

ORDINANCE 2344-24

AN ORDINANCE TO REPEAL AND REPLACE IN ITS ENTIRETY CHAPTER 370, PROPERTY MAINTENANCE, ARTICLE II, VACANT AND ABANDONED PROPERTY, AND ARTICLE III, REGISTRATION OF MORTGAGE FORECLOSURE PROPERTIES

BE IT ORDAINED by the Governing Body of the Borough of Hawthorne, New Jersey that it does hereby amend and supplement the Code of the Borough of Hawthorne as follows:

SECTION 1. Chapter 370, Property Maintenance, Article II, Vacant and Abandoned Property, and Article III, Registration of Mortgage Foreclosure Properties, are hereby repealed and replaced in its entirety with the newly adopted Articles of said Ordinance to read as follows:

**Chapter 370
PROPERTY MAINTENANCE**

**Article I
Property Maintenance Code**

- § 370-1. Adoption of Standards.
- § 370-2. Amendments, Additions and Deletions.
- § 370-3. Construal of Provisions.
- § 370-4. Statutory authority; Codes on File.

**Article II
Vacant and Abandoned Properties**

- § 370-5. Purpose.
- § 370-6. Vacant and abandoned property defined.
- § 370-7. Notice of vacant and abandoned Property; registration requirements; registration fees.
- § 370-8. Requirements of owners of vacant and/or abandoned property.
- § 370-9. Creditor responsibility; notice to creditor; in-state representative required.
- § 370-10. Repairs to certain buildings; failure to repair; action by Borough; recovery of costs.
- § 370-11. Violations and Penalties.

**Article III
Registration of Mortgage
Foreclosure Properties**

- § 370-12. Purpose.
- § 370-13. Definitions.
- § 370-14. Applicability and Jurisdiction.
- § 370-15. Establishment of Registry
- § 370-16. Inspection and registration of real property under foreclosure.
- § 370-17. Maintenance requirements.
- § 370-18. Security Requirements.
- § 370-19. Provisions Supplemental.
- § 370-20. Public Nuisance.
- § 370-21. Additional authority
- §370-22. Opposing, obstructing enforcement officer; penalties.
- § 370-23. Immunity of enforcement officer.
- § 370-24. Penalties.

**ARTICLE II
Vacant and Abandoned Property**

§ 370-5. Purpose.

The purpose of this article is to protect the public health, safety, morals and welfare by establishing minimum standards governing the maintenance, appearance, and condition of vacant and/or abandoned properties and fixing penalties for violations of this article.

§ 370-6. Vacant and abandoned property defined.

- A. Except as provided in N.J.S.A. 55:19-83, any property that has not been legally occupied for a period of six months and which meets any one of the following additional criteria may be deemed to be vacant and/or abandoned property upon a determination by the Enforcement Officer that:
- (1) The property is in need of rehabilitation, in the reasonable judgment of the Enforcement Officer and no rehabilitation has taken place during that same six-month period; or
 - (2) Construction was initiated on the property and was discontinued prior to completion, leaving the building unsuitable for occupancy, and no construction has taken place for at least 6 months as of the date of a determination by the Enforcement Officer; or
 - (3) At least one installment of property tax remains unpaid and delinquent on that property as of the date of a determination by the Enforcement Officer; or
 - (4) The property has been determined to be a nuisance by the Enforcement Officer in accordance with N.J.S.A. 55:19-82 for one or more of the following reasons:
 - (a) The property has been found to be unfit for human habitation, occupancy or use pursuant to N.J.S.A. 40:48-2.3;
 - (b) The condition and vacancy of the property materially increases the risk of fire to the property and adjacent properties;
 - (c) The property is subject to unauthorized entry, leading to potential health and safety hazards; the owner has failed to take reasonable and necessary measures to secure the property; or the municipality has secured the property in order to prevent such hazards after the owner has failed to do so;
 - (d) The presence of vermin or the accumulation of debris or uncut vegetation or physical deterioration of the structure or grounds has created potential health and safety hazards, and the owner has failed to take reasonable and necessary measures to remove the hazards; or
 - (e) The dilapidated appearance or other condition of the property materially affects the welfare, including the economic welfare, of the residents of the area in close proximity to the property, and the owner has failed to take reasonable and necessary measures to remedy the conditions.
- B. A property which contains both residential and nonresidential space may be considered abandoned pursuant to N.J.S.A. 55:19-78 et seq. so long as 2/3 or more of the total net square footage of the building was previously legally occupied as residential space and none of the residential space has been legally occupied for at least six months at the time of the determination of abandonment by the Enforcement Officer.

