

Execution Ready

Schedule 1

Property Registration Ordinance 561-22

(See attached)

TOWNSHIP OF NORTH BERGEN

COUNTY OF HUDSON

A SUPERSEDING ORDINANCE REQUIRING THE REGISTRATION AND MAINTENANCE OF CERTAIN REALPROPERTY BY MORTGAGEES, PROVIDING FOR PENALTIES AND ENFORCEMENT, AS WELL AS THE REGULATION, LIMITATION AND REDUCTION OF ABANDONED REAL PROPERTY WITHIN THE TOWNSHIP OF NORTH BERGEN

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE TOWNSHIP OF NORTH BERGEN as follows:

SECTION 1. BACKGROUND AND FINDINGS.

- A. The Township of North Bergen (the "Township") desires to protect the public health, safety and welfare of its citizens and maintain a high quality of life for the citizens of the Township through the maintenance of structures and properties in the Township; and
- B. 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
- C. Mortgage foreclosure has serious negative implications for communities attempting to manage the consequences of properties that are subject to foreclosure or have been foreclosed upon; and
- D. Often times, the foreclosing party or property owners are an absentee responsible party, and there is no local contact for said property, which makes it difficult to notice the proper party of violations of the Township ordinances, and to maintain the requisite level of maintenance and security of such structures or lots; and
- E. The Township recognizes properties subject to foreclosure action or foreclosed upon (hereinafter referred to as "registrable properties"), located in the Township can lead to a decline in property value, create nuisances and lead to a general decrease in neighborhood and community aesthetics; and
- F. The Township has previously adopted property maintenance codes to regulate building standards for the exterior of structures and the condition of the property within the Township as a whole; and
- G. The Township recognizes that 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 unattended in order to best serve the interests of the public health, safety and welfare; and
- H. The Township has a vested interest in protecting neighborhoods against decay caused by registrable properties and concludes that it is in the best interests of the health, safety, and welfare of its citizens and residents to impose registration requirements for registrable properties located within the Township to discourage registrable property owners and mortgagees from allowing their properties to be abandoned, neglected or left unsupervised.

I. Pursuant to N.J.S.A. 40:48-2, the Township 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

J. P.L. 2021, c. 444 (the "Act"), requires municipalities to amend prior property registration ordinances to make them consistent with the Act.

K. Pursuant to the Act, the Township is authorized to adopt or amend ordinances creating a property registration program for the purpose of identifying and monitoring residential and commercial properties within the Township 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 creditor of such properties.

SECTION 2. PURPOSE AND INTENT.

A. It is the purpose and intent of the Township to amend the process to address the deterioration, crime and decline in value of its neighborhoods caused by properties subject to foreclosure action or foreclosed upon located within the Township. It is the Township's further intent to amend the registration requirement as a mechanism to protect neighborhoods from the negative impact and conditions that occur as a result of vacancy, lack of adequate maintenance and security and will provide a method to expeditiously identify a contact person for each property responsible for this protection.

B. It is not the Township's intent to determine the rights and liabilities of persons under agreements to which the Township is not a party. This Ordinance shall not be construed to alter the terms of any lease or other agreement between a landlord and a tenant or others relating to property that is the subject of this Ordinance; provided that no provision of any lease or other agreement shall be construed to excuse compliance with this Ordinance. Additionally, a violation of this Ordinance shall not in and of itself establish negligence on a *per se* standard or otherwise expand existing liability in tort for either a landlord or a tenant.

C. This Ordinance shall be interpreted consistent with P.L. 2021, c. 444 (the "Act"). To the extent any provisions of this Ordinance are inconsistent with the provisions of the Act, the Act shall control.

SECTION 3. DEFINITIONS.

The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

A. **Accessible Property/Structure:** A property that is accessible through 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.

B. **Applicable Codes:** Includes, but is not limited to, the Township's zoning ordinances, the Township's ordinances controlling property maintenance, the Township's ordinance requiring foreclosure notices and the Township's health and safety ordinances (collectively the "Township Code"), and the New Jersey Building Code.

C. Blighted Property:

1. Properties that have broken or severely damaged windows, doors, walls, or roofs which create hazardous conditions and encourage trespassing; or
2. Properties whose maintenance is not in conformance with the maintenance of other neighboring properties causing a decrease in value of the neighboring properties; or
3. Properties cited for a public nuisance pursuant to any Township Code; or
4. 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 applicable Township codes and regulations.

