of vacant properties.

II. **DEFINITIONS:**

Creditor means a State chartered bank, savings and loan association or credit union, any person or entity required to be licensed under the provisions of the “New Jersey Residential Mortgage Act,” P.L.2009, c. 53 (C.17:11C-51 et. seq.), any foreclosing entity subject to the provisions of C.46:10B (P.L.2008, c. 127, Sec. 17 as amended from time to time) and any entity acting on behalf of the creditor named in the debt obligation including, not limited to, services.

Owner: Includes the title holder, any agent of the title holder having authority to act with respect to a vacant property, any foreclosing entity subject to the provision of N.J.A.C. 46:10B-51 (P.L.2008, c. 127, section 17) or any other entity determined by the City of Lambertville.

Vacant and Abandoned Property: Any building used or to be used for residential or commercial purposes which is not legally occupied or at which substantially all lawful construction operations or occupancy has ceased and been abandoned for more than six months, provided, however, that any property that contains all building system in working order, is fully compliant with our property maintenance codes, and is being actively marketed by its owner for sale or rental, shall not be deemed vacant.

Property determined to be ‘abandoned property’ in accordance with the meaning of such term in the Abandoned Properties Rehabilitation Act, N.J.S.A. 55:19-78, et seq.; and/or N.J.S.A. 2A:50-73 residential real estate, where notice of violation has been issued pursuant to N.J.S.A. 40:48-2.12s(1)(b); and/or where a mortgaged property is not occupied by a mortgagor or tenant and at least two of the following conditions exist:

- 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, association management, delivery person, or government employees indicating that the residence is vacant and abandoned;

- I. Window 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. Risk to health, safety or welfare of the public, or any adjoining or adjacent property owners, exists due to acts of vandalism, loitering, criminal conduct, or 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 any mortgagor expressing the clear intent of all mortgagors to abandon the property which must be received in the office of the Municipal Clerk within ten (10) days of serving the summons and complaint;
- O. Any other reasonable indicia of abandonment.

Residential properties shall not be considered “Vacant and Abandoned” if, on the property:

- A. There is an unoccupied building which is undergoing construction, renovation or rehabilitation that is proceeding diligently to completion, and the building is in compliance with all applicable ordinances, codes, regulations and statutes;
- B. There is a building occupied on a seasonal basis, but otherwise secure; or
- C. There is a building that is secure, but is the subject of a probate action, action to quiet title or other ownership dispute.

III. REQUIREMENTS FOR OWNERS OF PROPERTY

The owner of any building that has become vacant property, and any person maintaining, operating or collecting rent for any such building that has become vacant shall within 30 days:

- A. Enclose and secure the building against unauthorized entry as provided in the applicable provisions of the code of the City of Lambertville.
- B. Post a sign affixed to the building indicating the name, address and telephone number of the owner, the owner’s authorized agent for the purpose of service of the process, and the person responsible for day-to-day supervision and management of the building, if such a person is different from the owner holding title or authorized agent. The sign shall be of a size and place in such a location so as to be legible from the nearest public street or sidewalk, whichever is near, but shall be no smaller than 18”x24”.

- C. Secure the building from unauthorized entry and maintain a sign until the building is again legally occupied or demolished or until repair or rehabilitation of the building is complete.
- D. Post the property with “No Trespassing” signs or a nature sufficient to give notice to any person entering upon the property that is against the laws to enter the property without permission of the owner.
- E. Ensure that the vacant property is inspected on a monthly basis by the owner’s authorized agent and prepare inspection reports, which shall be forwarded to the Construction Officer or the Mayor’s designee no later than the last day of each month.
- F. Ensure that the vacant property is maintained in accordance with all property maintenance ordinances of the City of Lambertville.
- G. The owner of any vacant building shall acquire and otherwise maintain liability insurance by procuring a vacancy policy in an amount of not less than three hundred thousand dollars (\$300,000) for buildings designed primarily for use as residential units and not less than one million dollars (\$1,000,000) for any other building including, but not limited to buildings designed for manufacturing, industrial, storage or commercial uses, covering any damage to any person or any property caused by any physical condition of or in the building. The owner shall attach evidence of the insurance to the owner’s registration statement. Any registration statement submitted that does not include such evidence shall not be deemed to be a valid registration which shall subject the owner to penalties under this ordinance.

