

ORDINANCE NO. 1, 2016

AN ORDINANCE AMENDING CHAPTER 205, PROPERTY MAINTENANCE, REQUIRING THE REGISTRATION AND MAINTENANCE OF CERTAIN REAL PROPERTY BY MORTGAGEES; PROVIDING FOR PENALTIES AND ENFORCEMENT, AS WELL AS THE REGULATION, LIMITATION AND REDUCTION OF ABANDONED REAL PROPERTY WITHIN THE MUNICIPALITY; PROVIDING FOR SEVERABILITY, REPEALER, CODIFICATION, AND AN EFFECTIVE DATE, OF THE CODE OF THE CITY OF LINWOOD AND REPEALING ALL ORDINANCES HERETOFORE ADOPTED THE PROVISIONS OF WHICH ARE INCONSISTENT HEREWITH.

WHEREAS, the present mortgage foreclosure crisis has serious negative implications for all communities trying to manage the consequences of property vacancies and abandoned real properties; and

WHEREAS, the City of Linwood (hereinafter referred to as "Municipality") recognizes an increase in the number of vacancies and abandoned properties located throughout the Municipality; and

WHEREAS, the Municipality is challenged to identify and locate owners or foreclosing parties who can maintain the properties that are in the foreclosure process or that have been foreclosed; and

WHEREAS, the Municipality finds that the presence of vacant and abandoned properties can lead to a decline in property value, create attractive nuisances and lead to a general decrease in neighborhood and community aesthetics; and

WHEREAS, the Municipality 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 Municipality desires to amend the Municipality's Code in order to participate in the County-wide registration program established by the Atlantic County Improvement Authority and administered by Community Champions Corporation that will identify a contact person to address safety and aesthetic concerns to minimize the negative impacts and blighting conditions that occur as a result of the foreclosures; and

WHEREAS, the Municipality has a vested interest in protecting neighborhoods against decay caused by vacant and abandoned properties and concludes that it is in the best interests of the health, safety, and welfare of its citizens and residents to impose registration and certification requirements on abandoned and vacant properties located within the Municipality; and

WHEREAS, upon passage, duly noticed public hearings, as required by law will have been held by the Municipality, at which public hearings all residents and interested persons were given an opportunity to be heard;

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE MUNICIPALITY OF LINWOOD:

SECTION 1. That the foregoing "Whereas" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon the adoption hereof

SECTION 2. That City Council hereby amends The Municipality of Linwood's Code, Chapter 205, by creating Article II, entitled "Abandoned Real Property," to read as follows:

CHAPTER 205. ARTICLE II. ABANDONED REAL PROPERTY

SECTION 205-4. PURPOSE AND INTENT

It is the purpose and intent of the Municipality to establish a process to address the deterioration and blight of Municipality neighborhoods caused by an increasing amount of abandoned, foreclosed or distressed real property located within the Municipality, and to identify, regulate, limit and reduce the number of abandoned properties located within the Municipality. It is the Municipality's further intent to participate in the County-wide registration program established by the Atlantic County Improvement Authority 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.

SECTION 205-5. 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.

Abandoned Real Property - means any real property located in the Municipality, whether vacant or occupied, that is in default on a mortgage, has had a lis pendens filed against it by the Lender holding a mortgage on the property, is subject to an ongoing foreclosure action by the Lender, is subject to an application for a tax deed or pending tax assessors lien sale, or has been transferred to the Lender under a deed in lieu of foreclosure. The designation of a property as "abandoned" shall remain in place until such time as the property is sold or transferred to a new

owner, the foreclosure action has been dismissed, and any default on the mortgage has been cured.

Accessible Property/Structure - means 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 - means to include, but not be limited to, the Municipality's Zoning Code, the Municipality's Code of Ordinances ("Municipality Code"), and the New Jersey Building Code.

Blighted Property - means:

- 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 Municipality 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 lacks maintenance as required by the Municipality and Zoning Codes.

Enforcement Officer - means any law enforcement officer, building official, zoning inspector, code enforcement officer, fire inspector or building inspector, or other person authorized by the Municipality to enforce the applicable code(s).

Owner - means 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.

Property Management Company - means a local property manager, property Maintenance Company or similar entity responsible for the maintenance of abandoned real property.

Vacant - means any building or structure that is not legally occupied.

SECTION 205 - 6. 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 Municipality above and beyond any other state, county or local provisions for same.

SECTION 205 - 7. ESTABLISHMENT OF A REGISTRY

Pursuant to the provisions of Section 205-4, the Municipality or designee shall participate in the County-wide registration program established by the Atlantic County Improvement Authority and administered by Community Champions Corporation cataloging each Abandoned Property within the Municipality, containing the information required by this Article.

SECTION 205 - 8. REGISTRATION OF ABANDONED REAL PROPERTY

- (a) Any mortgagee who holds a mortgage on real property located within the Municipality of Linwood 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 Division of Code Enforcement, or designee, on forms or website access provided by the Municipality, 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) If the property is occupied but remains in default, it shall be inspected by the mortgagee or his designee monthly until (1) the mortgagor or other party remedies the default, or (2) it is found to be vacant or shows evidence of vacancy at which time it is deemed abandoned, and the mortgagee shall, within ten (10) days of that inspection, update the property registration to a vacancy status on forms provided by the Municipality.
- (c) Registration pursuant to this section shall contain the name of the mortgagee and the server, the direct mailing address of the mortgagee and the server, a direct contact name and telephone number for both parties, facsimile number and e-mail address for both parties, the folio or tax number, and the name and twenty-four (24) hour contact telephone number of the property management company responsible for the security and maintenance of the property.
- (d) A non-refundable annual registration fee in the amount of \$500.00 per property, shall accompany the registration form or website registration.

