

TOWNSHIP OF DENNIS

**COUNTY OF CAPE MAY
STATE OF NEW JERSEY**

ORDINANCE NO. 2016-06

**AN ORDINANCE OF THE TOWNSHIP OF DENNIS, COUNTY OF CAPE MAY AND STATE OF NEW JERSEY,
INSERTING CHAPTER , OF THE CODE OF THE TOWNSHIP OF DENNIS ENTITLED, "PROPERTY,
ABANDONED AND NUISANCE"**

WHEREAS, recent events in the local and national housing market have led to a drastic rise in the number of foreclosed houses. In municipalities throughout the nation, homes are being left vacant as families are forced to move. These homes are frequently repossessed by banks, financial institutions, and large real estate conglomerates who have little or no connection with the municipality in which they own property; and

WHEREAS, many of these homes are frequently vacated prior to the conclusion of the foreclosure process. Homes sit empty for months or years at times, awaiting foreclosure sale; often creating a substantial public nuisance. In many cases, these homes are in violation of multiple aspects of state and local building, sanitary, and nuisance codes. The mortgagees are typically large financial institutions located out of state, making enforcement efforts very difficult; and

WHEREAS, these code violations include, among other violations, unoccupied buildings susceptible to vandalism and or open structures, rendering them unsafe and dangerous, yards full of litter and debris, unlocked houses, un-shoveled snow that renders sidewalks dangerous and impassable, overgrown grass and bushes and unsecured swimming pools that are not only a threat to children, but become breeding grounds for infectious insects, such as mosquitoes; and

WHEREAS, in addition to the dangerous conditions described in the aforementioned clauses, these violations, if left unabated tend to increase the negative economic and aesthetic impact on the Township. Specifically, these eyesores contribute to lowered neighborhood property values and detract from any and all beautification efforts. Overall, foreclosures and vacant dwellings severely and appreciably impact the quality of life and the health, safety and welfare of the residents of Township of Dennis; and

WHEREAS, foreclosures, and vacant homes and their impact on local residents' quality-of-life have become a nationwide epidemic. Banks and other financial institutions are refusing to maintain properties they now own and municipal inspectors have turned into investigators as they try to find out who the new owners are and how to contact them to correct code violations; and

WHEREAS, the Township Committee of Township of Dennis finds it necessary in order to protect the health and welfare of its citizens, to adopt legislation which will assist the efforts of our code enforcement officers in assuring properties are in compliance with the State and local laws and ordinances;

NOW, THEREFORE, BE IT ORDAINED by Township Committee of Township of Dennis that Chapter be inserted into the Code of Township of Dennis as follows:

The title of Chapter shall be entitled “**Property, Vacant, Abandoned and Nuisance**”

Section -1. Definitions

The following definitions shall be added within this chapter:

Days - Shall mean consecutive calendar days.

Foreclosing - Shall mean the process by which property, placed as security for a real estate or other loans, is prepared for sale to satisfy the debt if the borrower is in default under the terms of the loan.

Initiation of the Foreclosure Process.

Shall mean any of the following actions taken by a Lienholder or Mortgage Holder or Mortgagee.

- A) taking possession of the property.
- B) delivering a Creditor’s or mortgagee’s notice of intention to foreclose to the borrower.
- C) commencing a foreclosure action or filing a *lis pendens in the Superior Court of New Jersey*.

Lienholder or Mortgage Holder or Mortgagee - Shall mean the creditor, including but not limited to, service companies, lenders in a mortgage agreement and any agent, servant or employee of the mortgagee, or any successor in interest and/or assignee of the mortgagee’s rights, interests or obligations under a mortgage agreement. Collectively herein referred to as “Creditor”

Owner- Shall mean every person, entity, service company, property manager or real estate agency, who, alone or severally with others:

- A) has legal or equitable title to any dwelling, dwelling unit, mobile dwelling unit or parcel of land, vacant or otherwise; or
- B) has care, charge or control of any dwelling, dwelling unit or parcel of land, vacant or otherwise, in any capacity, including but not limited to agency, executor, executrix, administrator, administratrix, trustee or guardian, of the estate of the holder of legal title; or
- C) is a Mortgagee in possession of any such property;
- D) is an agent, trustee or other person appointed by the courts and vested with possession or control of any such property; or

E) is an officer or trustee of the Association of unit owners of the condominium. Each such person is bound to comply as if he were the owner or

F) every person who operates a rooming house; or

G), is a trustee who holds, owns or controls mortgage loans for mortgage-backed securities transactions and has initiated the foreclosure process.

