

ORDINANCE #17-11

**AN ORDINANCE OF THE TOWNSHIP OF WASHINGTON, COUNTY OF WARREN,
STATE OF NEW JERSEY TO CREATE CHAPTER 97A “RESIDENTIAL
MAINTENANCE” ARTICLE I “REGISTRATION AND MAINTENANCE OF VACANT
AND ABANDONED RESIDENTIAL PROPERTIES IN FORECLOSURE” OF THE
CODE OF THE TOWNSHIP OF WASHINGTON TO ESTABLISH STANDARDS FOR
THE REGISTRATION AND MAINTENANCE OF VACANT AND ABANDONED
RESIDENTIAL PROPERTIES IN FORECLOSURE BY CREDITORS**

WHEREAS, mortgage foreclosures often result in the abandonment and neglect of residential properties; and

WHEREAS, P.L. 2014, c. 35, authorizes municipalities to adopt ordinances for the purpose of regulating the care, maintenance, security and upkeep of the exterior of vacant and abandoned properties for which a creditor has filed an action to foreclose; and

WHEREAS, it is in the public interest for the Township of Washington to establish a mechanism to identify and track vacant and abandoned residential properties in the Township which are in foreclosure, to establish standards for the maintenance of those properties and to enforce those standards of maintenance;

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Washington, Warren County, State of New Jersey as follows:

Section 1:

Chapter 97A. **Residential Maintenance**

Article I

Registration and Maintenance of Vacant and Abandoned Residential Properties in Foreclosure

§97A-1 Purpose.

The purpose of this chapter is to create a regulation regarding registration and maintenance of vacant and abandoned residential properties in foreclosure in accordance with the provisions of P.L. 2014, c.35.

§97A-2 Definitions.

- A. "Creditor" shall mean, consistent with section 3 of P.L. 2008, c.86, a State chartered bank, savings bank, savings and loan association or any credit union, any person required to be licensed under the provisions of the "New Jersey Residential Mortgage Lending Act," and any entity acting on behalf of the Creditor named in the debt obligation, including but not limited to, servicers.
- B. "Vacant and Abandoned" residential property shall mean, consistent with section 1 of P.L. 2010, c.70 (C.2A:50-73), residential real estate for which a notice of violation has been issued pursuant to Section 97A-5 of this Chapter and subsection b. of section 1 of P.L. 2014, c.35. Where a notice of violation has not been issued pursuant to Section 97A-5 of this Chapter and subsection b. of section 1 of P.L. 2014, c.35, residential property shall be deemed "Vacant and Abandoned" where a mortgaged property is not occupied by a mortgagor or tenant as evidenced by a lease agreement entered into prior to the service of a notice of intention to commence foreclosure according to section 4 of the "Fair Foreclosure Act," P.L. 1995, c.244 and 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 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.

§97A-3 Registration of Vacant and Abandoned Properties

- A. A Creditor filing a summons and complaint in an action to foreclose on a Vacant and Abandoned property, or a Creditor who has previously filed a summons and complaint to foreclose on a residential property which subsequently becomes Vacant and Abandoned, shall within thirty (30) calendar days after the building becomes Vacant and Abandoned or within thirty (30) calendar days after assuming ownership of the Vacant and Abandoned property, whichever is later; or within ten (10) calendar days of receipt of notice from the Town, and annually thereafter, file a registration statement for such Vacant and Abandoned property with the municipal clerk on forms provided by the Town for such purposes. Any failure to receive notice from the Town shall not constitute grounds for failing to register the Vacant and Abandoned property.
- B. Each Vacant and Abandoned property having a separate block and lot number as designated in the official tax maps of the Town shall be registered separately.
- C. The registration statement shall include the name, street address, telephone number, and email address (if applicable) of a person twenty-one (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 any applicable code.
- D. The registration statement shall 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 Abandoned and Vacant property. The individual or representative of the firm responsible for maintaining the Abandoned and Vacant 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.
- E. 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 as long as the building remains Vacant and Abandoned and shall pay a registration or renewal fee in the amount prescribed in Paragraph J. of this Section for each Vacant and Abandoned property registered.
- G. 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 ten (10) months prior to that date.
- H. The Creditor shall notify the municipal clerk within thirty (30) calendar days of any change in the registration information by filing an amended registration statement on a form provided by the municipal 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 Town against the Creditor.