§ 370-7. Notice of vacant and abandoned property; registration requirements; registration fees.

- A. Upon determination of the Enforcement Officer that a residential property is vacant and/or abandoned as defined in Section 370-6, the Enforcement Officer shall notify the responsible party by personal service, registered mail or posting notice in a conspicuous place on the property

of the determination and requirements of this article.

B. The owner, operator or responsible party of any vacant and/or abandoned property shall, within 30 calendar days after the building becomes vacant property or within 30 calendar days after assuming ownership of the abandoned 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 Enforcement Officer on forms provided by the Municipality for such purposes. Any Mortgagee who holds a mortgage on Real Property located within the Municipality shall comply with the registration requirements noted in Article III below upon the filing of a Foreclosure Action. Failure to receive notice by the Municipality shall not constitute grounds for failure to register the property. A certificate of registration shall remain valid through the end of the calendar year in which it was registered and shall be renewed annually, no later than January 31, as long as the property remains abandoned. The registration statement shall contain, at a minimum, the following:

- (1) The name, street address and telephone number of a person who resides or maintains an office within the State of New Jersey and who is either the responsible party or an authorized agent designated by the responsible party to receive notices and complaints of property maintenance and code violations on behalf of the responsible party;
- (2) The name, street address and telephone number of the person responsible for maintaining the property, if different;
- (3) A certificate of insurance evidencing vacancy and/or abandoned coverage on the abandoned property in a form to be approved by the Municipal Attorney;
- (4) The owner, operator or responsible party shall notify the Enforcement Officer within 30 calendar days of any change in the registration information by filing an amended registration statement on a form provided by the Enforcement Officer for such purpose.

C. A vacant and/or abandoned property shall not be included on the abandoned property list if rehabilitation is being performed in a timely manner, as evidenced by building permits issued and diligent pursuit of rehabilitation work authorized by those permits. A property on which an entity other than the Borough of Hawthorne has purchased or taken assignment from the Municipality of a tax sale certificate which has been placed on the abandoned property list may be removed if the owner of the certificate pays all municipal taxes and liens due on the property within 30 days after the property is placed on the list; provided, however, that if the owner of the certificate fails to initiate foreclosure proceedings within 6 months after the property was first placed on the list, the property shall be restored to the abandoned property list in accordance with the provisions of N.J.S.A. 55:19-103.

D. The fees for registration shall be as follows:

Initial Registration	\$250
Renewal	\$500
Second Renewal	\$750
Third Renewal and Subsequent Renewals	\$1,000

§ 370-8. Requirements of owners of vacant and/or abandoned property.

The owner of any building that has become a vacant and abandoned property, and any person

maintaining, operating, or collecting rent for any such building that has become vacant shall, within 30 days thereof:

- A. Enclose and secure the building against unauthorized entry as provided in the applicable provisions of the Borough Code, or as set forth in rules and regulations supplementing said codes; and
- B. Post a sign affixed to the inside of the building indicating the name, address, and telephone number of the owner, the owner's authorized agent for the purpose of service of process, and the person responsible for day-to-day supervision and management of the building, if such person is different from the owner holding title or authorized agent; 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; and
- D. Place a sign or posting indicating that unauthorized persons are not permitted entry into the building or on the porch, curtilage or surrounding areas in accordance with the provision of New Jersey Statute 2C:18-3b (2). Said sign/posting shall clearly indicate "No trespassing" in a form approved by the Borough of Hawthorne and shall be placed in a conspicuous location on the premises. The sign shall be a size and placed in such a location so as to be legible from the nearest public street or sidewalk, whichever is nearer, but shall be no smaller than 15" X 17".