Public Officer – Shall mean the Township Clerk or designee(s) of the Township of Dennis as designated by the Township Clerk.

Property- Shall mean any real estate, residential property, or portion thereof, located in the Township of Dennis , including buildings or structures situated on the property. For the purpose of this section only, Property does not include property owned or subject to the control of the Township or any of its governmental bodies or agencies.

Residential Property - Shall mean any property that contains one or more dwelling units used, intended or designed to be occupied for living purposes.

Securing - Shall mean taking measures that assist in making the property inaccessible to unauthorized persons.

Vacant Property - Shall mean any building used or to be used as a residence which is not legally occupied or at which substantially all lawful construction operations or residential occupancy has ceased, and which is in such condition that it cannot legally be re-occupied without repair or rehabilitation; provided, however, that any property that contains all building systems in working order and is being actively marketed by its owner for sale or rental, should 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., shall also be deemed to be vacant property for the purpose of this Ordinance.

Section -2.

Registration of Vacant and/or Foreclosing Properties; Duty to Provide Written Notice of Vacant, Residential Property and/or Mortgage Foreclosure.

A) Effective **January 1, 2017**, the Owner of any Vacant Property as defined herein shall, within 60 days after the building becomes Vacant Property or within 30 days after assuming ownership of the Vacant Property, whichever is later, shall file a registration statement for each such Vacant Property with the Public Officer, on forms provided by the Township of Dennis for such purposes. The registration shall remain valid for one year from the date of registration. The Owner shall be required to renew the registration annually as long as the building remains Vacant Property and shall pay a registration or renewal fee in the amount prescribed herein for each Vacant Property registered.

B) Effective **January 1, 2017**, a Lien-holder Mortgage Holder or Mortgagee (collectively “Creditor”), serving a summons and complaint in an action to foreclose on a mortgage on residential property shall, within 10 days of serving the summons and complaint, notify

the municipal clerk that a summons and complaint in an action to foreclose on a mortgage has been filed against this property. The notice shall contain the name and contact information for the representative of the Creditor, who is responsible for receiving complaints of property maintenance and code violations and shall be provided by mail, or electronic communication at the discretion of the municipal clerk. In the event that the property being foreclosed on is an affordable unit pursuant to the Fair Housing Act, then the Creditor shall identify that the property is subject to the Fair Housing Act. The notice shall also include the street address lot and block number of the property and the full name and contact information of an individual located within the State of New Jersey who is authorized to accept service on behalf of the Creditor. The notice shall be provided to the municipal clerk within 10 days of service of a summons and complaint in an action to foreclose on a mortgage against the subject property.

Any Creditor that has initiated a foreclosure proceeding on any residential property which is pending in Superior Court shall provide to the Municipal Clerk, a listing of all residential properties in Dennis Township for which the Creditor has foreclosure action pending by street address and lot and block number.

C) Any Owner, or Creditor of any building that meets the definition of Vacant Property prior to January 1, 2017, shall file a registration statement for that Property on or before January 31, 2017. The registration statement shall include the information required herein, as well as any additional information that the Public Officer may reasonably require.

D) The Owner or Creditor shall notify the Public Officer within 30 days of any change in the registration information by filing an amended registration statement on a form provided by the Public Officer for such purposes.

E) The registration statement shall be deemed prima facie proof of the statements therein contained, and any administrative enforcement proceeding or court proceeding instituted by the Township against the Owner or Creditor of the building.

Section -3. Registration Statement Requirements; Property Inspection.

After filing a registration statement or a renewal of a registration statement, the Owner or Creditor of any Vacant Property shall provide access to the Township to conduct an exterior and interior inspection of the building to determine compliance with municipal code, following reasonable notice, during the period covered by the initial registration or any subsequent renewal.

A) The registration statement shall include the name, street address and telephone number of a natural person 21 years of age or older, designated by the Owner or Creditor as the authorized agent for receiving notices of code violations and for receiving process, in any court proceeding or administrative enforcement proceeding on behalf of such parties in connection with the enforcement of any applicable code. The person must maintain an office in the State of New Jersey, or reside within the State of New Jersey. The statement shall also include the name of the person responsible for maintaining and securing the property.

