

BOROUGH OF GARWOOD

ORDINANCE NO. 23-02

Adopted: _____

Introduced:	
Motion:	
Seconded:	

Public Hearing:	
Motion:	
Seconded:	

AN ORDINANCE AMENDING THE BOROUGH CODE OF THE BOROUGH OF GARWOOD BY AMENDING CHAPTER 67, ENTITLED "BUILDINGS AND STRUCTURE", ARTICLE VII, ENTITLED "MAINTENANCE, REGISTRATION AND REPAIR OF RESIDENTIAL PROPERTIES SUBJECT TO FORECLOSURE".

WHEREAS, the New Jersey State Legislature has identified that vacant and abandoned properties in foreclosure create a greater risk of blight and can create a wide range of problems for the communities in which they are located; and

WHEREAS, the New Jersey State Legislature finds property registration systems to provide a valuable tool to municipalities in confronting the risk of blight created by properties on which foreclosure proceedings have been initiated and such properties that become vacant and abandoned; and

WHEREAS, the Borough of Garwood (the "Borough") has previously adopted Chapter 67, Article VII of the Code of the Borough of Garwood establishing procedures and requirements for creditors to register, maintain and repair properties, which are being foreclosed; and

WHEREAS, the Borough Council seeks to amend the Code to ensure that the Borough utilizes all tools provided by the Legislature to combat blight created by properties on which foreclosure proceedings have been initiated and such properties that become vacant and abandoned; and

NOW, THEREFORE, BE IT ORDAINED by the governing body of the Borough of Garwood that Chapter 67 (Buildings and Structures), Article VII (Maintenance, Registration and Repair of Residential Properties Subject to Foreclosure) of the Borough Code of the Borough of Garwood is hereby amended as follows (additions underscored, deletions ~~struck through~~):

Article VII

Maintenance, Registration and Repair of Residential Properties Subject to Foreclosure

[Added 11-24-2015 by Ord. No. 15-22; amended 9-11-2018 by Ord. No. 18-21; amended ___ by Ord. No. ____]

§ 67-17 *Notice required.*

A. A creditor serving a summons and complaint in an action to foreclose on a mortgage on residential or commercial property in the Borough of Garwood shall, within 10 days of serving the summons and complaint, notify the Borough Clerk and the Mayor. The notice shall contain the full name, address, telephone number, and email address (if applicable) of a person 21 years of age or older, who will act as the representative of the creditor and is responsible for receiving complaints of property maintenance and code violations. Additionally, the notice shall contain the full name and contact information for any person or entity retained by the creditor or representative of the creditor to be

responsible for any care, maintenance, security, or upkeep of the property. For representatives which are firms, the name, street address, telephone number, and email (if applicable) of the firm and the actual name(s) of the firm's individual principal(s) responsible for maintaining the property shall be included. The individual or representative of the firm responsible for maintaining the property shall be available by telephone or in person on a twenty-four-hour-per-day, seven-day-per-week basis. The two entities may be the same or different persons. Both entities shown on the statement must maintain offices in the State of New Jersey or reside within the State of New Jersey as applicable. In the event that the creditor that has served a summons and a complaint in an action to foreclose on a commercial property is located out-of-State, the registration shall also contain the full name, address, and telephone number of an in-State representative or agent who shall be responsible for the care, maintenance, security, and upkeep of the exterior of the property if it becomes vacant and abandoned. The notice may contain information about more than one property. The notice shall be provided by mail or by electronic communication, at the discretion of the Borough Clerk. In the event that the creditor that has served a summons and a complaint in an action to foreclose on a commercial property is located out-of-State, the notice shall also contain the full name, address, and telephone number of an in-State representative or agent who shall be responsible for the care, maintenance, security, and upkeep of the exterior of the property if it becomes vacant and abandoned.

- B. The creditor shall provide a notice to the Borough Clerk containing any change in the name, address, or telephone number for a representative, agent, or individual authorized to accept service on behalf of a creditor within 10 days of the change in information.
- C. For the purposes of § 67-17, "creditor" means a State chartered bank, savings bank, savings and loan association or credit union, any person required to be licensed under the provisions of the New Jersey Residential Mortgage Lending Act, N.J.S.A. 17:11C-51 to N.J.S.A. 17:11C-89, and any entity acting on behalf of the creditor named in the debt obligation including, but not limited to, servicers. A creditor, as the term is used here, shall not include the State, a political subdivision of the State, or a State, county, or local government entity, or their agent or assignee, such as the servicer.

