

**BOROUGH OF ALLENTOWN
COUNTY OF MONMOUTH
STATE OF NEW JERSEY**

ORDINANCE NO. 05-2023

AN ORDINANCE REPEALING AND REPLACING CURRENT CODE SECTION 12-8: "MAINTENANCE OF VACANT/ABANDONED PROPERTIES" WITH NEW CODE SECTION 12-8: "VACANT AND FORECLOSED PROPERTIES; REGISTRATION" WITHIN CHAPTER 12: "PROPERTY MAINTENANCE" OF THE BOROUGH'S REVISED GENERAL ORDINANCES TO UPDATE REGULATIONS PERTAINING TO VACANT PROPERTIES WITHIN THE BOROUGH TO COMPORT WITH NEWLY ADOPTED STATE LAW.

BE IT ORDAINED by the Mayor and Council of the Borough of Allentown, County of Monmouth, State of New Jersey, that current Section 12-8: "Maintenance of Vacant/Abandoned Properties; Registration" is hereby repealed and replaced with *new* Code Section 12-8: "Vacant and Foreclosed Properties; Registration" within Chapter 12: "Property Maintenance" of the Borough's Revised General Ordinances, as follows:

CHAPTER 12: PROPERTY MAINTENANCE

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§ 12-8 VACANT AND FORECLOSED PROPERTIES; REGISTRATION.

§ 12-8.1 Establishment and Purpose.

The Borough of Allentown hereby establishes a vacant property registration program for the purposes of identifying and monitoring residential and commercial properties within the Borough against which a summons and complaint in an action to foreclose on a mortgage has been filed, and to regulate the care, maintenance, security, and upkeep of the exterior of vacant and abandoned residential and commercial properties against which a summons and complaint in an action to foreclose has been filed; as well as impose property registration fees upon the creditors of such residential or commercial properties on an annual basis.

§ 12-8.2 Definitions; Conditions for Determination.

CREDITOR

Means a mortgagee or an agent or assignee of a mortgagee, such as the servicer, who has filed a complaint in the Superior Court seeking to foreclose upon a residential or commercial mortgage. If the entity seeking to foreclose upon the residential or commercial mortgage

changes as a result of an assignment, transfer, or otherwise after the filing of the foreclosure complaint in the Superior Court, the new entity shall be deemed the creditor for purposes of this section. For purposes of this section, a creditor shall not include the State, a political subdivision of the State, a State, county, or local government entity, or their agent or assignee, such as the servicer.

PROPERTY IN FORCLOSURE

Means residential and commercial properties within the Borough against which a summons and complaint in an action to foreclose on a mortgage has been filed.

VACANT AND ABANDONED PROPERTY

Means residential and commercial properties as to which a notice of violation has been issued under Section 12-8.6 hereinbelow, or where a notice of violation has not been issued, such property shall be deemed "vacant and abandoned" if it is not occupied by a mortgagor or tenant (evidenced by a lease agreement), and at least two of the following conditions exist:

- a. Overgrown or neglected vegetation;
- b. The accumulation of newspapers, circulars, flyers or mail on the property;
- c. Disconnected gas, electric, or water utility services to the property;
- d. The accumulation of hazardous, noxious, or unhealthy substances or materials on the property;
- e. The accumulation of junk, litter, trash or debris on the property;
- f. The absence of window treatments such as blinds, curtains or shutters;
- g. The absence of furnishings and personal items;
- h. Statements of neighbors, association management, delivery persons, or government employees indicating that the residence is vacant and abandoned;
- i. Windows or entrances to the property that are boarded up or closed off or multiple window panes that are damaged, broken and unrepaired;
- j. Doors to the property that are smashed through, broken off, unhinged, or continuously unlocked;
- k. A risk to the health, safety or welfare of the public, or any adjoining or adjacent property owners, exists due to acts of vandalism, loitering, criminal conduct, or the physical destruction or deterioration of the property;
- l. An uncorrected violation of a municipal building, housing, or similar code during the

preceding year, or an order by municipal authorities declaring the property to be unfit for occupancy and to remain vacant and unoccupied;

- m. The mortgagee or other authorized party has secured or winterized the property due to the property being deemed vacant and unprotected or in danger of freezing;
- n. A written statement issued by any mortgagor expressing the clear intent of all mortgagors to abandon the property;
- o. Any other reasonable indicia of abandonment.

§ 12-8.3 Registration of Properties in Foreclosure.

