

**ORDINANCE NO. 4002 Adopted 11/13/2008
AMENDED BY ORDINANCE NO. 4175 Adopted 1/26/2011**

AN ORDINANCE CREATING CHAPTER 8.80 OF THE *CODE OF THE CITY OF ELIZABETH* ENTITLED "REGULATION OF VACANT AND FORECLOSING RESIDENTIAL PROPERTIES."

WHEREAS, recent events in the local and national housing market have led to a drastic rise in the number of foreclosed houses. In cities throughout the nation, homes are being left vacant as families are forced to move out. 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 a time 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 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 City. 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 the City of Elizabeth; 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, several cities throughout the country have adopted laws in an attempt to combat this growing crisis. Others are considering similar legislation;

WHEREAS, the U.S. Department of Housing & Urban development (HUD) is a major funding source for the City of Elizabeth's Housing & Community Development Programs. They also own several foreclosed properties, which will be auctioned shortly. HUD does not usually hold its properties for a long period of time; and

Whereas, THE Department of Planning & Community Development's Elizabeth Home Improvement program (EHIP) is currently handling the property registrations rather than the Department of Neighborhood Services;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Elizabeth that Chapter 8.80 of the Code of the City of Elizabeth is created to read as follows:

SECTION 1. 8.80.010 Purpose

It is the intent of this Chapter to protect and preserve the public health, safety and welfare and security and quiet enjoyment of residents and neighborhoods by (i) requiring all residential property owners, including lenders, trustees and service companies to properly maintain vacant and/or foreclosing properties, and (ii) regulating the maintenance of vacant and/or foreclosing residential properties in order to prevent blighted and unsecured residences.

In addition to any other remedies in law or equity not set forth herein, enforcement authority shall be vested in the Department of Neighborhood Services and the Department of Health and Human Services and their respective inspectors, including, but not limited to the Bureaus of Construction, Health and Housing. The Police Department and Department of Public Works shall also have enforcement authority with respect to this Ordinance. The Mayor, may also designate, when necessary, additional enforcement duties for other City Departments.

SECTION 2. 8.80.020 Definitions

For the purposes of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. When consistent with the context, words used in the present tense include the future, words in the plural include the singular and words in the singular include the plural. The word "shall" is always mandatory and not merely directory.

City – means the City of Elizabeth

Days – means consecutive calendar days.

Director – means the Director of Neighborhood Services, the Director of Health and Human Services, the Director of Public Works and/or the Police Director and/or his or her designee(s) and their respective inspectors, including, but not limited to the Bureaus of Construction, Health and Housing.

Enforcement Authority – means the Department of Planning & Community Development, the Department of Public Works, the Department of Health and Human Services and the Police Department and any other Department designated as such by the Mayor.

Foreclosing – means the process by which property, placed as security for a real estate loan, is prepared for sale to satisfy the debt if the borrower defaults.

Initiation of the foreclosure process – means any of the following actions taking by a mortgagee against the borrower or mortgagee of a property: (i) taking possession of the property; (ii) delivering a mortgagee's notice of intention to foreclose to the borrower; (iii) commencing a foreclosure action or filing a *lis pendens* in the Superior Court of New Jersey.

Mortgagee – means 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 the mortgage agreement.

Owner – means every person, entity, service company, property manager or real estate agency, who alone or severally with others:

1. has legal or equitable title to any dwelling, dwelling unit, mobile dwelling unit or parcel of land, vacant or otherwise; or
2. 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 agent, executor, executrix, administrator, administratrix, trustee or guardian, trustee or guardian of the estate of the holder of legal title; or
3. is a mortgagee in possession of any such property; or
4. is an agent, trustee or other person appointed by the courts and vested with possession or control of any such property; or
5. is an officer or trustee of the association of unit owners of a condominium. Each such person is bound to comply as if he were the owner. However, this ordinance shall not apply to any Condominium Association or Co-op that forecloses or initiates the foreclosure process for unpaid assessments due or owing the Association; or
6. every person who operates a rooming house; or
7. is a trustee who holds, owns or controls mortgage loans for mortgage backed securities transactions and has initiated the foreclosure process.

Property – means any real estate, residential property, or portion thereof, located in the City of Elizabeth, including buildings or structures situated on the property. For the purposes of this section only, property does not include property owned or subject to the control of the City or any of its governmental bodies or agencies including, but not limited to, property owned or controlled by the Housing Authority of the City of Elizabeth.