§ 67-1718 Registration required.

- A. A creditor serving a summons and complaint in an action to foreclose on a mortgage on residential or commercial property in the Borough of Garwood shall, within 10 days of serving the summons and complaint, shall register such residential or commercial property with the Borough Clerk. The registration shall contain the full name, address, telephone number, and email address (if applicable) of a person 21 years of age or older, who will act as the representative of the creditor and is responsible for receiving complaints of property maintenance, code violations, and process in any court proceeding or administrative enforcement proceedings on behalf of such creditor in connection with the enforcement of any applicable code. Additionally, the registration shall contain the full name and contact information for any person or entity retained by the creditor or a representative of the creditor to be responsible for any care, maintenance, security, or upkeep of the property. For representatives which are firms, the name, street address, telephone number, and email (if applicable) of the firm and the actual name(s) of the firm's individual principal(s) responsible for maintaining the property shall be included. The individual or representative of the firm responsible for maintaining the property shall be available by telephone or in person on a twenty-four-hour-per-day, seven-day-per-week basis. The two entities may be the same or different persons. Both entities shown on the statement must maintain offices in the State of New Jersey or reside within the State of

New Jersey as applicable. In the event that the creditor that has served a summons and a complaint in an action to foreclose on a commercial property is located out-of-State, the registration shall also contain the full name, address, and telephone number of an in-State representative or agent who shall be responsible for the care, maintenance, security, and upkeep of the exterior of the property if it becomes vacant and abandoned. The registration may contain information about more than one property, but a separate registration fee shall be paid for each property. The registration statement shall be provided by mail or by electronic communication, at the discretion of the Borough Clerk. ~~The registration statement shall include the name, street address, telephone number, and email address (if applicable) of a person 21 years of age 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 proceedings on behalf of such creditor in connection with the enforcement of any applicable code; and the name, street address, telephone number, and email (if applicable) of the firm and the actual name(s) of the firm's individual principal(s) responsible for maintaining the property. The individual or representative of the firm responsible for, maintaining the property shall be available by telephone or in person on a twenty four hour per day, seven day per week basis. The two entities may be the same or different persons. Both entities shown on the statement must maintain offices in the State of New Jersey or reside within the State of New Jersey as applicable. In the event the creditor is located outside the State of New Jersey, the notice shall also contain the full name and contact information of an in-state representative or agent who shall be responsible for the care, maintenance, security and upkeep of the exterior property if it becomes vacant and abandoned.~~

- B. The registration shall identify the date the summons and complaint in an action to foreclose was filed against the subject property, the court in which it was filed, and the docket number of the filing. Additionally, the registration shall identify whether the property is vacant and abandoned in accordance with the definition provided by § 67-24.
- CB. The registration shall remain valid for one year from the date of registration, except for the initial registration, which shall be prorated on a monthly basis through December 31. The creditor shall be required to renew the registration annually as long as the building remains a vacant and abandoned property and shall pay a registration or renewal fee in the amount prescribed in § ~~67-26.127.1~~ for each vacant property registered. **[Amended 11-15-2018 by Ord. No. 18-26]**
- DC. The annual renewal shall be completed by January 1 each year.
- ED. The creditor shall notify the Borough Clerk within 30 calendar days of any change in the registration information by filing an amended registration statement.
- FE. 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 or the owner or owners of the building.
- G. The creditor shall provide a notice to the Borough Clerk containing any change in the name, address, or telephone number for a representative, agent, or individual authorized to accept service on behalf of a creditor within 10 days of the change in information.
- H. The creditor filing a summons and complaint in an action to foreclose shall, if the registered property becomes vacant and abandoned in accordance with the definition supplied by § 67-2324 after the

property is initially registered with the Borough of Garwood, update the property registration with the Borough to the reflect the change in that information.