B) By designating an authorized agent under the provisions of this section, the Owner or Creditor consents to receive any and all notices of code violations concerning the registered Vacant Property, and all process in any court proceeding or administrative enforcement proceeding brought to enforce code provisions concerning the registered building by service of the notice or process on the authorized agent. Any Owner or Creditor who has designated an authorized agent under the provisions of this section shall be deemed to consent to the continuation of the agent's designation for the purposes of this section until the Public Officer is notified of a change of authorized agent. The designation of an authorized agent in no way releases any party from any requirements of this Ordinance.

Section -4 Fee Schedule

The initial registration fee for each building shall be \$500. The fee for the first renewal year shall be \$1500. The fee for the second renewal year shall be \$3,000. The fee for the 3rd and subsequent renewal year shall be \$5,000. Such fee shall be payable to the Township of Dennis and submitted to the Township Clerk.

Section -5 Requirements for Owners or Creditors of Vacant Property

1. The Owner or Creditor 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 Dennis Township, or as set forth in rules and regulations adopted by the appropriate authority, including a Redevelopment Entity, to supplement this Code;

B) Post a sign affixed to the building indicating the name, address and telephone number of the Owner or Creditor, the authorized agent for the purposes of service of process and the person responsible for day-to-day supervision and management of the building. The sign shall be of a size and placed in a location so as to be legible from the nearest public street or sidewalk (i.e. public right of way), whichever is nearer but shall be no smaller than 18" x 24" and

C) Secure the building from unauthorized entry and maintain the sign until the building is again legally occupied or demolished, or until repair or rehabilitation of the building is complete.

2. In the event the Owner of a residential property vacates or abandons any property on which a foreclosure proceeding has been initiated or if a residential property becomes vacant at any point subsequent to the Creditors filing the summons and complaint in an action to foreclose on a mortgage against the subject property, but prior to vesting of title in the Creditor or any other 3rd party, and the property is found to be a Nuisance or in violation of any applicable State or local code, the Public Officer, municipal clerk or other authorized municipal official shall notify the Creditor, which shall have the responsibility to abate the nuisance or correct the violation in the

same manner and to the same extent as the title owner of the property, to such standard or specification as may be required by State law or municipal code. The Public Officer or other authorized municipal official shall include a description of the conditions that gave rise to the violation with the notice of violation and shall provide a period of not less than 30 days from the Creditor's receipt of the notice for the Creditor to remedy the violation. If the Creditor fails to remedy the violation within that time, the municipality may impose penalties allowed for the violation of municipal ordinance pursuant to N.J.S.A. 40:49 – 5.

In the event the Township of Dennis expends public funds in order to abate a nuisance or correct a violation on a residential property in situations in which the Creditor was given notice pursuant to the provisions of sub section 2 hereinabove, but failed to abate the nuisance or correct the violation as directed, the Township of Dennis shall have the same recourse against the Creditor as it would have against the title owner of the property, including but not limited to the recourse provided under N.J.S.A. 55:19 – 100.

Section -6 Violations and Penalties

A) Any Owner or Creditor who is not in full compliance with this Ordinance, or who otherwise violates any provision of this Ordinance shall be subject to a fine of not less than \$500 and not more than \$1000 for each offense. Every day that a violation continues shall constitute a separate and distinct offense. Fines assessed under this Ordinance shall be recoverable from the Owner or Creditor, as the case may be, and shall be a lien on the Property.

B) For purposes of this section, failure to file a registration statement in time, failure to provide correct information on the registration statement, failure to comply with the provisions of any portion of this Ordinance, shall be deemed to be violations of this Ordinance.

C) Nothing in this Ordinance is intended, nor shall be read to conflict or prevent Dennis Township from taking action against buildings found to be unfit for human habitation or unsafe structures as provided in the applicable provisions of the Code of the Township of Dennis.

BE IT FURTHER ORDAINED by the Township Committee of the Township of Dennis, County of Cape May, State of New Jersey that Chapter 146 be inserted into the code of the Township of Dennis; and

BE IT FURTHER ORDAINED that this Ordinance shall take effect immediately upon final passage and publication in accordance with law.

John Murphy, Mayor

Brian O'Connor, Deputy Mayor

Lisa Salimbene, Committee Member

Donald Tozer, Committee Member

Julie Fry DeRose, Committee Member

The foregoing Ordinance was introduced at a meeting of the Township Committee of the Township of Dennis on September 06, 2016. Publication will be held on September 14, 2016 and a Public Hearing will be held at a meeting of the said Township Committee to be held on October 04, 2016 at 6:30 p.m. in the Municipal Building located at 571 Petersburg Road in Dennisville.

ATTEST _____
Jacqueline B. Justice, RMC/Clerk