



BOROUGH OF BERNARDSVILLE

Zoning Department

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BOROUGH OF BERNARDSVILLE REGISTRATION OF VACANT/ ABANDONED RESIDENTIAL PROPERTIES INCLUDING PROPERTIES IN FORECLOSURE.

11-4.2 Ord. No. 2023-1948

11-4.1 Registration.

A. A creditor filing a summons and complaint in an action to foreclose shall, in addition to the notice provided to the Borough pursuant to N.J.S.A. 46:10B-51 or N.J.S.A. 40:48- 2.12s2, register the residential or commercial property with the Borough's property registration program as a property in foreclosure and, as part of that registration: (a) provide the Borough with the information regarding the creditor required by J.S.A. 46:10B-51) or .N.J..8.A. 40:48-2.12s2; (b) identify the date the summons and complaint in an action to foreclose on a mortgage was filed against the object 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 the ordinance required by paragraph (8) of this subsection;

B. 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;

C. The creditor filing a summons and complaint in an action foreclose shall, if the registered property becomes vacant and abandoned in accordance with the definition in the ordinance required by paragraph (8) of this subsection after the property is initially registered with the Borough, update the property registration with the Borough to reflect the change in the property's status;

11-4.2 Responsibilities of Creditors.

A. The creditor filing a summons and complaint in an action to foreclose shall be responsible for the care, maintenance, security, and up keep of the exterior of the property in compliance with the applicable Borough property maintenance codes if the property is vacant and abandoned at anytime while the property is registered with the property registration program;

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

C. A creditor filing a summons and complaint in an action to foreclose on a property, that is or becomes vacant and abandoned, shall secure the property against unauthorized entry, post 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, or acquire and otherwise 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;

FEE SCHEDULE 11-4.4 Ord. No. 2023-1948

REGISTRATION TYPE	FEE	# OF UNITS	TOTAL
New Registration:	\$500.00		
Annually thereafter:	\$2000.00		

**BOROUGH OF BERNARDSVILLE
VACANT/ABANDONED AND FORECLOSURE
REGISTRATION FORM**

DATE: _____

PROPERTY

ADDRESS: _____
BLOCK: _____ **LOT:** _____

OWNER

NAME: _____
ADDRESS: _____
CITY: _____ **STATE** _____ **ZIP:** _____

BANK/CREDITOR

NAME: _____
ADDRESS: _____
CITY: _____ **STATE:** _____ **ZIP:** _____
ATTN: _____ **EMAIL** _____
TELEPHONE: _____ **FAX:** _____

PROPERTY MAINTENANCE AGENT

REGISTERED AGENT: _____
CONTACT: _____ **TITLE:** _____
ADDRESS: _____
CITY: _____ **STATE:** _____ **ZIP:** _____
TELEPHONE: _____ **FAX:** _____

CITATIONS/VIOLATIONS AGENT

REGISTERED AGENT: _____
CONTACT: _____ **TITLE:** _____
ADDRESS: _____
CITY: _____ **STATE:** _____ **ZIP:** _____
EMAIL: _____
TELEPHONE: _____ **FAX:** _____

ORDINANCE #2023-1948

**AMENDING SECTION 11-4 OF THE BOROUGH CODE ENTITLED
"REGISTRATION AND MAINTENANCE OF PROPERTIES PENDING
FORECLOSURE" TO BRING IT INTO COMPLIANCE WITH P.L. 2021, c. 444**

WHEREAS, the Borough Committee previously adopted Ordinance #396-17 making the property maintenance code applicable to properties in foreclosure in an effort to mitigate the detrimental effects caused by abandoned and vacant properties; and

WHEREAS, Ordinance #396-17 is codified as Section 11-4 of the Borough Code entitled "Registration and Maintenance of Properties Pending Foreclosure; and

WHEREAS, the adopted Legislature recently adopted 2021 NJ Sess. Law Serv. Ch. 444 based on its findings that property registration programs provide a valuable tool to municipalities in confronting the risk of blight created by properties on which foreclosure proceedings have been initiated; and

WHEREAS, the Legislature has determined that it is in the State's interest for municipalities that operate such programs to do so with certain uniformity as part of the State's overall statutory scheme addressing the risk of blight.

WHEREAS, some provisions of the existing Borough Code Section 11-4 are inconsistent with the new State law;

NOW THEREFORE, BE IT ORDAINED by the Borough Committee of the Borough of Bernardsville in the County of Somerset, State of New Jersey, that Chapter 16 of the Borough Code, entitled "Property Maintenance", is hereby amended as follows:

Section 1. § 11-4 entitled "Registration and Maintenance of Vacant and Abandoned Residential Properties Including Those in Foreclosure" is amended in its entirety to read as follows:

11-4 Registration and Maintenance of Properties Pending Foreclosure.

11-4.1 Registration.