- (e) All registration fees must be paid directly from the Mortgagee, Servicer, Trustee, or Owner. Third Party Registration fees are not allowed without the consent of the Municipality and/or its authorized designee.
- (f) This section shall also apply to properties that have 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.
- (g) 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 remain vacant or in default.
- (h) 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.
- (i) Failure of the mortgagee and/or owner 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.
- (j) Pursuant to any administrative or judicial finding and determination that any property is in violation of this article, the Municipality 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.

SECTION 205 - 9. 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 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 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 Chapter 205 of the Municipality of Linwood's Code of Ordinances.

Pursuant to a finding and determination by the Municipality's Code Enforcement Officer/Board, Hearing Officer/Special Magistrate or a court of competent jurisdiction, the Municipality 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).

SECTION 205 - 10. 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 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 mortgagee 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.

SECTION 205 - 11. 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 Municipality.

SECTION 205 – 12. PENALTIES; SCHEDULE OF CIVIL PENALTIES.

Any person who shall violate the provisions of this article may be cited and fined as provided in Chapter 205 of the Municipality of Linwood Code of Ordinances and New Jersey P.L. 2003, c. 210 (N.J.S.A. 55:19-78 et seq) and R.S. 40:49-5. The following table shows violations of these sections, as may be amended from time to time, which may be enforced pursuant to the provisions of this regulation; and the dollar amount of civil penalty for the violation of these sections as it may be amended. The descriptions of violations" below are for informational purposes only and are not meant to limit or define the nature of the violations or the subject matter of the Municipality Code sections, except to the extent that different types of violations of the Code section may carry different civil penalties. For each Code section listed in the schedule of civil penalties, the entirety of the section may be enforced by the mechanism provided in this section, regardless of whether all activities prescribed or required are described in the "Description of Violation" column. To determine whether a particular activity is prescribed or required by this Code, the relevant Municipality Code section(s) shall be examined.

Description of Violation	Civil Penalty
Failure to register abandoned real property on annual basis and/or any violation of the sections stated within.	\$500.00

SECTION 205 - 13. 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. Upon sale or transfer of title to the property, the owner shall be responsible for all violations of

the applicable code(s) and the owner shall be responsible for meeting with the Municipality's Code Enforcement Division within forty-five (45) days for a final courtesy inspection report.

SECTION 205 - 14. ADDITIONAL AUTHORITY

(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 mortgagee and/or owner, and may bring the violations before the Municipality's code enforcement board or code enforcement special magistrate as soon as possible to address the conditions of the property.

(b) The Code Enforcement Board or Hearing Officer/special magistrate shall have the authority to require the mortgagee and/or owner of record of any property affected by this section, to implement additional maintenance and/or security measure 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 Municipality to abate the violations and charge the mortgagee with the cost of the abatement.

(d) If the mortgagee does not reimburse the Municipality for the cost of temporarily securing the property, or of any abatement directed by the code enforcement board or

special magistrate, within thirty (30) days of the Municipality sending the mortgagee the invoice then the Municipality may lien the property with such cost, along with an administrative fee of \$500.00 to recover the administrative personnel services.

**SECTION 205 - 15. OPPOSING, OBSTRUCTING ENFORCMENT OFFICER;
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 chapter shall be punishable as provided in the applicable code(s) or a court of competent jurisdiction.

SECTION 205 - 16. IMMUNITY OF ENFORCEMENT OFFICER

Any enforcement officer or any person authorized by the Municipality 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.

SECTION 3. AMENDMENTS. Registration and Penalty Fees outlined in this article may be modified by a Resolution, passed and adopted of the Municipality Commission of the Municipality of Linwood.

SECTION 4. SEVERABILITY. If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

SECTION 5. REPEALER. All ordinances or parts of ordinances in conflict herewith, are and the same are hereby repealed.

SECTION 6. CODIFICATION. It is the intention of the Commission/Council/Board of Supervisors of the Municipality of Linwood, New Jersey, that the provisions of this Ordinance shall become and be made a part of the Municipality of Linwood Code of Ordinances; and that the sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section", "article", or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 7. EFFECTIVE DATE. This ordinance shall take effect upon its final passage, publication and adoption in the manner prescribed by law.

<i>FIRST READING:</i>	<i>January 7, 2016</i>
<i>PUBLICATION:</i>	<i>January 13, 2016</i>
<i>PASSAGE:</i>	<i>January 27, 2016</i>

The within Ordinance was introduced at a meeting of the Common Council of the City of Linwood, County of Atlantic and State of New Jersey held on January 7, 2016 and will be further considered for final passage after a public hearing thereon at a meeting of said Common Council on January 27, 2016.

LEIGH ANN NAPOLI, RMC, MUNICIPAL CLERK

RICHARD L. DEPAMPHILIS, III, MAYOR

(Moved: _____ / Seconded: _____)

(Yeas: _____)