- a. A creditor filing a summons and complaint in an action to foreclose upon a real property within the Borough shall, within 10 days after serving such summons and complaint, and annually thereafter, file a registration statement for such property in foreclosure with the Borough Clerk on forms provided by the Borough for such purposes.
- b. Each property in foreclosure having a separate block and lot number as designated in the official tax maps of the Borough shall be registered separately.
- c. The registration statement shall include the name, street address, telephone number, and email address (if applicable) of a person 21 years or older, designated by the creditor as the authorized agent for receiving notices of code violations and for receiving process in any court proceeding or administrative enforcement proceeding on behalf of such creditor in connection with the enforcement of this Chapter. The registration statement shall also include the name, street address, telephone number, and email address (if applicable) of the firm and the actual name(s) of the firm's individual principal(s) responsible for maintaining the property in foreclosure. The authorized agent and the responsible person(s) may be the same or different. All such persons shown on the statement must maintain offices in the State of New Jersey or reside within the State of New Jersey.
- d. The registration statement shall identify the date the summons and complaint in an action to foreclose on a mortgage was filed against the subject property, the court in which it was filed, and the docket number of the filing.
- e. The registration statement shall further identify whether the property is vacant and abandoned in accordance with the definition set forth in Section 12-8.2 hereinabove.
- f. The creditor filing a summons and complaint in an action to foreclose shall, if the registered property becomes vacant and abandoned under the definition set forth in Section 12-8.2 after the property is initially registered with the Borough, update the property registration with the Borough to reflect the change in the property's status

within 10 days thereof.

- g. The registration shall remain valid for one year from the date of registration except for the initial registration which shall be valid through December 31st of the year in which it was filed. The creditor shall be required to renew the registration annually and shall pay the registration fee prescribed in Subsection 12-8.4 for each property registered. The annual renewal shall be completed by January 1st each year. The initial registration fee shall be pro-rated for registration statements received less than 10 months prior to that date.
- h. The creditor shall notify the Borough Clerk within 10 days of any change in the registration information by filing an amended registration statement on a form provided by the Borough Clerk for such purpose.
- i. The registration statement shall be deemed prima facie proof of the statements therein contained in any administrative enforcement proceeding or court proceeding instituted by the Borough against the creditor.

§ 12-8.4 Registration Fees.

The annual registration fee shall be \$500.00 per property annually for any property that is required to be registered because a summons and complaint in an action to foreclose was filed by the creditor. An additional \$2,000.00 per property annually shall be assessed upon registration or renewal if the property was vacant and abandoned under the definition set forth in Section 12-8.2 hereinabove when the summons and complaint in an action to foreclose was filed, or becomes vacant and abandoned under the definition set forth in Section 12-8.2 hereinabove at any time thereafter while the property is in foreclosure.

§ 12-8.5 Creditor Responsibility for Properties in Foreclosure.

- a. A creditor filing a summons and complaint in an action to foreclose against a property within the Borough shall be immediately responsible for the care, maintenance, security and upkeep of the exterior of the property in accordance with this Chapter.
- b. A creditor filing a summons and complaint in an action to foreclose against a vacant and abandoned property as defined in Section 12-8.2 hereinabove, or against a property that thereafter becomes vacant and abandoned under the definition set forth in Section 12-8.2 hereinabove at any time while the property is in foreclosure, shall:
 - 1. Enclose and secure the property against unauthorized entry as provided in the applicable provisions of the Borough Code, or as set forth in any such rules and regulations supplementing same; and
 - 2. Post a sign affixed to the inside of the property and visible to the public indicating the name, address, and telephone number of the creditor or an out-of-State creditor's in-State representative or agent for the purpose of receiving service of

process; and

3. Ensure that the property, including yards, fences, sidewalks, walkways, retaining walls, attached or unattached accessory structures and driveways, are well-maintained and free from trash, debris, loose litter, and grass and weed growth; and
 4. Continue to maintain the property in a secure and closed condition, keep the grounds in a clean and well-maintained condition, and ensure that the sign is visible and intact until the property is again occupied, demolished, or until repair and/or rehabilitation of the property is complete.
 5. The creditor shall acquire or otherwise maintain liability insurance, in an amount of not less than \$300,000.00 for properties designed primarily for one to four unit residential use and not less than \$1,000,000.00 for any other property, including, but not limited to, properties designed for multifamily, manufacturing, storage or commercial uses, covering any damage to any person or any property caused by any physical condition of or in the property. Any insurance policy acquired or renewed after the property has become vacant and abandoned shall provide for written notice to the Borough Clerk within 30 days of any lapse, cancellation or change in coverage. The creditor shall attach evidence of the insurance to the annual registration statement. Any registration statement for a vacant and abandoned property that does not include such evidence shall not be a valid registration.
- c. Where a creditor is located out-of-state, the creditor shall be responsible for appointing an in-State representative or agent to act on the creditor's behalf for the purpose of satisfying the requirements of Subsections 12-8.5(a) and 12-8.5(b) hereinabove. Notice of said representative or agent shall be provided to the Borough Clerk under Subsection 12-8.3(c).

