

ORDINANCE 2021-20
AN ORDINANCE ADDING TO THE EXISTING LINDENWOLD CODE CHAPTER 238,
ARTICLE IV REGARDING FORECLOSED PROPERTIES

WHEREAS, the municipal governing body of the Borough of Lindenwold wishes to regulate foreclosed properties in the Borough of Lindenwold, and

WHEREAS, under the State of New Jersey, the Borough of Lindenwold has the authority to regulate such properties.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the municipal governing body of the Borough of Lindenwold, as follows:

Statutory authority.

- A. N.J.S.A 40:48-2 provides in relevant part that a municipality may make and enforce such ordinances, rules and regulations not contrary to the laws of this State or of the United States as it may deem necessary and proper for the good government, order and protection of persons and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants.
- B. N.J.S.A 46:10B-51(a) provides in relevant part that a creditor serving a summons and complaint in an action to foreclose on a mortgage on residential property in this state shall within 10 days of serving the summons and complaint notify the municipal clerk of the municipality in which the property is located that a summons and complaint in an action to foreclose on a mortgage has been filed against the subject property. The notice shall contain the name and contact information for the representative of the creditor who is responsible for receiving complaints of property maintenance and code violations. The notice may contain information about more than one property, and shall be provided by mail or electronic communication, at the discretion of the municipal clerk. The notice shall also include the street address, lot and block number of the property and the full name and contact information of an individual located within the state who is authorized to accept service on behalf of the creditor.
- C. N.J.S.A 46:10B-51(b) provides in relevant part that 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 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 property is found to be a nuisance or in violation of any applicable state or local code, the appropriate local municipal official shall notify the creditor of the nuisance or violation. The creditor shall have the responsibility to abate the nuisance or correct the violation in the same manner and to the same extent as the title owner of the property, to such standard or specification as may be required by state law or municipal ordinance.
- D. N.J.S.A. 46:10B-51(c) provides in relevant part that if the municipality expends public funds in order to abate a nuisance or correct a violation on a residential property in situations where the creditor was given notice pursuant to the aforesaid statute but failed to abate the nuisance or correct the violation as directed, the municipality shall have the same recourse against the creditor as it would have against the title owner of the property including, but not limited to, the recourse provided under N.J.S.A. 55:19-100.E. N.J.S.A. 46:10B-51.1 provides in relevant part that the owner of any non-owner occupied residential property who takes title to the property as the result of a sheriff's sale or deed in lieu of foreclosure, other than an owner who has previously provided notice to the municipality pursuant to N.J.S.A. 46:10B-51, shall provide notice, within 10 business days, to the municipal clerk of the municipality wherein the property is located providing the name and address of the owner. If the owner is not located within New Jersey, then the owner shall designate an agent within New Jersey, including the agent's address, who is authorized to accept service of process on behalf of the property owner.
- F. N.J.S.A. 55:19-100 provides in relevant part that with respect to any lien placed against any real property pursuant to the provisions of N.J.S.A.40:48-2.3 or N.J.S.A. 40:48-2.3a or N.J.S.A. 40:48-2.5 or any receiver's lien pursuant to N.J.S.A. 2A:42-114 et seq., the municipality shall have recourse with respect to the lien against any asset of the owner of the property if an individual, against any asset of any partner if a partnership, and against any asset of any owner of a ten-percent interest or greater if the owner is any other business organization entity recognized pursuant to law.

Findings and purpose.

- A. The governing body of the municipality finds and declares that residential properties with pending foreclosure proceedings typically become vacant. These vacant properties if not maintained rapidly become eyesores with unkempt lawns and overgrown vegetation, broken doors and windows, and deteriorating structures. These properties create a wide range of negative secondary effects in the neighborhoods where they are located in that they foster criminal activity, create public health problems, and otherwise diminish the quality of life for residents and business operators located in those areas.

- B. The governing body of the municipality finds and declares that residential properties with pending foreclosure proceedings which have become vacant typically are not maintained by the creditor who has filed the foreclosure proceedings. These vacant properties deteriorate by neglect and diminish property values of neighboring properties, increase the risk of property damage through arson and vandalism, and discourage neighborhood stability and revitalization.
- C. The governing body of the municipality finds and declares that there are vacant residential properties located within the community that constitute a nuisance which require the abatement or removal of the nuisance by summary proceedings. Where a creditor has filed a summons and complaint for the foreclosure of a mortgage on a residential property that is vacant, the creditor is responsible for the abatement or removal of the nuisance.
- D. The governing body of the municipality finds and declares that there are vacant residential properties located within the community that have violations of the Property Maintenance Code which require affirmative action to correct the violation to protect the public health, safety and welfare. Where a creditor has filed a summons and complaint for the foreclosure of a mortgage on a residential property that is vacant, the creditor is responsible for the correction of the violation of the property Maintenance Code.
- E. It is the purpose and intent of these regulations to require the registration of residential properties where a creditor has filed a summons and complaint for the foreclosure of a mortgage on the property so that the municipality can identify these properties, inspect the structures, monitor the condition of the properties, insure that the properties are maintained, and have a data base of information to contact and provide legal notice to the creditor.

Definitions.

As used in this article, the following terms shall have the following meanings unless the context clearly indicates that a different meaning is intended. Any words not defined herein shall have the meaning given in Webster's Unabridged Dictionary.

CREDITOR

A state chartered bank, savings bank, saving and loan association or credit union, any person required to be licensed under the provisions of the New Jersey Licensed Lenders Act, ___ and any entity acting on behalf of the creditor named in the debt obligations, including , but not limited to, servicers.