- I. The creditor filing the summons and complaint in an action to foreclose shall be responsible for the care, maintenance, security, and upkeep of the exterior of the property if the property is vacant and abandoned at any time while the property is registered with the property registration program.
- J. The creditor must secure a property that is or has become vacant and abandoned, relating to the care, maintenance, security, and upkeep of the of the exterior of the property against unauthorized entry, 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, or acquire and otherwise maintain liability insurance by procuring a vacancy policy, covering any damage to any person or any property caused by any physical condition of the property while registered with the property registration program.
- K. For the purposes of § 67-18, "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 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 Article. A creditor, as the term is used here, shall not include the State, a political subdivision of the State, or a State, county, or local government entity, or their agent or assignee, such as the servicer.

§ 67-1819 Notification to Chief of Police.

The Borough Clerk shall forward a copy of the notice and registrations received pursuant to this article to the Chief of Police and the Property Maintenance Officer. The notice shall also include the street address, lot, and block number of the property.

§ 67-1920 Notice concerning affordable units.

In the event that the property being foreclosed on is an affordable unit pursuant to the Fair Housing Act, N.J.S.A. 52-27D-301 et seq., then the creditor shall identify in the registration that the property is subject to the Fair Housing Act.

§ 67-2021 Content of notice.

In addition to the foregoing information, the notice and registration shall also include the street address, lot and block of the property, and the full name and contact information of an individual located within the State of New Jersey who is authorized to accept service on behalf of the creditor. The notice shall be provided to the Borough Clerk within 10 days of service of a summons and complaint in an action to foreclose on a mortgage against the subject property.

§ 67-2422 Notice to creditor.

If the owner of a residential property vacates or abandons any property on which a foreclosure proceeding has been initiated, or if a residential property becomes vacant at any point subsequent to the creditor's filing of the summons and complaint in an action to foreclose on a mortgage against the subject property, but prior to vesting of title in the creditor or any other third party, and the exterior of the property is found to be a nuisance or in violation of any applicable state or local code, the Chief of Police, Borough Clerk, Property Maintenance Officer or any other municipal official authorized by the Mayor and Council shall

notify the creditor or the representative or agent of any out-of-state creditor, as applicable, which creditor shall have the responsibility to abate or correct the violation in the same manner and as to the same extent as the title owner of the property, to the standard and specification required by state law and by municipal ordinance. The notice shall include a description of the condition which gave rise to the violation with the notice of violation, and shall provide a period of not less than 30 days of the creditor's receipt of the notice for the creditor to remedy the violation. If the creditor fails to remedy the violation within that time period, the Borough may impose penalties allowed for the violation of its ordinances pursuant to N.J.S.A. 40:49-5.

§ 67-2223 Recourse of municipality.

If the Borough expends public funds in order to abate a nuisance or correct a violation on a residential property in a situation in which the creditor was given notice pursuant to § 67-2422 but failed to abate the nuisance or correct the violation as directed, the Borough shall have the same recourse against the creditor as it would have had against the title owner of the property, including, but not limited to, the recourse provided under N.J.S.A. 55:19-100 of the Abandoned Properties Rehabilitation Act.

§ 67-2324 "Vacant and abandoned" defined.

A. For the purposes of this article, residential properties shall be deemed vacant and abandoned where the property is not occupied by an owner or tenant, and the building is in such condition that it cannot be legally reoccupied, because at least two of the following conditions exist:

- (1) Overgrown or neglected vegetation;
- (2) The accumulation of newspapers, circulars, flyers or mail on the property;
- (3) Disconnected gas, electric, or water utility services to the property;
- (4) The accumulation of hazardous, noxious, or unhealthy substances or materials on the property;
- (5) The accumulation of junk, litter, trash or debris on the property;
- (6) The absence of window treatments such as blinds, curtains or shutters;
- (7) The absence of furnishings and personal items;
- (8) Statements of neighbors, delivery persons, or government employees indicating that the residence is vacant and abandoned;
- (9) Windows or entrances to the property that are boarded up or closed off or multiple window panes that are damaged, broken and unrepaired;
- (10) Doors to the property that are smashed through, broken off, unhinged, or continuously unlocked;
- (11) 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;
- (12) 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;

