

**BOROUGH OF NEW MILFORD  
BERGEN COUNTY, NEW JERSEY  
ORDINANCE NO. 2016:04**

**AN ORDINANCE ESTABLISHING CHAPTER 12-3, RESIDENTIAL PROPERTY MAINTENANCE, OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF NEW MILFORD REGULATING THE CARE, MAINTENANCE, SECURITY, AND UPKEEP OF VACANT AND ABANDONED RESIDENTIAL PROPERTIES IN FORECLOSURE**

**WHEREAS**, the Borough of New Milford regulates the maintenance of residential property within the Borough by and through Chapter 12 of the Borough Code, “Property Maintenance”; and

**WHEREAS**, the Legislature and the Governor of the State of New Jersey have enacted P.L. 2014, c.35, described as “[a]n Act concerning the maintenance of certain residential properties, supplementing chapter 48 of Title 40 of the Revised Statutes....” (The Act); and

**WHEREAS**, The Act authorizes the Borough to adopt an ordinance for the purpose of regulating the care, maintenance, security, and upkeep of the exterior of vacant and abandoned residential properties for which a creditor has filed a summons and complaint in an action to foreclose; and

**WHEREAS**, The Act authorizes designated Borough officials to issue notices to creditors that have filed a summons and complaint in an action to foreclose, if the public official determines that the property is vacant and abandoned and that the creditor has failed to provide for the care, maintenance, security, and upkeep of the exterior of the property; and

**WHEREAS**, The Act authorizes the Borough to impose monetary fines and penalties for each violation of this ordinance and its respective provisions in the Borough Code; and

**WHEREAS**, the Borough wishes to amend the Borough Code to enact the provisions of P.L. 2014, c.35; and

**WHEREAS**, the Governing Body finds that it is in the best interests of the Borough to amend the Borough Code as hereinafter provided to enact the provisions of P.L. 2014, c.35.

**NOW, THEREFORE BE IT ORDAINED** as follows:

Section 1. The Borough Code, Chapter 12, “Property Maintenance” shall be amended to add section 12-3 as follows:

**12-3 MAINTENANCE OF VACANT AND ABANDONED RESIDENTIAL PROPERTIES**

**12-3.1 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 159-10.3 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 159-10.3 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.

**12-3.2 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 Borough 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 Paragraph A of this Section. Notice of said representative or agent shall be provided to the Borough 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.

**12-3.3 NOTICE**

- A. Any public officer designated by the Borough 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 Borough, 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 10-12.2 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.

**12.3.4 VIOLATIONS AND PENALTIES**

- A. A Creditor subject to this Chapter 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 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 Borough, 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. No less than 20 percent of any money collected by the Borough pursuant to this Section shall be utilized by the Borough for municipal code enforcement purposes.

If any section or provision of this Ordinance shall be held invalid in any Court of competent jurisdiction, the same shall not affect the other sections or provision of this Ordinance, except so far as the section or provision so declared invalid shall be inseparable from the remainder of any portion thereof.

All Ordinances or parts of Ordinances which are inconsistent herewith are hereby repealed to the extent of such inconsistency.

In the event that any word, phrase, clause, section or provision of this Ordinance is found by any Court of competent jurisdiction to be unenforceable, illegal or unconstitutional, such word, phrase, clause or provision shall be severable from the balance of this Ordinance and the remainder of this Ordinance shall remain in full force and effect.

This Ordinance shall take effect immediately after final passage and publication on the manner provided by law.