§370-9. Creditor responsibility; notice to creditor; in-state representative required.

- A. Creditor responsibility. Pursuant to the provisions of the Public Laws of 2014, Chapter 35, a creditor filing a summons and complaint in an action to foreclose on a residential property that is vacant and abandoned, whether the 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, and if located out-of- state, shall be responsible for appointing an in-state representative or agent to act for the foreclosing creditor. This obligation applies whether the determination that the property is vacant and/or abandoned is made by the public officer pursuant to the provisions of Chapter 370 of the Code of the Borough of Hawthorne, pursuant to the provisions of N.J.S.A. 2A:50-73, or otherwise.
- B. Notice to creditor; time to correct violations. If the public 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 Chapter 370 of this 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 30 days of receipt of the notice, or within 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/or abandoned" for purposes of N.J.S.A. 2A:50-73.
- C. 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 Borough Clerk pursuant to paragraph (1) of subsection a of section 17 of P.L. 2008,c.127 (C.46:10B-51). An out-of-state creditor found by the municipal court of the municipality in which the property is located, or by any other court of competent jurisdiction, to have violated this provision shall be subject to a fine of \$2,500.00 for each day of the violation commencing on the day after the ten (10) day period set forth in paragraph (1) of subsection

a of section 17 of P.L. 2008,c.127 (C.46:10B-51) with respect to notifying the Borough Clerk that a summons and complaint in an action to foreclose on a mortgage has been served.

- D. Additional notice required. Notice of violations of property maintenance, building or other property codes for any property declared vacant and abandoned pursuant to this chapter shall be given to a foreclosing creditor pursuant to the procedures of this Code as required by P.L. 2014, c. 35.

§ 370-10. Repairs to certain buildings; failure to repair; action by Borough; recovery of costs.

- A. If the owner fails to comply with an order to repair, alter or improve or, at the option of the owner, to vacate and close the building, the Construction Official may cause such building to be repaired, altered or improved or to be vacated and closed. The public officer may cause to be posted, on the main entrance of any building so closed, a placard with the following words: "This building is unfit for human habitation or occupancy or use; the use or occupation of this building is prohibited and unlawful."
- B. If the owner fails to comply with an order to remove or demolish the building, the public officer may cause such building to be removed or demolished or may contract for the removal or demolition thereof.
- C. Collection of Borough's cost of removal, repair, etc. The amount of the cost of the filing of legal papers, expert witnesses' fees, search fees and advertising charges incurred in the course of any proceeding taken under this section determined in favor of the municipality, and such cost of such repairs, alterations or improvements, vacating and closing or removal or demolition, or from any contract for removal or demolition thereof, shall be a municipal lien against the real property upon which such cost was incurred. If the building is removed or demolished by the public officer, he/she shall sell the materials of such building. There shall be credited against the cost of the removal or demolition thereof, including the clearance and, if necessary, leveling of the site, the proceeds of any sale of such materials or any sum derived from any contract for the removal or demolition of the building. If there are no such credits or if the sum total of such costs exceeds the total of such credits, a detailed statement of the aforesaid costs and the amount so due shall be filed with the Municipal Tax Assessor or other custodian of the records of tax liens, and a copy thereof shall be forthwith forwarded to the owner by registered mail. If the total of the credits exceeds such costs, the balance remaining shall be deposited in the Superior Court by the public officer, shall be secured in such manner as may be directed by such Court and shall be disbursed according to the order or judgment of the Court to the persons found to be entitled thereto by final order or judgment of such Court. Any owner or party in interest may, within 30 days from the date of the filing of the lien certificate, proceed in a summary manner in the Superior Court to contest the reasonableness of the amount or the accuracy of the costs set forth in the municipal lien certificate. If an actual and immediate danger to life is posed by the threatened collapse of any fire-damaged or other structurally unsafe building, the Construction Official may, after taking such measures as may be necessary to make such building temporarily safe, seek a judgment in summary proceedings for the demolition thereof. Nothing in this section shall be construed to impair or limit in any way the power of the municipality to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise, nor is anything in this section intended to limit the authority of the enforcing agency or Construction Official under the State Uniform Construction Code Act, N.J.S.A. 52:27D-119 et seq., or any rules or regulations adopted thereunder.