- A. A creditor filing a summons and complaint in an action to foreclose shall, in addition to the notice provided to the Borough pursuant to N.J.S.A. 46:10B-51 or N.J.S.A. 40:48-2.12s2, register the residential or commercial property with the Borough's property registration program as a property in foreclosure and, as part of that registration: (a) provide the Borough with the information regarding the creditor required by N.J.S.A. 46:10B-51) or N.J.S.A. 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 the ordinance required by paragraph (8) of this subsection;
- B. 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;
- C. 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 in the ordinance required by paragraph (8) of this subsection after the property is initially registered with the Borough, update the property registration with the Borough to reflect the change in the property's status;

11-4.2 Responsibilities of Creditor.

- A. 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 in compliance with the applicable Borough property maintenance codes if the property is vacant and abandoned at any time while the property is registered with the property registration program;
- B. A creditor located out-of-State shall be responsible for appointing an in-State representative or agent to act for the foreclosing creditor;
- C. A creditor filing a summons and complaint in an action to foreclose on a property, that is or becomes vacant and abandoned, shall secure the property against unauthorized entry, post 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, or acquire and otherwise 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;

11-4.3 Definition of "Vacant and Abandoned".

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.

11-4.4 Annual Fees.

A creditor required to register a property pursuant to this ordinance shall pay a registration fee of \$500 per property annually on or before February 1 of each calendar year 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 as defined in Section 11-4-3 above when the summons and complaint in an action to foreclose is filed, or becomes vacant and abandoned as defined in Section 11-4-3 above at any time thereafter while the property is in foreclosure. All such annual fees and the due dates thereof shall be identified in the ordinance adopted pursuant to subsection a. of this section.

11-4.5 Notice to Abate Nuisance or Violation.

- A. If the owner of a commercial property vacates or abandons any property on which a foreclosure proceeding has been initiated or if a commercial 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 exterior of the property is found to be a nuisance or in violation of any applicable State or local code, the local public officer, municipal clerk, or other authorized municipal official shall notify the creditor or the representative or agent of an out-of-State creditor, as applicable, which 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 Borough ordinance. The enforcement officer shall include a description of the conditions that gave rise to the violation with the notice of violation and shall provide a period of not less than 30 days from the creditor's receipt of the notice for the creditor to remedy the violation. If the creditor fails to remedy the violation within that time period, the Borough may impose penalties allowed for the violation of municipal ordinances.
- B. If the Borough expends public funds in order to abate a nuisance or correct a violation on a commercial property in situations in which the creditor was given notice pursuant to the provisions of paragraph "A" of this section 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.

11-4.6 Violations; Penalties.

- A. The Borough Code Enforcement officer or any other local official responsible for administration of any property maintenance or public nuisance code shall issue a notice to the creditor filing the summons and complaint in an action to foreclose, if the public officer or other authorized municipal 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.
- B. An out-of-State creditor subject to this ordinance adopted pursuant to subsection a. of this section found by the Municipal Court 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 the ordinance 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 N.J.S.A. 46:10B-51) or N.J.S.A. 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.
- C. A creditor subject to an ordinance adopted pursuant to subsection a. of this section found by the Municipal Court or by any other court of competent jurisdiction, to be in violation, excluding only a violation addressed by paragraph (1) of this subsection, of the 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.
- D. No less than 20 percent of any money collected pursuant to subsection f. or g. of this section or an ordinance adopted pursuant to subsection a. of this section shall be utilized by the Borough for municipal code enforcement purposes.

11-4.7 Definitions.

As used in this section:

"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 section. For purposes of this section, 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.

11-4.8 Enforcement.

The Code Enforcement Officer is hereby authorized to enforce this Ordinance.

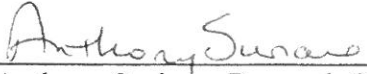
Section 2. Any and all other ordinances or parts thereof in conflict or inconsistent with any of the terms hereof are hereby repealed to such extent as they are so in conflict or inconsistent.

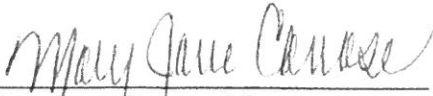
Section 3. In case any article, section or provision of this ordinance shall be held invalid in any court of competent jurisdiction, the same shall not affect any other article, section or provision of this ordinance except insofar as the article, section or provision so declared invalid shall be inseparable from the remainder or any portion thereof.

Section 4. This ordinance shall take effect immediately upon final passage and publication as required by law.

COUNCIL OF THE BOROUGH OF
BERNARDSVILLE IN THE COUNTY
OF SOMERSET

ATTEST:


Anthony Suriano, Borough Clerk

By: 
Mary Jane Canose, Mayor

Introduction: January 23, 2023

1st Publication: January 26, 2023

Public Hearing and Adoption: February 13, 2023

2nd Publication: February 16, 2023