

2016-14

**AN ORDINANCE OF THE TOWNSHIP OF LOPATCONG, COUNTY OF WARREN, STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING THE TOWNSHIP CODE TO CREATE A CHAPTER 165 “PROPERTY MAINTENANCE” TO INCLUDE A NEW SECTION ENTITLED “RESIDENTIAL MAINTENANCE” 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 Lopatcong 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 Council of the Township of Lopatcong, Warren County, State of New Jersey as follows:

The Revised General Ordinances of the Township of Lopatcong are amended as follows:

Section 1:

The Chapter 165 shall be renamed, “Property Maintenance/Residential Maintenance of Foreclosures.

Section 2:

Sections 165-1 through 165-9 shall be listed under Article I. The content of the subsections shall remain unchanged.

Section 3

**Article II**  
**Residential Maintenance of Properties in Foreclosures**

**§165-10 Purpose.**

The purpose of this chapter is to create a regulation regarding registration and maintenance of vacant and abandoned residential properties in foreclosure.

**§ 165- 12 Definitions.**

- A. "Creditor" means a State chartered bank, savings and loan association or credit union, any person or entity required to be licensed under the provisions of the "New Jersey Residential Mortgage Act," P.L. 2009, c. 53 (C.17:11C-51 et seq.), any foreclosing entity subject to the provisions of C.46:10B-51 (P.L. 2008, c. 127, Sec. 17, as amended from time to time) and any entity acting on behalf of the creditor named in the debt obligation including, but not limited to, services.
- B. "Vacant and Abandoned" residential property means, consistent with N.J.S.A. 2A:50-73, residential real estate, where a notice of violation has been issued pursuant to N.J.S.A. 40:48-2.12s(1)(b). Residential property shall further be deemed Vacant and Abandoned where a mortgaged property is not occupied by a mortgagor or tenant 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, association management, 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;
- (15) Any other reasonable indicia of abandonment.

C. 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 a 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.

#### **§165-13 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 Township 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 subsection 12.
- 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 N.J.S.A. 2A:50-73(d)(1). Notice of said representative or agent shall be provided to the municipal clerk pursuant to N.J.S.A. 40:48-2.12(b)(3)&(4) and pursuant to N.J.S.A. 46:10B-51(a)(1).
- C. A Creditor filing a summons and complaint in an action to foreclose on a residential property within the Township shall post a sign affixed to the building indicating the name, address and telephone number of the owner, the owner’s authorized agent for the purpose of service of process (if designated pursuant to subsection 13(b) of this Section), 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. The sign shall be of a size and placed in such a location as to be legible from the nearest public street or sidewalk, whichever is nearer, but shall be no smaller than 18” x 24”.

**§165-14 Property Inspection and Notice.**

- A. The owner and/or creditor of any vacant property shall provide access to the Township to conduct an exterior and interior inspection of the building to determine compliance with the municipal code following reasonable notice.
- B. The enforcement officers designated in Subsection 15 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 Township, if the enforcement officer determines that the Creditor has violated this Section by failing to provide the care, maintenance, security and upkeep of the exterior of a Vacant and Abandoned property, or otherwise fail to comply with this Section.
- C. 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 N.J.S.A. 2A:50-73(d)(2) and N.J.S.A. 46:10B-51(a)(1).
- D. The Notice referenced in Subsection 14(b) & (c) 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 enforcement officer has deemed the violation presents an imminent threat to public health and safety.
- E. The issuance of a notice pursuant to Subsection 14(b) & (c) of this Section shall constitute proof that a residential property is Vacant and Abandoned for the purpose of this Chapter.

**§165-15 Enforcement Officers.**

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

**§165-16 Violations and Penalties.**

- A. A Creditor subject to this Chapter that is found by the municipal court of the Township, or by any other court of competent jurisdiction, to be in violation of the requirement to correct, care, maintenance, security, or upkeep violation cited in a notice issued pursuant to this Chapter 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, 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.
- B. An out-of-state Creditor subject to this Chapter that is found by the municipal court of the Township, 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 Chapter 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 10-day period set forth in N.J.S.A. 46:10B-51(a)(1) for providing notice to the municipal clerk that a summons and complaint in an action to foreclose on a mortgage has been served.

Section 4:

Severability. The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

Section 5:

Repealer. Any ordinances or parts thereof in conflict with the provisions of this Ordinance are hereby repealed as to their inconsistencies only.

Section 6:

Effective Date. This Ordinance shall take effect upon final passage and publication as provided by law.

**NOTICE**

**NOTICE IS HEREBY GIVEN** that the foregoing Ordinance was introduced and passed by the Township Council on the first reading at a meeting of the Township Council of the Township of Lopatcong, held on August 3, 2016, and will be considered for a second reading and final passage at a regular meeting of the Township Council to be held on September 7, 2016, at 7:00 p.m., at the Municipal Building, located at 232 South Third Street, Phillipsburg, New Jersey, at which time and place any persons desiring to be heard upon the same will be given the opportunity to be so heard.

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Beth Dilts, Municipal Clerk