- D. The amount of the Borough's costs related to the repair, alteration, improvement of any dwelling or the abatement of any nuisance existing upon the property shall become a lien upon the lands and shall be added to and become part of the assessment upon such lands. Said amount shall bear interest of the same rate as taxes and shall be collected and enforced by the Tax Collector of the Township. In addition to the costs associated with the repair, alteration, improvement or abatement, a charge of 15% of the total cost shall be imposed as an administrative charge.

§ 370-11. Violations and Penalties.

- A. Violations and penalties. Except as set forth elsewhere in the Code, any person, firm, corporation or entity violating any provision of this chapter shall, upon conviction, be punishable as provided in Chapter 1, General Provisions, § 1-15, of this Code. Except that a creditor required to correct a care, maintenance, security or upkeep violation under this chapter cited in a notice issued pursuant to § 370-1 et. seq. shall be subject to a fine of \$1,500.00 for each day of the violation. Any fines imposed pursuant to this section shall commence 31 days following receipt of the notice, 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.

ARTICLE III

Registration of Mortgage Foreclosure Properties

§ 370-12. Purpose.

It is the purpose and intent of the Municipal Council to establish a process to address the deterioration, crime, and decline in value of Borough neighborhoods caused by property with foreclosing or foreclosed mortgages located within the Borough, and to identify, regulate, limit and reduce the number of these properties located within the Borough. It has been determined that there exist within the Borough properties which are, or may become in the future, substandard with respect to structural integrity, equipment or maintenance or, further, that such conditions, including but not limited to structural deterioration; lack of maintenance of exterior premises and vacant lots; infestation; existence of fire hazards, constitute a menace to the health, safety welfare and reasonable comfort of the citizens and inhabitants of the Borough. It is further found and declared that, by reason of lack of maintenance and ensuing progressive deterioration, certain properties have the further effect of creating blighting conditions and that, if the same are not curtailed and removed, the aforesaid conditions will grow and spread and will necessitate in time the expenditure of large amounts of public funds to correct and eliminate the same and that, by reason of timely regulations and restrictions as herein contained, the growth of blight may be prevented and the neighborhood and property values thereby maintained, the desirability and amenities of dwellings and neighborhoods enhanced, and the public health, safety and welfare protected and fostered. It is Council's further intent to establish a registration program as a mechanism to help protect neighborhoods from becoming blighted through the lack of adequate maintenance of properties that are in Foreclosure or Foreclosed, and to provide a mechanism to avert foreclosure actions through timely intervention, education, or counseling of property owners.

§ 370-13. Definitions.

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

ANNUAL REGISTRATION

Shall mean twelve (12) months from the date of the first action that requires registration, as determined by the Borough, or its designee, and every subsequent twelve (12) months the property is Registrable. The date of the initial registration may be different than the date of the first action that required registration.

DEFAULT

Shall mean 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.

ENFORCEMENT OFFICER

Shall mean any law enforcement officer, building official, zoning inspector, code enforcement officer, fire inspector, building inspector, or other person authorized by the Borough to enforce the applicable code(s).

EVIDENCE OF VACANCY

Shall mean 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 and/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; and/or the presence of boards over doors, windows or other openings in violation of applicable code.

FORECLOSURE or FORECLOSURE ACTION

Shall mean the legal process by which a Mortgage, or other lien holder, terminates or attempts to terminate 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 legal 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.

MORTGAGEE

Shall mean the creditor, including but not limited to, trustees; mortgage servicing companies; lenders in 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; or any other person or entity with the legal right to foreclose on the Real Property, excluding governmental entities as assignee or owner.

OWNER

Shall mean every person, entity, or Mortgagee, who alone or severally with others, has legal or equitable title to any Real Property as defined by this article; has legal care,

charge, or control of any such property; is in possession or control of any such property; and/or is vested with possession or control of any such property. The Property Manager shall not be considered the Owner.

PROPERTY MANAGER

Shall mean any party designated by the Owner as responsible for inspecting, maintaining and securing the property as required in this article.