IMMEDIATE FAMILY MEMBER

Grandfather, grandmother, father, mother, son, daughter, grandson, granddaughter, brother, sister, uncle or aunt.

RESIDENTIAL PROPERTY

All real properties used, designated, or zoned as a residential property or residential dwelling.

VACANT PROPERTY

Any building used, or to be used, which is not legally occupied or at which substantially all lawful construction, operation, or occupancy has ceased; provided, however, that any property that contains all building systems in working order, is fully compliant with property maintenance codes, and is being actively marketed by its owner for sale or rental shall not be deemed vacant. Property determined to be "abandoned property" in accordance with the meaning of such term in the Abandoned Properties Rehabilitation Act, N.J.S.A. 55:19-78 et seq., shall also be deemed to be vacant property for the purposes of this article.

Property Maintenance Code.

The Property Maintenance Code of the municipality is hereby made applicable to all residential properties where a creditor has filed a summons and complaint for the foreclosure of a mortgage, or has already obtained a judgment of foreclosure.

Registration.

- A. A creditor filing a summons and complaint to foreclose a mortgage on a residential property within the municipality, or any creditor that has obtained a judgment of foreclosure, must register the dwelling with the municipality through the Lindenwold Construction Office within ten (10) days from the date when the complaint was filed with the court, or within ten (10) days of the enactment of the Ordinance, in the event a judgment has already been entered by the court.
- B. The registration form shall include 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 registration form shall be accompanied with a registration fee as listed in the Borough Fee Schedule Chapter 150, Section 49 for each dwelling. There shall be no proration of fees paid during the course of the year. Registration forms shall be available at the Lindenwold Construction Office. Registrants shall mail the completed and executed form to the Lindenwold Construction Office along with a check made payable to the municipality. A registration form is required for each house, townhouse, condominium, or duplex that is the subject of a foreclosure action. Registration and payment of the fee under this Ordinance, shall fulfill the owner's obligations under Article III, Chapter 238 of the Lindenwold Code.
- C. The registration fee covers the cost of administering the program and up to two inspection of the residential dwelling. Thereafter, an inspection fee as listed in the Borough Fee Schedule Chapter

150, Section 49D shall apply to subsequent inspections during the year. One of the purposes for the initial inspection is to establish a baseline condition for the subject property.

- D. Property registration shall be renewed every 12 months. The renewal form shall be due on the anniversary date following the original registration date. Failure to register a property on a timely basis shall result in the assessment of civil penalties. It shall be the responsibility of the registrant to notify the Lindenwold Construction Office in writing whenever there is a change in the contact information of the registrant.

Responsible party.

- A. The homeowner in possession of the subject property is the responsible party for the upkeep of the property.
- B. If a residential property becomes vacant at any point subsequent to the filing of the summons and complaint but prior to vesting of the title in the creditor, the creditor is the responsible party for the upkeep of the property. The creditor shall be responsible for the care, maintenance, security, and upkeep of the exterior and interior of the vacant property.
- C. If in the event a creditor is not located in the State of New Jersey, the creditor must appoint an in-state representative or agent to act for the foreclosing creditor. An out-of-state creditor shall provide the Borough of Lindenwold with the full name, and contact information, including address, telephone number, cell phone number, email and email address, of the in-state representative of the foreclosing creditor. The in-state-representative/agent information shall be provided to the Lindenwold Construction Office within 30 days of the filing of a summons and complaint in a foreclosure action, or within 10 days of the date of the enactment of this Ordinance in the event a foreclosure judgment has already been obtained by the creditor.

Inspections.

Once a home is registered, the Lindenwold Construction Office shall send an inspector to the property to determine whether there are any violations of the Property Maintenance Code. After the inspection, a letter shall be sent to the responsible party indicting what problems must be remedied. The letter shall state the time period for the completion of the work. A reinspection of the property shall take place at the end of that time period to determine whether compliance has occurred. A vacant property, as defined in this ordinance shall be subject to additional inspections by the Lindenwold Construction Office, which shall occur at least once per year, at the discretion of the Construction Official. The charge for any such reinspection shall be listed in Chapter 150, Section 49D.

Violations and penalties.

- A. It shall be unlawful for any person to be in conflict with, or in violation of, any of the provisions of this chapter, or the Municipal Property Maintenance Code.
- B. The construction office of the Borough of Lindenwold shall issue a notice of any violation pursuant to this chapter, or any violation of the Lindenwold Property Maintenance Code under the same procedures as set forth in the Municipal Property Maintenance Code. If the creditor has violated this Ordinance, or the Property Maintenance Code by failing to provide for the care, maintenance, security, and upkeep of the exterior or interior of the property, or any other violation of the property code, the creditor shall be permitted 30 days from their receipt of the notice to correct the violation, or within 10 days of receipt of the notice if the violation presents an imminent threat to public health and safety.
- C. Any person who shall violate the regulations contained herein shall be subject to fines and penalties as listed in Chapter 1, Section 1 of the Lindenwold Borough Code. Each day a violation continues shall be construed as a separate offense.

Assessment of lien.

If the municipality expends public funds in order to abate a nuisance or correct a violation of the Property Maintenance Code on a residential property in situations in which the creditor was given notice pursuant to this article, but failed to abate the nuisance or correct the violations as directed, the municipality shall have the same recourse against the creditor as it would have against the title owner of the property. The municipality may assess a lien against the subject property for the moneys expended by the municipality. The lien may be enforced and collected in the same manner as real estate taxes are enforced and collected.

This ordinance shall take effect upon proper passage and publication according to law.

INTRODUCED: November 10, 2021

ADOPTED: December 22, 2021

Richard E. Roach, Jr.
Mayor

Deborah C. Jackson
Borough Clerk