D. 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 to enforce the applicable Township codes and regulations.

E. 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; statements by neighbors, passers-by, delivery agents or government agents; or the presence of boards over doors, windows or other openings in violation of applicable Township codes and regulations.

F. 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, a complaint and summons filed with respect to foreclosure on a mortgage, a lis pendens filed against it by the lender holding a mortgage on the property, 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.

G. Mortgagee: The creditor, including but not limited to, trustees; mortgage servicing companies; lenders in a mortgage agreement; any agent, servant, or employee of the creditor; any successor in interest; any other person or entity with the legal right to foreclose on the Real Property; or any assignee of the creditor's rights, interests or obligations under the mortgage agreement.

H. Mortgage Servicer: Any firm, corporation or other legal entity to which some borrowers pay their mortgage loan and which performs other services in connection with mortgages and mortgage-backed securities. The Mortgage Servicer may be the entity that originated the mortgage, or it may have purchased the mortgage servicing right from the original mortgage lender. The duties of a mortgage service may include, but are not limited to, the acceptance and recording of mortgage payments, calculating variable interest rates on adjustable rate loans, payment of taxes and insurance from borrower

escrow accounts, negotiations of workouts and modifications of mortgages upon default, and conducting or supervising the foreclosure process when necessary.

I. **Real Property:** Any improved residential or commercial land and/or buildings, leasehold improvements and anything affixed to the land, or portion thereof identified by a property parcel identification number, located in the Township limits. Developed lots are considered improved land.

J. **Registerable Property:** Any real property located in the Township, whether vacant or occupied, which a summons and complaint for foreclosure action has been filed, is subject to an ongoing foreclosure action by the Mortgagee or Trustee, has been the subject of a foreclosure action by a Mortgagee or Trustee and a Judgement has been entered, 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 "foreclosure" property as "registrable" shall remain in place until such time as the property is sold to a non-related bonafide purchaser in an arm's length transaction or the foreclosure action has been dismissed.

K. **Annual Registration:** Twelve (12) months from the date of the first action that requires registration, as determined by the Township, or its designee, and every subsequent twelve (12) months. The date of the initial registration may be different than the date of the first action that required registration

L. **Vacant:** Any parcel of land within the Township 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.

Vacant property shall not mean property that is temporarily unoccupied while the residents are away on vacation, personal matters or business, or is not intended by the owner to be left vacant, so long as the period does not exceed thirty (30) days.

SECTION 4. APPLICABILITY.

The sections of this Ordinance 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 above and beyond any other State or Township provisions for same.

SECTION 5. ESTABLISHMENT OF A REGISTRY.

The Township shall establish or make arrangements for a registry cataloging each Registrable Property within the Township, containing the information required by this Ordinance.

SECTION 6. REGISTRATION OF FORECLOSURE REAL PROPERTY.

A. Any Mortgagee who holds a mortgage on real property located within the Township shall perform an inspection of the property to determine vacancy or occupancy, immediately upon filing a summons and complaint in an action to foreclose on a mortgage on Real Property in the Township. The Mortgagee shall, within ten (10) days of the inspection, register the property with the Township Building Department, or its designee, on forms or other manner as directed, and indicate whether the property is vacant or occupied. A separate registration shall be required for each property, whether it is found

to be vacant or occupied. The Mortgagee shall be responsible for the care, maintenance, security, and upkeep of the exterior of the Registrable Property if it becomes vacant and abandoned.

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 Mortgage Servicer, and where applicable 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. Where a Mortgagee or creditor is located out-of-state, the Mortgagee or creditor shall notify the Township of the full name, address, and telephone number of an in-State representative or agent who shall be responsible for the care, maintenance, security, and upkeep of the exterior of the Registrable Property if it becomes vacant and abandoned.

D. Mortgagees who have existing Registrable Property on the effective date of this Ordinance shall have thirty (30) calendar days from the effective date to register the property with the Township's Building Department, 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.

E. If the mortgage on a Registrable Property is sold or transferred, the new Mortgagee is subject to all the terms of this Ordinance. Any previous unpaid registration fees are the responsibility of the new Mortgagee or Trustee and are due and payable with their initial registration. Except if it is determined that the transferee is exempt from paying fees then the previous Mortgagee will not be released from the responsibility of paying all previous unpaid fees and fines, regardless of who the Mortgagee was at the time when registration was required, including but not limited to unregistered periods during the foreclosure process. Moreover, the Township's Building Department shall be authorized and empowered to refer the previous Mortgagee's non-payment of previous fees and fines to the appropriate parties for collection or a court of competent jurisdiction for disposition. The provisions of this section are cumulative with and in addition to other available remedies.

