

**BOROUGH OF BERNARDSVILLE  
ORDINANCE #18-1768**

**AN ORDINANCE REQUIRING THE REGISTRATION OF VACANT AND  
ABANDONED RESIDENTIAL PROPERTIES INCLUDING PROPERTIES IN  
FORECLOSURE AND SUPPLEMENTING AND AMENDING CHAPTER XI OF THE  
BOROUGH CODE ENTITLED “PROPERTY MAINTENANCE”**

**WHEREAS**, mortgage foreclosures often result in the abandonment and neglect of residential properties; and

**WHEREAS**, in situations where properties are not in mortgage foreclosure, the abandoned properties create a range of problems; and

**WHEREAS**, the Abandoned Properties Rehabilitation Act (N.J.S.A. 55:19-78, et seq) authorizes municipalities to adopt ordinances for the purpose of regulating the care, maintenance, security and upkeep of the exterior of vacant and abandoned residential properties; and

**WHEREAS**, N.J.S.A. 40:48-2.12s authorizes municipalities to adopt ordinances 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 an action to foreclose; and

**WHEREAS**, it is in the public interest for the Borough of Bernardsville to establish a mechanism to identify and track vacant and abandoned residential properties in the Borough including those properties 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 Borough Council of the Borough of Bernardsville, County of Somerset and State of New Jersey as follows:

**Section 1.** Chapter XI of the Borough Code entitled “Property Maintenance” is hereby supplemented and amended by adding a new section 11-4 entitled “Registration and Maintenance of Vacant and Abandoned Residential Properties Including Those in Foreclosure,” which reads as follows:

## **11-4 Registration and Maintenance of Vacant and Abandoned Residential Properties Including Those in Foreclosure**

### **11-4.1 Definitions**

1. "Creditor" means a State chartered bank, savings 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, servicers.

2. "Vacant and Abandoned" residential property means, consistent with section 1 of P.L. 2012, c.70 (C.2A:50-73), residential real estate, where a notice of violation has been issued pursuant to Paragraph e. 1 of this Section and subsection b. of section 1 of P.L.2014, c.35 (C.40:48-2.12s), or property which any condition on its own or combined with other conditions present would lead a reasonable person to believe that the property is or has been vacant for three (3) or more months.

Residential property shall further be deemed Vacant and Abandoned where a mortgaged property is not occupied by a mortgagor or tenant.

Such evidence would include, but is not limited to, evidence of the existence of two (2) or more of the following conditions at the property:

- (a) over grown 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, association management, delivery persons, or government employees indicating that the residence 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, exists 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 any mortgagor expressing the clear intent of all mortgagors to abandon the property;

(o) any other reasonable indicia of abandonment.

3. "Owner" means the titleholder, any agent of the titleholder having authority to act with respect to the vacant property, or any other entity determined by the Borough of Bernardsville to act with respect to the property.

#### **11-4.2 Registration of Vacant and Abandoned Properties**

4. A Creditor filing a summons and complaint in an action to foreclose on a Vacant and Abandoned property, or a Creditor who has previously filed a summons and complaint to foreclose on a residential property which subsequently becomes Vacant and Abandoned, or the Owner of a Vacant and Abandoned property, shall within thirty (30) calendar days after the building becomes Vacant and Abandoned or within thirty (30) calendar days after assuming ownership of the Vacant and Abandoned property, whichever is later; or within ten (10) calendar days of receipt of notice from the Borough, and annually thereafter, file a registration statement for such Vacant and Abandoned property with the municipal clerk on forms provided by the Borough for such purposes. Any failure to receive notice from the Borough shall not constitute grounds for failing to register the Vacant and Abandoned property.

5. Each Vacant and Abandoned property having a separate block and lot number as designated in the official tax maps of the Borough shall be registered separately.

6. The registration statement shall include the name, street address, telephone number, and email address (if applicable) of a person twenty one (21) years or older, designated by the Creditor or the Owner as the authorized agent for receiving notices of code violations and for receiving process in any court proceeding or administrative enforcement proceeding on behalf of such Creditor in connection with the enforcement of any applicable code.

7. The registration statement shall include the name, street address, telephone number, and email address (if applicable) of the firm and the actual name(s) of the Owner of the Vacant or Abandoned property or the firm's individual principal(s) responsible for maintaining the Abandoned and Vacant property. The Owner or the individual or representative of the firm responsible for maintaining the Abandoned and Vacant property shall be available by telephone or in person on a twenty-four-hour per day, seven-day per week basis. The two entities may be the same or different persons. In the case of a Creditor, both entities shown on the statement must maintain offices in the State of New Jersey or reside within the State of New Jersey.

8. The registration shall remain valid for one year from the date of registration except for the initial registration which shall be valid through December 31st of the year in which it was filed. The Owner of the property or the Creditor shall be required to renew the registration annually as

long as the building remains Vacant and Abandoned and shall pay a registration or renewal fee in the amount prescribed in Paragraph c. of this Section for each Vacant and Abandoned property registered.

9. The annual renewal shall be completed by January 1st each year. The initial registration fee shall be pro-rated for registration statements received less than ten (10) months prior to that date.

10. The Owner of the property or the Creditor shall notify the municipal clerk within thirty (30) calendar days of any change in the registration information by filing an amended registration statement on a form provided by the municipal clerk for such purpose.

11. The registration statement shall be deemed prima facie proof of the statements therein contained in any administrative enforcement proceeding or court proceeding instituted by the Borough against the Creditor.

#### **11-4.3 Fee Schedule**

The initial registration fee for each Vacant and Abandoned property under the provisions of this Section shall be five hundred (\$500.00) dollars. The fee for the first annual renewal shall be seven hundred and fifty (\$750.00) dollars and the fee for all subsequent annual renewals shall be one thousand (\$1,000.00) dollars.

#### **11-4.4 Penalties for Violation**

a. Any person who violates any provision of this section shall be liable, upon conviction, to the penalties set forth in section 1-5 of this Code.

b. Upon conviction for violation of any of the provisions of this section, each and every day thereafter that the violation continues shall be deemed and constitute a separate and distinct offense hereunder.

**Section 2.** Any or 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 become effective 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: \_\_\_\_\_  
Kevin Sooy, Mayor

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*Introduction:* April 9, 2018

*1st Publication:* April 12, 2018

*Public Hearing and Adoption:* April 23, 2018

*2nd Publication:* April 26, 2018