

**BOROUGH OF FRANKLIN LAKES
ORDINANCE NO. 1913**

**AN ORDINANCE AMENDING CHAPTER 370 “PROPERTY,
REHABILITATION OF ABANDONED” OF THE CODE OF THE
BOROUGH OF FRANKLIN LAKES TO COMPLY WITH STATE LAW**

WHEREAS, P.L. 2021, c. 444 provides specific requirements for municipal ordinances that create property registration programs to identify, monitor, and address the risk of blight on residential and commercial properties; and,

WHEREAS, said State law necessitates amendments to the Borough’s registration of abandoned real property ordinance;

NOW THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Franklin Lakes, County of Bergen, and State of New Jersey, as follows:

Section 1. Article I, “Registration of Abandoned Property” of Chapter 370 “Rehabilitation of Abandoned Property” of the Code of the Borough of Franklin Lakes is hereby renamed and amended to read as follows:

Article I. Registration of Vacant and Abandoned Real Property

§ 370-1 Purpose and intent.

It is the purpose and intent of the Mayor and Council to establish a process to:

- A. create a property registration program for the purposes of identifying and monitoring residential and commercial properties within the Borough for which a summons and complaint in an action to foreclose on a mortgage has been filed;
- B. regulate the care, maintenance, security, and upkeep of the exterior of vacant and abandoned residential and commercial properties for which a summons and complaint in an action to foreclose has been filed; and
- C. impose property registration fees on the creditor of residential or commercial properties on an annual or semi-annual basis.

§ 370-2 Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

CREDITOR

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 article. 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.

ENFORCEMENT OFFICER

Any law enforcement officer, Construction Official, Zoning Officer, fire inspector or building inspector, or other person authorized by Franklin Lakes to enforce the applicable code(s).

OWNER

Any person, legal entity or other party having any ownership interest whether legal or equitable, in real property. This term shall also apply to any person, legal entity or agent responsible for the construction, maintenance or operation of the property involved.

VACANT AND ABANDONED REAL PROPERTY

Real 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.

§ 370-3 Registration requirements.

The 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, provide the Borough with:

- A. the street address, lot, and block number of the property;
- B. 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;
- C. whether the property is vacant and abandoned in accordance with the definition in Section 370-2;
- D. 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;
- E. the full name, address and telephone number 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;
- F. in the event the creditor that has served a summons and complaint in an action to foreclose on a property that is located out-of-state, the notice shall also 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 and abandoned; and
- G. payment of the fee set forth in Section 370-8.

§ 370-4 Creditor requirements.

In addition to the requirements set forth in Article III of this chapter, the creditor filing a summons and complaint in an action to foreclose shall:

- A. 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; and
- B. if the registered property becomes vacant and abandoned in accordance with the definition in Section 370-2 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;
- C. 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
- D. acquire and 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.

§ 370-5 Maintenance requirements.

- A. Properties subject to this article shall be kept free of weeds, overgrown brush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspapers, circulars, flyers, notices, except those required by federal, state or local law, discarded personal items, including, but not limited to, furniture, clothing, large and small appliances, printed material or any other items that give the appearance that the property is abandoned.
- B. The property shall be maintained free of graffiti or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior structure.
- C. Front, side, and rear yards, including landscaping, shall be maintained in accordance with the applicable code(s) at the time registration was required.
- D. Yard maintenance shall include, but not be limited to, grass, ground covers, bushes, shrubs, hedges or similar plantings, decorative rock or bark or artificial turf/sod designed specifically for residential installation. Acceptable maintenance of yards and/or landscape shall not include weeds, gravel, broken concrete, asphalt or similar material.
- E. Maintenance shall include, but not be limited to, watering, irrigation, cutting and mowing of required ground cover or landscape and removal of all trimmings.
- F. Pools and spas shall be maintained so the water remains free and clear of pollutants and debris and shall comply with the regulations set forth in the applicable code(s).
- G. Failure of the mortgagee and/or owner to properly maintain the property may result in a violation of the applicable code(s) and issuance of a summons in accordance with this article.

H. In addition to the requirements above, the property is required to be maintained in accordance with the applicable code(s).

§ 370-6 Security requirements.

- A. Properties subject to the requirement of this article shall be maintained in a secure manner so as not to be accessible to unauthorized persons.
- B. A “secure manner” shall include, but not be limited to, the closure and locking of windows, doors, gates and other openings of such size that may allow a child to access the interior of the property or structure. Broken windows, doors, gates and other openings of such size that may allow a child to access the interior of the property or structure must be repaired. Broken windows shall be secured.
- C. If a mortgage on a property is in default, and the property has become vacant or abandoned, a property manager shall be designated by the mortgagee to perform the work necessary to bring the property into compliance with the applicable code(s), and the property manager must perform regular inspections to verify compliance with the requirements of this article, and any other applicable laws.

§ 370-7 Additional authority.

- A. If the enforcement officer has reason to believe that a property subject to the provisions of this article is posing a serious threat to the public health, safety and welfare, the Construction Official may temporarily secure the property at the expense of the mortgagee and/or owner.
- B. If the creditor does not reimburse the Borough for the cost of temporarily securing the property, or of any abatement directed by the Construction Official, within 30 days of the Borough sending the creditor the invoice, then the Borough may impose a lien against the property for such cost, along with an administrative fee of \$500 to recover the administrative personnel services.

§ 370-8 Annual registration fee.

- A. The creditor filing a summons and complaint in an action to foreclose shall pay an annual registration fee of \$500 per property.
- B. The creditor shall pay an additional \$2,000 per property annually if the property is vacant or abandoned pursuant to the definition in Section 370-2 when the summons and complaint in an action to foreclose is filed, or becomes vacant and abandoned pursuant to the definition in Section 370-2 at any time thereafter while the property is in foreclosure.

§ 370-9 Violations and penalties.

- A. The Zoning Officer shall issue a notice to the creditor filing the summons and complaint in an action to foreclose, if the Zoning Officer determines that the creditor has violated any of the provisions of this article.

- B. 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.
- C. An out-of-State creditor found by a court to be in violation of the requirement to appoint an in-State representative or agent pursuant to this article 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.
- D. A creditor found by a court to be in violation, excluding only a violation addressed by paragraph C of this section, of this article shall be subject to a fine of \$1,500 for each day of the violation. Any fines imposed pursuant to this paragraph D 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.
- E. No less than 20 percent of any money collected pursuant to this article shall be utilized by the Borough for code enforcement purposes.

Section 2. Article III “Creditor Responsible for Vacant and Abandoned Residential Properties” of Chapter 370 “Rehabilitation of Abandoned Property” is hereby repealed

Section 3. All Ordinances contrary to the provisions of this Ordinance are hereby repealed to the extent that they are inconsistent herewith.

Section 4. If the provisions of any section, subsection, paragraph, subdivision, or clause of this Ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of this Ordinance.

Section 5. This Ordinance shall take effect upon passage and publication according to law.

APPROVED: _____
Charles J. X. Kahwaty, Mayor

ATTEST: _____
Gail M. Rulli, Borough Clerk

Introduced: 05-16-2023
Adopted: 06-20-2023