F. If the servicing rights for a mortgage on a Registrable Property are sold or transferred, the registration must be updated to include all the new Mortgage Servicer information within ten (10) days of the servicing transfer.

G. 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 Ordinance and within five (5) days of the transfer register the property. Any previous unpaid registration fees are the responsibility of the new Registrable Property owner and are due and payable with their initial registration. Except if it is determined that the transferee is exempt from paying fees then the previous Mortgagee will not be released from the responsibility of paying all previous unpaid fees and fines, regardless of who the Mortgagee was at the time when registration was required, including but not limited to unregistered periods during the foreclosure process. Moreover, the Township's Building Department is authorized and empowered to refer the previous Mortgagee's non-payment of previous fees and fines to the appropriate parties for collection or a court of

competent jurisdiction for disposition. The provisions of this section are cumulative with and in addition to other available remedies. .

H. 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.

I. A non-refundable registration fee of \$500.00 shall accompany each registration pursuant to this section.

J. Each individual property on the Registry that has been registered for six (6) months or more prior to the Effective Date of this Ordinance shall have thirty (30) days to renew the registration and pay the non-refundable \$500.00 annual registration fee. Properties registered less than six (6) months prior to the Effective Date shall renew the registration upon expiration and every twelve (12) months thereafter and shall pay the non-refundable \$500.00 annual registration fee.

K. Where the Registrable Property is vacant or abandoned, the annual registration fee shall be \$2,500.

L. If the Foreclosing or Foreclosed 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, the property is not registered and shall be due and payable with the registration.

M. All registration fees must be paid directly from the Mortgagee, Trustee, Servicer, or Owner. Third Party Registration fees shall not be permitted without the consent of the Township and/or its authorized designee.

N. 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 are registrable.

O. 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.

P. The failure of a Mortgagee or Owner to properly register or to modify any required registration information from time to time to reflect a change of circumstances as required by this Ordinance is a violation of the Ordinance and shall be subject to enforcement and any resulting monetary penalties and/or property liens.

Q. Pursuant to any administrative or judicial finding and determination that any property is in violation of this Ordinance, 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. .

R. Properties subject to this section shall exist and be maintained in accordance with all applicable Township codes and regulations.

S. Registration of foreclosure property does not alleviate the Mortgagee and/or Owner from obtaining all required licenses, permits and inspections required by applicable code or State statutes. Acquisition of required licenses permits, and inspections or registration of rental property does not alleviate the requirement for the property to be registered under this section. Mortgagee and/or Owner is expected to update the status of the property in the event of a Mortgagee managed rental.

SECTION 7. PENALTIES.

A. Per P.L. 2021, Chapter 444, N.J.S.A. 40:48-2.12s3 g. (1), an out-of-State creditor which fails to appoint an in-State representative or agent pursuant to this Ordinance shall be subject to a fine of \$2,500 for each day of the violation. Any fines imposed on a Mortgagee or creditor for the failure to appoint an in-State representative or agent shall commence on the day after the 10-day period for providing notice to the municipal clerk that a summons and complaint in an action to foreclose on a mortgage has been served.

B. Per P.L. 2021, Chapter 444, N.J.S.A. 40:48-2.12s3 g. (2), except as set forth in Section 7.A, a Mortgagee or creditor found to be in violation of this Ordinance, shall be subject to a fine of \$1,500 for each day of the violation. Any fines imposed pursuant to this paragraph shall commence 31 days following receipt of the notice of violation, except if the violation presents an imminent risk to public health and safety, in which case any fines shall commence 11 days following receipt of the notice.

SECTION 8. SEVERABILITY.

If any section, sub-section, sentence, clause, or phrase of this Ordinance is for any reason deemed to be unconstitutional or invalid by any court of competent jurisdiction, such decision shall not affect the remaining sections, sub-sections, sentences, clauses, or phrases of this Ordinance.

SECTION 9. REPEALER.

All ordinances or parts of ordinances in conflict herewith, are and the same are hereby repealed.

SECTION 10. EFFECTIVE DATE.

This Ordinance shall take effect 20 days from the time of its final passage.

Introduced: August 17, 2022

Published: August 23, 2022
September 14, 2022

Adopted: September 7, 2022

Attest: Erin Barillas
Township Clerk

<u>Comm. Cabrera</u>	<u>YES</u>
<u>Comm. Marengo</u>	<u>YES</u>
<u>Comm. Gargiulo</u>	<u>YES</u>
<u>Mayor Sacco</u>	<u>YES</u>