REAL PROPERTY

Shall mean any 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 Borough limits.

REGISTRABLE PROPERTY

Shall mean any property located in the Borough, whether vacant or occupied, that is subject to an ongoing Foreclosure Action by the Mortgagee or Trustee, has been the subject of a Foreclosure Action by a Mortgage or trustee and a judgment 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 bona fide purchaser in an arm’s length transaction or the Foreclosure Action has been dismissed.

REGISTRY

Shall mean a web-based electronic database of searchable real property records, used by the Borough to allow Mortgages the opportunity to register properties and pay applicable fees as required in this article.

UTILITIES AND SERVICES

Shall mean any utility and/or service that is essential for a building to be habitable and/or perform a service necessary to comply with all Borough codes. This includes, but is not limited to, electrical, gas, water, sewer, lawn maintenance, pool maintenance, and snow removal.

VACANT

As used in this Article shall mean any parcel of land in the Borough that contains any building or structure that is not lawfully occupied or inhabited by human beings. A property also shall be deemed vacant if it is occupied without a valid, unexpired certificate of occupancy or other written authorization for occupancy as may be required by applicable laws.

§ 370-14. Applicability and Jurisdiction.

This article applies to Foreclosing or Foreclosed properties in the Borough of Hawthorne.

§ 370-15. Establishment of Registry.

The Borough or its designee shall establish a registry cataloging each Registrable Property within the Borough containing the information required by this article.

§ 370-16. Inspection and registration of real property under foreclosure.

- A. Any Mortgagee who holds a mortgage on Real Property located within the Borough shall perform an inspection of the property upon the filing of a Foreclosure Action or any evidence of an existing foreclosure action or lien holder has obtained ownership of the real property by the Mortgagee.
- B. Property inspected pursuant to subsection A above that remains in Foreclosure, shall be inspected every thirty (30) days by the Mortgagee or the Mortgagee's designee. 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.
- C. Within ten (10) days of the date any Mortgagee files a Foreclosure Action, the Mortgagee shall register Real Property with the Borough Registry, and, at the time of registration, indicate whether the property is Vacant, and if so, shall designate in writing a Property Manager to inspect, maintain and secure the Real Property subject to the mortgage in Foreclosure when legally possible. A separate registration is required for each Registrable Property.
- D. Initial registration pursuant to this section shall contain at a minimum the name of the Mortgagee, the mailing address of the Mortgagee, e-mail address, telephone number and the name of the Property Manager and said person's address, e-mail address and telephone number, regardless of whether it is occupied or vacant.
- E. A nonrefundable annual registration fee in the amount of \$500 per property shall accompany the registration for or website registration; and (2) an additional \$2,000 per property annually if the property is vacant or abandoned pursuant to the definition in this article when the summons and complaint in an action to foreclose is filed, or becomes vacant and abandoned pursuant to the definition in this article at any time thereafter while the property is in foreclosure. Said fees shall be used to offset the costs of:
 - (1) Registration and registration enforcement
 - (2) Code enforcement and mitigation related to Foreclosure properties,
 - (3) Post-closing counseling and Foreclosure intervention limited to Owner-occupied persons in Default, which may not include cash and mortgage modification assistance, and
 - (4) For any related purposes as may be adopted in the policy set forth in this article. Said fees shall be deposited to a special account in the Township's Department dedicated to the cost of implementation and enforcement of this article and fulfilling the purpose and intent of this article. None of the funds provided for in this session shall be utilized for the legal defense of Foreclosure Actions.
- F. Each individual property on the Registry that has been registered for six (6) months or more prior to the Effective Date shall have thirty (30) days to renew the registration and pay the non-refundable annual registration fee. Properties less than six (6) months prior to the Effective Date shall renew the registration every twelve (12) months from the expiration of the original registration renewal date and shall pay the non-refundable annual registration fee.
- G. If the mortgage and/or servicing on a property is sold or transferred, the new Mortgagee is subject to all the terms of this article. Within ten (10) days of the transfer, the new Mortgagee shall register the property or update the existing registration. The previous Mortgagee(s) will not be released from the responsibility of paying all previous unpaid fees, fines, and penalties accrued during that Mortgagee's involvement with the Registrable Property.

