

ORDINANCE 2022-12

AN ORDINANCE PROVIDING FOR VACANT/ABANDONED COMMERCIAL AND RESIDENTIAL PROPERTIES IN FORECLOSURE IN THE BOROUGH OF LINDENWOLD, SUPPLEMENTING CHAPTER 166 AND AMENDING CHAPTER 150, ARTICLE I, SECTION 49 FORECLOSED AND VACANT PROPERTY REGISTRATION

WHEREAS, the Borough of Lindenwold (the “Borough”) contains residential and commercial structures which are vacant in whole or large part and are the subject of Foreclosure actions in the Superior Court of New Jersey; and

WHEREAS, in many cases, the Foreclosing creditors, or other responsible parties of these structures are neglectful of them, are not maintaining or securing them to an adequate standard, or restoring them to productive use; and

WHEREAS, it has been established that vacant and abandoned structures cause severe harm to the health, safety, and general welfare of the community, including diminution of neighboring property values, increased risk of fire and potential increases in criminal activity and public health risks; and

WHEREAS, the Borough incurs disproportionate costs in order to deal with the problems of vacant and abandoned structures, including but not limited to, excessive police calls, fire calls, and property inspections; and

WHEREAS, it is in the public interest for the Borough to establish minimum standards of accountability on the owners, creditors, or other responsible parties of vacant and abandoned residential and commercial structures subject to Foreclosure actions in order to protect the health, safety and general welfare of the residents of the Borough; and

WHEREAS, it is in the public interest for the Borough to impose a fee in conjunction with the registration of vacant and abandoned residential and commercial structures subject to Foreclosure actions in the Superior Court of New Jersey, in light of the disproportionate costs imposed of the Borough by the presence of these structures.

NOW THEREFORE, BE IT enacted by the Mayor and Council of the Borough of Lindenwold as follows:

VACANT PROPERTY REGISTRATION FOR PROPERTIES SUBJECT TO FORECLOSURE

This Ordinance authorizes the Borough of Lindenwold to govern the maintenance of vacant residential and commercial properties in the Borough of Lindenwold, subject to pending Foreclosure actions in the Superior Court of New Jersey, establishes registration requirements, and levies a registration fee on creditors of the vacant properties, pursuant to N.J.S.A. 40:48-2.12s3.

Section 1

This Ordinance governs the maintenance of vacant residential and commercial properties in the Borough of Lindenwold, subject to pending Foreclosure actions in the Superior Court of New Jersey, amending registration requirements and amending registration fees for creditors of vacant and abandoned properties pending foreclosure.

Section 2

Any creditor filing a summons and complaint in an action to foreclose shall, in addition to the notice provided to the municipality pursuant to section 17 of P.L.2008, c. 127 (C.46:10B-51) or section 2 of P.L.2021, c. 444 (C.40:48-2.12s2), register the residential or commercial property with the Borough of Lindenwold’s property registration program as a property in foreclosure and, as part of that registration:

(A) provide the municipality with the information regarding the creditor required by paragraph (1) of subsection a. of section 17 of P.L.2008, c. 127 (C.46:10B-51) or paragraph (1) of subsection a. of section 2 of P.L.2021, c. 444 (C.40:48-2.12s2);

(B) 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; and

(C) identify whether the property is vacant and abandoned in accordance with the definition in this ordinance set forth in Section 8.

Section 3

If there is any change in the name, address, or telephone number for a representative, agent, or individual authorized to accept service on behalf of a creditor required to register pursuant to the property registration program following the filing of the summons and complaint, the creditor shall update the property registration program within 10 days of the change in that information.

Section 4

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 as set forth in section 8, after the property is initially registered with the Borough of Lindenwold, update the property registration with the municipality to reflect the change in the property's status.

Section 5

The creditor filing a 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.

Section 6

A creditor located out-of-State shall be responsible for appointing an in-State representative or agent to act for the foreclosing creditor.

Section 7

The creditor filing a summons and complaint in an action to foreclose on a property, that is or becomes vacant and abandoned, shall be responsible for the care, maintenance, security, and upkeep of the exterior of the property, including, but not limited to, securing the property against unauthorized entry, posting 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 ensure compliance with all municipal code provisions and State regulatory provisions regarding the maintenance of the property. The creditor shall 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.

Section 8-Definition of Vacant and Abandoned Property

A property shall be considered vacant and abandoned if it is not legally occupied by a mortgagor or tenant, which is in such condition that it cannot be legally reoccupied, because of the presence or finding of at least two of the following:

- (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, delivery persons, or government employees indicating that the property 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 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 a mortgagor expressing the clear intent of all mortgagors to abandon the property; or
- (o) any other reasonable indicia of abandonment.

