

TOWNSHIP OF BURLINGTON

ORDINANCE

2023-OR-015

**ORDINANCE OF THE TOWNSHIP OF BURLINGTON
AMENDING CHAPTER 443 "PROPERTY, VACANT
OR ABANDONED"**

WHEREAS, a municipality may enact an ordinance to establish a property registration program to address the risk of blight created by properties on which foreclosure proceedings have been initiated particularly properties that become vacant and abandoned; and

WHEREAS, the Township has enacted Chapter 443 "Property, Vacant or Abandoned" providing for the registration of vacant and abandoned properties; and

WHEREAS, the State requires that a municipality utilizing a property registration program conform to uniform procedures which results in the need to revise Chapter 443 in its entirety.

BE IT ORDAINED and ENACTED by the Township Council of the Township of Burlington, County of Burlington, and State of New Jersey, that Code Chapter 443 is revised in its entirety as follows:

Section 1. 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, the new entity shall be deemed the creditor. The State, a political subdivision of the State, county, or local government entity, or their agent or assignee, such as a servicer, is not a creditor.

"Vacant and abandoned property" means a property that is not legally

occupied by a mortgagor or tenant, and which is in such condition that it cannot be legally reoccupied, because of the presence or finding of two or more of the following:

- (a) overgrown or neglected vegetation;
- (b) the accumulation of newspapers, circulars, flyers, or mail to 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 Township building, housing or similar code during the preceding year, or an order by Township 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 by a mortgagor expressing the clear intent of all mortgagors to abandon the property; or
- (o) any other reasonable indicia of abandonment.

Section 2. NOTICE OF FORECLOSURE.

A creditor serving a summons and complaint in an action to foreclose on a mortgage on a residential or commercial property in the Township shall, within ten (10) days of serving the summons and complaint, notify the Municipal Clerk and Mayor that a summons and complaint has been filed against the property. The notice shall include the filing date, docket number and the court in which the complaint was filed, and whether the property is vacant and abandoned. The notice shall also contain the full name, address, and telephone number for the representative of the creditor who is responsible for receiving complaints of

property maintenance and code violations, and the full name and contact information for any person or entity retained by the creditor or a representative of the creditor to be responsible for any care, maintenance, security, or upkeep of the property. The notice shall be provided at the discretion of the Municipal Clerk by mail or electronic communication.

If the creditor is located outside of New Jersey, the notice shall contain the full name, address, and telephone number of an in-State representative or agent who shall be responsible for the care, maintenance, security, and upkeep of the exterior of the property if it becomes vacant or abandoned. The Municipal Clerk shall forward the notice to all Township employees involved in property maintenance and the abatement of nuisances.

If the property being foreclosed on is an affordable unit pursuant to the "Fair Housing Act," N.J.S.A. 52:27D-301 et al., the creditor shall identify the property as such.

The notice shall also include the street address, lot and block number of the property, and the full name, address, and telephone number of an individual located within the State who is authorized to accept service on behalf of the creditor.

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, the creditor shall within ten (10) days of the change in that information provide notice to the Municipal Clerk containing the updated name, address, or telephone number.

SECTION 3. CREDITOR RESPONSIBILITIES.

In addition to providing the information set forth in Section 2, a creditor shall register the property as a property in foreclosure with the Municipal Clerk and pay the annual fee. If the property becomes vacant and abandoned in accordance with the definition in Section 1, after the property has been registered with the Township, the creditor shall update the property registration

to reflect that the property is vacant and abandoned.

The creditor shall be responsible for the care, maintenance, security, and upkeep of the exterior of a property that is or becomes vacant and abandoned at any time during the foreclosure action and shall secure the property against unauthorized entry. Additionally, the creditor shall 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, and maintain liability insurance by procuring a vacancy policy covering any damage to any person or property caused by the physical condition of the property.

SECTION 4. NOTICE OF VIOLATION.

If the owner of a residential or commercial property vacates or abandons a property on which a foreclosure action has been initiated, or if a residential or 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, 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 Housing Inspector/Zoning Officer shall notify the creditor or the representative or agent of an out-of-State creditor, who 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. The notice of violation shall include a description of the conditions that gave rise to the 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, or within 10 days of the notice if the violation presents an imminent threat to public health and safety. The Township may impose penalties if the creditor fails to timely remedy the violation.

If the Township expends public funds to abate a nuisance or correct a violation following notice to the creditor because of the failure of the creditor to

take timely action, the Township 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.

SECTION 5. ANNUAL PROPERTY REGISTRATION FEES.

There is an annual fee of \$500.00 for each property for which a summons and complaint has been filed in an action to foreclose a mortgage.

An additional annual fee of \$2,000.00 shall be paid if the property is vacant or abandoned when the summons and complaint is filed or becomes vacant and abandoned at any time thereafter while the property is in foreclosure.

Property registration fees are due on January 1. The initial registration fee shall be prorated for registration statements received less than 10 months prior to that date.

The fees are municipal charges so that a failure to pay shall subject a property to tax sale.

SECTION 6. FINES.

An out-of-State creditor who is found by a court 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 violation. Any fines shall commence on the day after the 10 day period for providing notice to the Municipal Clerk that a summons and complaint in an action to foreclose has been served.

A creditor found by a court to be in violation, other than for a failure by an out-of-State creditor to appoint an in-State representative or agent, shall be subject to a fine of \$1,500 for each day of the violation. Fines imposed pursuant to this paragraph shall commence 31 days following the creditor's receipt of the notice of violation, except if the violation presents an imminent risk to public health and safety, fines shall commence 11 days following receipt of the notice of violation.

This Ordinance was introduced at a meeting of the Township Council in the Township of Burlington held on May 9, 2023, and will be considered for final passage after a public hearing held at a Regular Meeting of the Township Council to be held on May 23, 2023, at the Township Municipal Building, Burlington Township, New Jersey at 7:00 p.m.

This will certify that the foregoing Ordinance was passed by a majority of the Burlington Township Council on May 23, 2023.

Mary E. Field
Municipal Clerk

Robert W. Jung
President of Council