- H. If the Mortgagee sells or transfers the Registrable Property in a non-arm's length transaction to a related entity or person, the transferee is subject to all the term of this article. Within ten (10) days of the transfer, the transferee shall register the property or update the existing registration. Any and all previous unpaid, fees fines, and penalties, regardless of who the Mortgagee was at the time registration was required, including but not limited to unregistered periods during the Foreclosure process, are the responsibility of the transferee and are due and payable with the updated registration. The previous Mortgagee will not be released from the responsibility of paying all previous unpaid fees, fines, and penalties accrued during that Mortgagee's involvement with the Registrable Property.
- I. 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, or portion thereof, the property is not registered and shall be due and payable with the registration.
- J. This section shall also apply to properties that have been the subject of a foreclosure sale where title is transferred to the Mortgagee as well as any properties transferred to the Mortgagee under a deed in lieu of foreclosure or by any other legal means.
- K. Properties subject to this section shall remain subject to the Annual Registration requirement, and the inspection, security, and maintenance standards of this section as long as the property remains Registrable.
- L. Failure of the Mortgagee and/or property Owner of record to properly register or to modify the registration to reflect a change of circumstances as required by this article is a violation of this article and shall be subject to enforcement by any of the enforcement means available to the Township.
- M. If any property is in violation of this article the Township may take the necessary action to ensure compliance and/or place a lien on the property for the cost of the outstanding obligation and any additional cost incurred to the property into compliance.
- N. Registration of foreclosure property does not alleviate the Mortgage and/or Owner from obtaining all 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 alleviate the requirement for the property to be registered under this section. Mortgage and/or Owner is expected to update the status of the property in the event of a Mortgage managed rental.
- O. Properties subject to this Section are not required to register under Article I Housing Standards and Vacant and/or Abandoned Property,

§ 370-17. Maintenance requirements.

- A. Properties subject to this article 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. Registrable 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, of Registrable Property shall be maintained in accordance with the applicable code(s) at the time registration is required.
- D. Registrable yard maintenance shall include, but not limited to, grass, ground covers, bushes, shrubs, hedges or similar plantings, decorative rock or bark or artificial turf/sod. 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, Owner, and transferees to properly maintain the property as required by this Chapter 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 County Sherriff, Municipal Magistrate or 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.

§ 370-18. Security Requirements.

- F. Properties subject to this article shall be maintained in a secure manner so as not to be accessible to unauthorized persons.
- G. 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 the window.
- H. If a property is Registrable, and the property has become vacant or blighted, a Property Manager shall be designated by the Mortgagee or Owner to perform the work necessary to bring the 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 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.
- I. In addition to the above, the property is required in accordance with the applicable code(s) of the Borough.
- J. When a property subject to this article becomes Vacant, it shall be posted with the name and twenty-four (24) hour contact telephone number of the Property Manager. The Property Manager shall be available to be contacted by the Borough Monday through Friday between 9:00 a.m. and 5:00 p.m., legal holidays excepted. The sign shall be placed in a window facing the street and shall be visible from the street. The posting shall be no less than eighteen (18) inches by twenty-four (24) inches and shall be of a font that is legible from forty-five (45) feet. The posting shall contain the following language with supporting information:

THIS PROPERTY IS MANAGED BY

_____ AND IS
INSPECTED ON A REGULAR BASIS.

THE PROPERTY MANAGE CAN BE CONTACTED
BY TELEPHONE AT

OR BY MAIL AT

- _____
F. The posting required in subsection **E** above shall be placed on the interior of a window facing the street to the front of the property so that it is visible from the street, or secured to the exterior of the building/structure facing the street to the front of the property so that it is visible from the street or if no such area exists, on a stake of sufficient size to support the posting in a location that is at all time visible from the street to the front of the property but not readily accessible to vandals. Exterior posting shall be constructed of and printed with weather-resistant materials.
- G. Failure of the Mortgagee and/or property Owner of record to properly inspect and secure a property subject to this Chapter, and post and maintain the signage noted in this section, is a violation and shall be subject to enforcement by any of the enforcement means available to the Borough. The Borough may take the necessary action to ensure compliance with this section and recover costs and expenses in support thereof.