IV. ADMINISTRATION

The Mayor and City Council may issue rules and regulations for the administration of the provision of this ordinance.

V. VIOLATIONS AND PENALTIES

- A. Any Owner who is not in full compliance with this ordinance or who otherwise violates any provision of this ordinance or of the rules and regulations issued hereunder shall be subject to a fine of not less than \$500.00 and not more than \$1,000 for each offense. Each day during which any violation of this chapter continues shall constitute a separate and distinct offense. Fines assessed under this chapter shall be recoverable from the owner and shall be a lien on the property.
- B. For purpose of this chapter, failure to file a registration statement on time, failure to provide correct information on the registration statement, failure to submit inspection reports, failure to comply with the provisions of this Chapter, or such other matters as may be established by the rules and regulations of the Construction Department, Zoning Officer, or the Police Department, or any other agent as authorized by the Mayor or his designee, shall be deemed to be violations of this ordinance.

VI. EFFECT ON OTHER LAWS, INTERPRETATION OF PROVISIONS

Nothing in this chapter is intended nor shall be read to conflict or prevent the City of Lambertville from taking action against buildings found to be unfit for human habitation or unsafe structures as provided in applicable provisions of the Lambertville City Code, 2014.

VII. EXCESS FUNDS

Any funds collected as vacant property registration fees in excess of the funds necessary to operate and enforce the provisions of this Chapter shall be used at the discretion of the Mayor and City Council.

VIII. CREDITOR RESPONSIBILITY

Pursuant to the provisions of the New Jersey Creditor Responsibility Law (P.L.2014, c.5), a creditor filing a summons and complaint to foreclose a lien on a property that is vacant and/or abandoned, whether filing of the summons and complaint is made before or after the determination that the property is vacant and abandoned, shall be responsible for the care, maintenance, security, and upkeep of the exterior of the residential property. The Creditor must provide notice to the Municipal Clerk within ten (10) days of serving the summons and complaint to the property owner.

If there is any change in the name, address, or telephone number for a representative, agent, or individual authorized to accept service on behalf of a Creditor required to be provided in a notice pursuant to this paragraph following the filing of the summons and complaint, the Creditor shall provide a notice to the Municipal Clerk containing the updated name, address, or telephone number within 10 days of the change in that information.

IX. NOTICE TO CREDITOR; TIME TO CORRECT VIOLATIONS

If the Zoning Officer or other authorized municipal official, determines that a creditor obligated to care, maintain, secure and keep up a vacant and abandoned property has failed to do so in violation of the provisions of the Code, the public officer or other authorized municipal official shall issue a notice of violation to the creditor that has filed a summons and complaint to foreclose on the property in question. The notice shall require the person or entity to correct the violation within thirty (30) days of receipt of the notice, or within ten (10) days of receipt of the notice if the violation presents an imminent threat to public health and safety. The issuance of this notice shall constitute evidence that a property is “vacant and abandoned” for the purpose of N.J.S.A. 2A:50-73.

X. DESIGNATED REPRESENTATIVE OF OUT-OF-STATE CREDITOR; VIOLATION

An out-of-State creditor shall include the full name and contact information of the in-State representative or agent in the notice required to be provided to the municipal clerk pursuant to paragraph one of N.J.S.A. 46:10B-51. An out-of-State creditor found by a court of competent jurisdiction to have violated this provision shall be subject to a fine of \$2,500 for each day of the violation commencing on the day after the ten (10) day period set forth in paragraph one of N.J.S.A. 46:10b-51 with respect to notifying the municipal clerk that an action to foreclose on the property has been filed.