- (13) The mortgagee or other authorized party ~~had liability~~ has secured or winterized the property due to the property being deemed vacant and unprotected or in danger of freezing;
 - (14) A written statement issued by any mortgagor expressing the clear intent of all mortgagors to abandon the property; and
 - (15) Any other reasonable indicia of abandonment.
- B. For the purposes of this article a residential property shall not be considered vacant and abandoned if, on the property:
- (1) There is an unoccupied building which is undergoing construction, renovation, or rehabilitation that is proceeding diligently to completion, and the building is in compliance with all applicable ordinances, codes, regulations, and statutes;
 - (2) There is building occupied on a seasonal basis, but otherwise secure; or
 - (3) There is a building that is secure, but is the subject of a probate action, action to quiet title, or other ownership dispute.

§ 67-2425 Responsibility of creditor.

Any creditor filing a summons and complaint in an action to foreclose on any residential property shall be responsible for the care, maintenance, security and upkeep of the exterior of any vacant and abandoned 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.

§ 67-2526 Standard of maintenance.

The creditor shall maintain such property to the standard required by Article V of this chapter and according to all other standards for the care, maintenance, security and upkeep of the exterior of property contained in the ordinances of the Borough of Garwood.

§ 67-2627 Notice to correct violation.

The Borough Clerk, Chief of Police, Property Maintenance Officer, or any other municipal official responsible for any property maintenance or public nuisance code for the Borough of Garwood or the State of New Jersey is hereby authorized to issue a notice to any creditor filing a summons and complaint in an action to foreclose, if the public officer or other authorized municipal official determines that the creditor has violated this article by failing to provide for the care, maintenance, security or upkeep of the exterior of the property. Such 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 the public health and safety. The issuance of a notice pursuant to this section shall constitute proof that a property is "vacant" and "abandoned" for the purposes of N.J.S.A. 2A:50-73.

§ 67-26-127.1 Registration and renewal fee schedule.

The ~~initial~~ registration and renewal fee for each building, subject to subsection § 67-18 shall be \$500 per annum. ~~The fee for the first renewal is \$1,500 per annum; the fee for the second renewal is \$3,000 per annum; and the fee for any subsequent renewal beyond the second renewal is \$5,000 per annum. For~~

each building that is vacant and abandoned, the fee is an additional \$2,000 per annum. The initial registration fee shall apply Upon initial registration of a building qualified by this section, or upon transfer of ownership to another creditor, the registration fee must be paid again by the new creditor. Annual fees for registration will be due January 1 of each year. All registration fees will be payable to the Borough Clerk.

§ 67-2728 Violations and penalties.

- A. A creditor subject to this article found by the municipal court or by any other court of competent jurisdiction to be in violation of any requirement to correct a care, maintenance, security or upkeep violation cited in a notice pursuant to this article shall be subject to a fine of \$1,500 for each day of the violation. Any fines imposed pursuant to this section shall commence 31 days following the receipt of a notice sent pursuant to this article, unless 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.
- B. An out-of-state creditor subject to this article found by the municipal court 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 article shall be subject to fine of \$2,500 for each day of the violation. Any fines imposed on a creditor for failure to appoint an in-state representative or agent shall commence on the day after the ten-day period set forth in this article for providing notice to the Borough Clerk that a summons and complaint in an action to foreclose on a mortgage has been served.
- C. No less than 20% of any money collected pursuant to this article shall be utilized by the Borough for municipal code of enforcement purposes.

§ 67-2829 Effect.

These provisions of this article shall be effective immediately. All properties to which it applies shall be registered by the creditor within 30 days of the effective date of the amendments to this article, notwithstanding that the foreclosure

ATTEST:

APPROVED:

Catherine D. Cameron, R.M.C.
Borough Clerk

Jennifer Blumenstock, Mayor

RECORDED VOTE	INTRODUCTION:	ADOPTION
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COUNCILWOMAN HERZ		
COUNCILMAN KEARNEY		
COUNCILMAN LAZAROW		
COUNCILWOMAN NOLDE		
COUNCILWOMAN SALMON		
COUNCIL PRESIDENT GRAHAM		