§ 370-19. Provisions Supplemental.

The provisions of this Chapter are cumulative with and in addition to other available remedies. Nothing contained in this article shall prohibit the Borough from collecting on fees, fines, and penalties in any lawful manner; or enforcing its codes by any other means, including, but not limited to, injunction, abatement, or as other provided by law or ordinance.

§ 370-20. Public Nuisance.

All Registrable Property is at risk of being a public nuisance and if vacant or blighted can constitute a public nuisance and if vacant or blighted can constitute 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.

§ 370-21. 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 or Owner, and may bring the violations before the code enforcement, Council or special magistrate as soon as possible to address the conditions of the property. Nothing herein shall limit the Borough from abating any nuisance or unsafe condition by any other legal means available to it.

- B. The County Sheriff, Municipal Code Enforcement Officer, Municipal Magistrate or Special Magistrate 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 Sheriff, code enforcement, magistrate may direct the Borough to 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 Sheriff, code enforcement officer, code enforcement, or special magistrate, 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 may pursue financial penalties against the Mortgagee or Owner.
- E. The Borough may contract with an entity to implement this article, and, if so, any reference to the Enforcement Officer herein shall include the entity the Borough contracts with for that purpose.

§ 370-22. Opposing, obstructing enforcement officer; penalties.

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 article shall be punishable as provided for in the code or a court of competent jurisdiction.

- A. An out-of-state creditor subject to the notice and registration requirements of this article, found to be in violation of the requirement to appoint an in-State representative or agent, shall be subject to a fine of \$2,500 for each day of the violation. The violation shall be deemed to commence on the day after the creditor's initial 10 or 30-day requirement to notify the Township of applicable foreclosure actions.
- B. A creditor subject to the notice and registration requirements of this article, found to be in violation of any part of this article (with the exception of a violation pursuant to subsection A), shall be subject to a fine of \$1,500 for each day of violations. The violation shall be deemed to commence on the 31st day following the creditor's receipt of a notice of violation, or if deemed to present an imminent threat to public health and safety, on the 11th day following the creditor's receipt of such notice.

§ 370-23. Immunity of enforcement officer.

Any Enforcement Officer or any person authorized by the Borough to enforce the sections 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 Chapter.

§ 370-24. Penalties.

Any person who violates any provision of this article shall be, upon conviction, liable to the penalty stated in Chapter 1, Section 1-15 of the Code of the Borough of Hawthorne.

SECTION 2. Severability:

Each section, subsection, sentence, clause, and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause, and phrase, and finding or holding of any such portion of this Ordinance to be unconstitutional, void, or ineffective for any cause or reason shall not affect any other portion of this Ordinance.

SECTION 3. Effective Date:

Section 3. This Ordinance shall take effect twenty (20) days after final adoption and publication as provided by law.

Frank E. Matthews
Council President

Attest:
Lori Fernandez, RMC, CMC
Borough Clerk

NOTICE OF PENDING ORDINANCE

The Ordinance published herewith was introduced and passed upon first reading at a meeting of the Municipal Council of the Borough of Hawthorne, in the County of Passaic, New Jersey, held on June 5, 2024. It will be further considered for final passage after public hearing thereon, at a meeting of said Municipal Council to be held in the Municipal Building, 445 Lafayette Avenue, in said Borough on July 10, 2024 at 7:00 p.m., at which time and place all interested members of the public who desire will be given an opportunity to be heard in connection with said Ordinance, and during the week prior to and up to and including the date of such meeting, copies of said Ordinance will be made available at the Borough of Hawthorne website, www.hawthornenj.org and through the Clerk's Office in said Municipal Building at no cost to the members of the general public who shall request the same.

Lori Fernandez, RMC, CMC
Borough Clerk

THIS IS TO CERTIFY THAT THE FOREGOING IS A TRUE AND EXACT COPY OF AN ORDINANCE ADOPTED BY THE MUNICIPAL COUNCIL OF THE BOROUGH OF HAWTHORNE AT A REGULAR MEETING ON JULY 10, 2024.