XI. VIOLATIONS AND PENALTIES

For violation of any provision of this chapter, the penalty, upon conviction, shall be a minimum fine of \$100 and a maximum fine not exceeding \$2,000, or imprisonment for a period not exceeding 90 days, or a period of community service not exceeding 90 days, or any combination thereof. Each day on which such violation exists shall constitute a separate violation. The court before which any person is convicted of violating this chapter shall have the power to impose a penalty, pursuant to N.J.S.A. 26:3-70 et seq. and the Penalty Enforcement Law (N.J.S.A. 2A:58-1 et seq.(1)), of not more than \$500 nor less than \$5. A creditor required to care for, maintain, secure, and keep up a property under this Chapter cited in notices issued pursuant to this Chapter shall be subject to a fine of \$2,000 for each day of the violation. The penalties set forth in this section are separate and apart from the remedy provided for in the New Jersey Statutes Annotation, N.J.S.A. 40:48-2.13 and 40:48-2.14. The remedy in this section shall be in addition to all remedies available to the City in laws or in equity.

XII. SEVERABILITY

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

XIII. REGISTRATION

Effective July 1, 2017, the owner of any vacant property as defined herein shall, within 30 calendar days after the building becomes vacant property or within 30 calendar days after assuming ownership of the vacant property, whichever is later, or within 10 calendar days of receipt of notice by the municipality, file a registration statement for such vacant property with the Municipal Clerk on forms provided by the Municipality for such purposes. Failure to receive notice by the municipality shall not constitute grounds for failing to register the property.

- A. Each property having a separate block and lot number as designated in official records of the municipality shall be registered separately.
- B. The registration statement shall include the name, street address, telephone number and email address (if applicable) of a person 21 years or older, designated by the owner or

owners as authorized agent for receiving notices of code violations and for receiving process in any court proceeding or administrative enforcement proceedings on behalf of such owner or owners in connection with the enforcement of any applicable code, and the name, street address, telephone number, and email of the firm and the actual name(s) of the first individual principal(s) responsible for maintaining the property. The individual or representative of the firm responsible for maintaining the property shall be available by telephone or in person on a 24 hour per day, seven-day per week basis. The two entities may be the same or different persons. Both entities shown on the statement must maintain offices in the State of New Jersey or reside within the State of New Jersey.

- C. The registration shall remain valid for one year from the date of registration except for the initial registration which shall expire December 31 of the year registered. The owner shall be required to renew the registration annually as long as the building remains vacant and/or abandoned property and shall pay a registration or renewal fee in the amount prescribed in section 8 of this ordinance, for each vacant property registered.
- D. The annual renewal shall be completed by January 1 of each year.
- E. The owner shall notify the Municipal Clerk's Office within 30 calendar days of any change in the registration information by filing an amended registration statement on a form provided by the City of Lambertville for such purpose.
- F. The registration statement shall be deemed prima facie proof of the statements therein contained in any administrative enforcement preceding our court proceeding instituted by the City of Lambertville against the owner or owners of the building.

XIV. FEE SCHEDULE

The initial registration fee for each building shall be five-hundred (\$500.00) dollars. The fee for the first renewal is one thousand five hundred (\$1,500.00) dollars, and the fee for the second renewal is three thousand (\$3,000.00) dollars. The fee for any subsequent renewal beyond the second renewal is five thousand (\$5,000.00) dollars. The fee for filing amendments is fifty (\$50.00) per amendment.

SECTION 2: SEVERABILITY

The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

SECTION 3: REPEALER

Any ordinance or parts thereof in conflict with the provisions of this Ordinance are hereby repealed as to their inconsistencies only. All other parts of the Lambertville City Code, 2014 not inconsistent herewith are ratified and confirmed.

SECTION 4: EFFECTIVE DATE

This ordinance shall take effect upon publication.

FIRST READING AND INTRODUCTION: September 15, 2022

SECOND READING AND PUBLIC HEARING: October 20, 2022