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

Securing – means taking measures that assist in making the property inaccessible to unauthorized persons.

Vacant – means any property not currently legally occupied and not properly maintained or secured.

SECTION 3. **8.80.030 Registration of Vacant and/or
Foreclosing Properties; duty to Provide Written
Notice of Vacant, Residential Property and/or
Mortgage Foreclosure.**

All owners must register vacant and not properly maintained and/or foreclosing properties with the Department of Neighborhood Services on forms to be provided. All registrations must state the individual owner's or agent's name, phone number and mailing address. The mailing address may not be a P.O. Box. This registration must also certify that the property was inspected and identify whether the property is vacant at the time of filing. If the property is vacant, the owner and/or registrant must designate and retain an individual or property management company responsible for the security and maintenance of the property. This designation must state the individual or company's name, phone number and local mailing address. The mailing address may not be a P.O. Box. If the property is in the process of foreclosure, then the registration must be received within seven (7) days of the initiation of the foreclosure process as defined in Section 2 hereinabove. If the enforcement authority determines that the property is vacant and the foreclosure proceedings have not been initiated, the registration must be received within fourteen (14) days of the enforcement authority's first notice of violations or summons for improper maintenance.

All property registrations are valid for one year from the date of registration. An annual registration fee of one hundred dollars (\$100.00) must accompany the registration form. Subsequent annual registrations and fees are due October 1st.

Once the property is no longer vacant or is sold or otherwise transferred, the owner must provide proof of sale, transfer or occupancy to the enforcement authority within thirty (30) days of sale, transfer or occupancy.

No governmental agency is required to pay the annual Registration fee.

SECTION 4. 8.80.040 Maintenance Requirements

Properties subject to the requirements of this Chapter must be maintained in accordance with the all applicable federal, state and local laws, rules and regulations. The owner, local individual or local property management company must inspect the property twice a month for the duration of the vacancy.

The property must contain a posting with the name and 24-hour contact phone number of the local individual or property management company responsible for the maintenance. This sign must be posted on the front of the property so it is clearly visible from the street.

Adherence to this section does not relieve the owner of any applicable obligations set forth in the Code of the City of Elizabeth, covenant conditions and restrictions, and/or home owners' association rules and regulations.

SECTION 5. 8.80.050 Inspections

The enforcement authority shall have the authority and the duty to inspect properties subject to this Chapter for compliance and to issue summonses for any violations.

SECTION 6. 8.80.060 Enforcement and Penalties

Failure to initially register with the enforcement authority is punishable by a fine of three hundred (\$300.00) dollars.

If applicable, failure to properly identify the name of the individual or property management company is punishable by a fine of three hundred (\$300.00) dollars.

Failure to maintain the property or respond to the notice as set forth in paragraph 1 of Section 3 hereinabove is punishable by a fine up to three hundred (\$300.00) dollars, plus costs associated with the cleanup, to include, but not be limited to tipping fees and overtime for use of personnel and equipment.

Nothing contained herein shall prevent the Department of Public Works, in a case of an unregistered or delinquent registered owner, from cleaning up the property on an

as needed basis and imposing a lien against the property for costs associated for cleanup as set forth in paragraph 3 of this Section.

Any fine(s) or cost(s) associated with cleaning up the property that remains uncollected or unpaid shall, by resolution of the City Council, become a lien upon the property, which lien shall hereafter form part of the taxes next to be assessed and levied upon said lands, the same to bear interest at the same rate as taxes to be collected and enforced by the same officers and in the same manner as taxes in accordance with the provisions of N.J.S.A. 40:48-2.14 and Chapter 15.12.180 of the *Code of the City of Elizabeth*.

SECTION 7. 8.80.070 Implementation

Upon the effective date as set forth in Section 10 herein below, any existing vacant or foreclosing properties shall have thirty (30) days to comply with the provisions of this Ordinance.

SECTION 8.

All ordinances or parts of ordinances inconsistent with the provisions of this ordinance be and the same are hereby repealed.

SECTION 9.

If any portion or clause of this ordinance is declared invalid for any reason whatsoever, same shall not affect the validity or constitutionality of any other part or portion of this ordinance.

SECTION 10.

The effective date of this Ordinance shall be twenty (20) days after its final passage by City Council and approval by the Mayor at the time and in the manner provided by law.