Section 9

The Construction Official shall issue a notice to the creditor filing the summons and complaint in an action to foreclose, if the Construction Official determines that the creditor has violated the ordinance. In the case of a violation for failure to provide care, maintenance, security, and upkeep of the exterior of vacant and abandoned 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 public health and safety.

Section 10

An annual fee shall be imposed as listed in Chapter 150, Article I, Section 49 upon a creditor required to register a property pursuant to this ordinance in the amount of (1) \$500 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; and (2) an additional \$2,000 per property annually if the property is vacant or abandoned pursuant to the definition as set forth in Section 8 of this ordinance when the summons and complaint in an action to foreclose is filed, or becomes vacant and abandoned pursuant to the definition in Section 8 at any time thereafter while the property is in foreclosure. The annual fee shall be initially due and payable within 30 days of registering the property pursuant to Section 2 of this ordinance, and shall be due and payable on the anniversary date of the initial registration thereafter, for each succeeding year. Property registration fees imposed pursuant to this ordinance shall be considered a municipal charge pursuant to the “tax sale law,” [R.S.54:5-1 et seq.](#)

Section 11-Penalties

(For Borough Penalties see Chapter 1, Article 1-1 of the Code unless required by New Jersey State Law as below)

- (A). If an out-of-State creditor subject to this ordinance is found by the municipal court of the Borough of Lindenwold, 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 ordinance, the out-of-State creditor shall be subject to a fine of \$2,500 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 paragraph (1) of subsection a. of section 17 of [P.L.2008, c. 127 \(C.46:10B-51\)](#) or paragraph (1) of subsection a. of section 2 of [P.L.2021, c. 444 \(C.40:48-2.12s2\)](#) for providing notice to the municipal clerk that a summons and complaint in an action to foreclose on a mortgage has been served.
- (B). A creditor subject to this ordinance found by the municipal court of the Borough of Lindenwold, or by any other court of competent jurisdiction, to be in violation, excluding only a violation addressed by paragraph (A) of this subsection, of this ordinance shall be subject to a fine of \$1,500 for each day of the violation. Any fines imposed pursuant to this paragraph shall commence 31 days following receipt of the notice of violation, 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.
- (C). No less than 20 percent of any money collected pursuant to this subsection or subsection 10 of this Ordinance shall be utilized by the Borough of Lindenwold for municipal code enforcement purposes.

Section 12-Definitions

“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 Ordinance. For purposes of this Ordinance, 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.

Section 13

Nothing in this Ordinance is intended nor shall be read to conflict or prevent the Borough from taking action against buildings found to be unfit for human habitation or unsafe structures as provided in applicable provisions of the Code of the Borough of Lindenwold. Further, any action taken under any such code provision other than the demolition of a structure shall relieve an owner from its obligations under this Ordinance.

Section 14

The provisions of this Ordinance are severable. To the extent any clause, phase, sentence, paragraph, or provision of this Ordinance shall continue in full force and effect.

BE IT FURTHER ORDAINED that if any section, subsection, paragraph, sentence or other party of this Ordinance is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance, but shall be confined in its effect to the section, subsection, paragraph, sentence or other part of this Ordinance directly involved in the controversy in which said judgment shall have been rendered and all other provisions of this Ordinance shall remain in full force and effect.

BE IF FURTHER ORDAINED that Chapter 150, Article I, Section 49 be amended to read as written in Section 10 as follows:

§ 150-49 Foreclosed and vacant property registration.

An annual fee shall be imposed as listed in Chapter 150, Article I, Section 49 upon a creditor required to register a property pursuant to this ordinance in the amount of (1) \$500 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; and (2) an additional \$2,000 per property annually if the property is vacant or abandoned pursuant to the definition as set forth in Section 8 of this ordinance when the summons and complaint in an action to foreclose is filed, or becomes vacant and abandoned pursuant to the definition in Section 8 at any time thereafter while the property is in foreclosure. The annual fee shall be initially due and payable within 30 days of registering the property pursuant to Section 2 of this ordinance, and shall be due and payable on the anniversary date of the initial registration thereafter, for each succeeding year. Property registration fees imposed pursuant to this ordinance shall be considered a municipal charge pursuant to the “tax sale law,” [R.S.54:5-1 et seq.](#)

BE IT FURTHER ORDAINED that this Ordinance shall take effect immediately upon final adoption and publication in the manner prescribed by law.

Introduced: July 13, 2022

Adopted: August 10, 2022

Richard E. Roach, Jr.
Mayor

Deborah Jackson, RMC
Borough Clerk