§ 12-8.6 Notice of Violation.

- a. The enforcement officers designated in Section 12-8.7 hereof shall be authorized to issue a notice to any creditor that has filed a summons and complaint in an action to foreclose against a property within the Borough, if the enforcement officer determines that the creditor has violated this section by failing to provide for the care, maintenance, security, and upkeep of the exterior of a property in foreclosure or a vacant and abandoned property, or has failed to comply with any other provision or requirement of this Chapter.
- b. Where a creditor is an out-of-State creditor, the notice shall be issued to the representative or agent that has been identified by the creditor pursuant to Subsection 12-8.5(c).

- c. The notice referenced in Subsection 12-8.6(a) hereinabove shall require the creditor to correct the violation(s) 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.
- d. The issuance of a notice pursuant to Subsection 12-8.6(a) hereinabove shall constitute proof that a property is vacant and abandoned for the purposes of this section.

§ 12-8.7 Enforcement Officers.

The duty of administering and enforcing the provisions of this Section 12-8 is conferred upon the Borough Clerk, Code Enforcement Officer, Housing Inspector, and Zoning Officer, and any other duly appointed representatives.

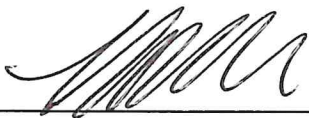
§ 12-8.8 Violations and Penalties.

- a. A creditor subject to this section that is found by the Municipal Court of the Borough, or by any other court of competent jurisdiction, to be in violation of the requirement to correct a care, maintenance, security, or upkeep violation cited in a notice issued pursuant to this section shall be subject to a fine of \$1,500.00 for each day of the violation. Any fines imposed pursuant to this paragraph shall commence 31 days following the receipt of the notice referenced in Subsection 12-8.6(a), 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 referenced in Subsection 12-8.6(a).
- b. An out-of-state creditor subject to this section that is found by the Municipal Court of the Borough, or by any other court of competent jurisdiction, to be in violation of the requirement to appoint an in-State representative or agent pursuant to this section shall be subject to a fine of \$2,500.00 for each day of the violation. Any fines imposed on a creditor for the failure to appoint an in-State representative or agent shall commence on the day after the ten-day period set forth in N.J.S.A. 46:10B-51 and/or N.J.S.A. 40:48-2.12s2 for providing notice to the Borough Clerk that a summons and complaint in an action to foreclose on a mortgage has been filed, and shall continue accruing until such proper registration is filed with the Borough.
- c. A creditor subject to this section that is found by the Municipal Court of the Borough, or by any other court of competent jurisdiction, to be in violation of the requirement to register a property pursuant to Subsection 12-8.3 shall be subject to a fine not exceeding \$2,000.00. Any fines imposed on a creditor under this Subsection 12-8.8(c) shall commence on the day after the ten-day period set forth in Subsection 12-8.3 to register such property, and shall continue accruing until such proper registration is filed with the Borough.
- d. No less than 20% of any money collected by the Borough pursuant to this section shall be utilized by the Borough for municipal code enforcement purposes.

BE IT FURTHER ORDAINED by Mayor and Council that should any section, paragraph, sentence, clause, or phase of this ordinance be declared unconstitutional or invalid for any reason, the remaining portion of this ordinance shall not be affected thereby and shall remain in full force and effect, and to that end the provisions of this ordinance are hereby declared to be severable.

BE IT FURTHER ORDAINED by Mayor and Council that all ordinances or parts of ordinances inconsistent with this amending ordinance are hereby repealed to the extent of their inconsistencies only.

BE IT FURTHER ORDAINED by Mayor and Council that this ordinance shall be in full force and take effect after final passage and publication according to law.



THOMAS FRITTS, Mayor

ATTEST:



LAURIE A. ROTH, MAS, RMC, CMR
Municipal Clerk

DATED: February 28, 2023

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