J. Fee Schedule. The initial registration fee for each Vacant and Abandoned property under the provisions of this Section shall be five hundred (\$500.00) dollars. The fee for the first annual renewal shall be one thousand (\$1,000.00) dollars and the fee for the second annual renewal shall be one thousand five hundred (\$1,500.00) dollars. The fee for any subsequent annual renewal beyond the second renewal shall be three thousand (\$3,000.00) dollars.

§97A-4 Creditor Responsibility for Vacant and Abandoned Properties.

A. A Creditor filing a summons and complaint in an action to foreclose on a residential property within the Town shall be immediately responsible for the care, maintenance, security, and upkeep of the exterior of the property, after the property becomes Vacant and Abandoned as defined in this Chapter.

B. 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 Paragraphs C and D of Section 97A-3. Notice of said representative or agent shall be provided to the Town clerk in a manner that is consistent with subsection a. of section 17 of P.L. 2008, c.127 (the "Save New Jersey Homes Act of 2008"), and shall further include the full name and contact information of the in-State representative or agent.

§97A-5 Notice.

A. Any public officer designated by the Town pursuant to Section 97A-6 or authorized municipal official responsible for the administration of any property maintenance or public nuisance code shall be authorized to issue a notice to a Creditor that has filed a summons and complaint in an action to foreclose on a residential property within the Town, if the public officer determines that the Creditor has violated this Chapter by failing to provide for the care, maintenance, security, and upkeep of the exterior of the property. 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 Section 97A-4 of this Chapter and the Save New Jersey Homes Act of 2008.

B. The notice referenced in Paragraph A of this Section 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.

C. The issuance of a notice pursuant to Paragraph A of this Section shall constitute proof that a residential property is "Vacant and Abandoned" for the purposes of this Chapter.

§97A-6 Enforcement Officers.

The duty of administering and enforcing the provisions of this Chapter is conferred upon the municipal clerk, construction official, zoning officer, Township Police, and any other duly appointed representatives.

§97A-7 Violations and Penalties.

- A. A Creditor subject to this Chapter that is found by the municipal court of the Town, 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 Chapter shall be subject to a fine of \$1,500 for each day of the violation. Any fines imposed pursuant to this sub-section shall commence 31 days following the Creditor's receipt of the notice, except where the violation is deemed to present an imminent risk to the 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 Chapter that is found by the municipal court of the Town, or by any other court of competent jurisdiction, 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. Any fines imposed on an out-of-state Creditor for the failure to appoint an in-State representative or agent shall commence on the day after the 10-day period set forth in paragraph (1) of subsection a. of section 17 of P.L. 2008, c.127 (C.46:10B-51) for providing notice to the municipal clerk that a summons and complaint in an action to foreclose on a mortgage has been served.

- C. A Creditor subject to this Section that is found by the municipal court of the Town, or by any other court of competent jurisdiction, to be in violation of the requirement to register a Vacant and Abandoned property pursuant to Section 97A-3 shall be subject to a fine not exceeding two thousand (\$2,000.00) dollars. Any fines imposed on a Creditor under this Paragraph shall commence 11 days following receipt of notice from the Town pursuant to Section 97A-3(A).

No less than 20 percent of any money collected by the Town pursuant to this Section shall be utilized by the Town for municipal code enforcement purposes.

Section 2:

REPEAL

All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

Section 3:

SEVERABILITY

If any section, subsection, clause or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the remaining portions of this ordinance.

This Ordinance shall take effect immediately upon final publication as provided by law.

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing Ordinance was introduced to pass on the first reading meeting of the Township Committee of the Township of Washington held on October 17, 2017 and ordered published in accordance with the law. Said Ordinance will be considered for final reading and adoption at a regular meeting of the Township Committee to be held on November 20, 2017 at 7:30 p.m. or as soon thereafter as the Township Committee may hear this Ordinance at the Municipal Building, 211 State Route 31 North, Washington, New Jersey at which time all persons interested may appear for or against the passage of said Ordinance.

Anna Godfrey, RMC
Municipal Clerk
Township of Washington

ATTEST:

TOWNSHIP OF WASHINGTON

Anna Godfrey, RMC
Municipal Clerk

Robert Klingel, Mayor

DATED: _____, 2017

CERTIFICATION

I, Anna Godfrey, Clerk of the Township of Washington, do hereby certify that the foregoing Ordinance was duly adopted by the Township of Washington Committee on the 20th day of November, 2017.

Anna Godfrey, RMC, Municipal Clerk