

2018-04-17 10:00 AM



2018 BOROUGH OF DUMONT ORDINANCE

MEMBERS	AYE	NAY	ABSTAIN	ABSENT
DI PAOLO	✓			
LaBRUNO				✓
MANNA	✓			
RIQUELME	✓			
ROSSILLO				✓
STEWART	✓			
MAYOR KELLY				
TOTALS	4			2

Ordinance No. 1540

Date: April 17, 2018

Page: 1 of 8

Subject: Vacant & Abandoned Residential Properties

Purpose: Registration & Maintenance

Dollar Amount: _____

Prepared By: David Lafferty, Esq.

Offered by: Stewart

Seconded by: Manna

Certified as a true copy of an Ordinance Adopted on 2nd Reading by the Governing Body of the Borough of Dumont on the above date at a Public Meeting by:

Susan Connelly

Susan Connelly, RMC, Municipal Clerk
Borough of Dumont, Bergen County, New Jersey

AN ORDINANCE AMENDING CHAPTER 306 OF THE DUMONT BOROUGH CODE TO ADD A NEW ARTICLE TO ESTABLISH STANDARDS FOR THE REGISTRATION AND MAINTENANCE OF VACANT AND ABANDONED RESIDENTIAL PROPERTIES INCLUDING PROPERTIES IN FORECLOSURE

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, P.L. 2003, c.210, 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, P.L. 2014, c. 35, 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 Dumont 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 Mayor and Council of the Borough of Dumont, County of Bergen and State of New Jersey as follows:

Section 1. The Revised General Ordinances of the Borough of Dumont are hereby amended by the addition of a new Article III to Chapter 306 Property Maintenance, to read as follows:

ARTICLE III – Vacant and Abandoned Residences

§ 306-23 TITLE

This article shall be known as “Registration and Maintenance of Vacant and Abandoned Residential Properties and Vacant and Abandoned Residential Properties in Foreclosure” and may be referred to in this Article as the “Registration and Maintenance Code”.

§306-24 FINDINGS AND DECLARATION

The Mayor and Council of the Borough of Dumont do hereby find that mortgage foreclosures often result in the abandonment and neglect of residential properties and in situations where properties are not in mortgage foreclosure, the abandoned properties create a range of problems including but not limited to problems relating to care, maintenance, security and crime.

§306-24 PURPOSE

The purpose of this Article is to protect the public health, safety and welfare by providing standards regulating the maintenance and registration of vacant and abandoned residences in the Borough of Dumont.

§306-25 DEFINITIONS

1. “Creditor” means a State chartered bank, savings bank, saving 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 no 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 Section 306-29 of this Article 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 issue by any mortgagor expressing the clear intent of all mortgagors to abandon the property; or
 - (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 Dumont to act with respect to the property.

§306-26 REGISTRATION OF VACANT AND ABANDONED PROPERTIES

1. 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.
2. Each Vacant and Abandoned property having a separate block and lot number as designed in the official tax maps of the Borough shall be registered separately.
3. 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.
4. 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.
5. 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 Section 306-27 of this Article for each Vacant and Abandoned property registered.

6. The annual renewal shall be completed by January 1st of each year. The initial registration fee shall be pro-rated for registration statements received less than ten (10) months prior to that date.
7. 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.
8. 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.

§306-27 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 one thousand five hundred (\$1,500.00) dollars. The fee for any subsequent annual renewal beyond the first renewal shall be three thousand (\$3,000.00) dollars.

§306-28 RESPONSIBILITY FOR VACANT AND ABANDONED PROPERTIES

1. The Owner of a property or a Creditor filing a summons and complaint in an action to foreclose on a residential property within the Township shall be immediately responsible for the care, maintenance, security, and upkeep of the exterior of the property, after the property becomes Vacant and Abandoned as defined in this Section.
2. Where a Creditor is located out of state, the Creditor shall be responsible for appointing an in-state representative or agent to act on the Creditor's behalf for the purpose of satisfying the requirements of Section §306-28(1). Notice of said representative or agent shall be provided to the municipal clerk pursuant to §306-26(3) and (4) of this Article and pursuant to paragraph (1) of subsection (a) of section 17 of P.L.2008, c.127 (C.46:10B-51).

§306-29 NOTICE

1. The enforcement officers designated in this Article shall be authorized to issue a notice to the Owner of the property, or a Creditor that has filed a summons and complaint in an action to foreclose on a residential property within the Borough, if

the enforcement officer determines that the Owner of the property, or Creditor that has filed a summons and complaint in an action to foreclose on a residential property within the Borough has violated this Section by failing to provide for the care, maintenance, security, and upkeep of the exterior of a Vacant and Abandoned property. Where a Creditor is an out of State Creditor, the notice shall be issued to the representative or agent that has been identified by the Creditor pursuant to Paragraph 2 of §306-28 and paragraph (1) of subsection (a) of section 17 of P.L. 2008, c. 127 (C.46:10B-51).

2. The notice referenced in Section 1 of this Section shall require the Owner or Creditor to correct the violation(s) within 30 days of receipt of this notice, or within 10 days of the receipt of the notice if the violation presents an imminent threat to public health and safety.
3. The issuance of a notice pursuant to Paragraph 1 of this Section shall constitute proof that a residential property is Vacant and Abandoned for purposes of this Article.

§306-30 ENFORCEMENT OFFICERS

The duty of administering and enforcing the provisions of this Article is conferred upon the municipal clerk, construction official, zoning officer, housing officer, health officer, and any other duly appointed representatives.

§306-31 VIOLATIONS AND PENALTIES

1. The Owner of a property, or a Creditor subject to this Article that is found by the municipal court of the Borough, or by any other court of competent jurisdiction, to be in violation of the requirement to correct a care, maintenance, security, or upkeep violation cited in a notice issued pursuant to this Section shall be subject to a fine of \$1,500.00 for each day of the violation. Any fines imposed pursuant to this paragraph shall commence 31 days following the receipt of the notice, 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.
2. An out-of-state Creditor subject to this Article that is found by the municipal court of the Borough, 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 this Section shall be subject to a fine of \$2,500.00 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 paragraph (1) of

subsection a. of section 17 of P.L.2008, c.127 (C.46:10B-51) for providing notice to the municipal clerk that a summons and complaint in an action to foreclose on a mortgage has been served.

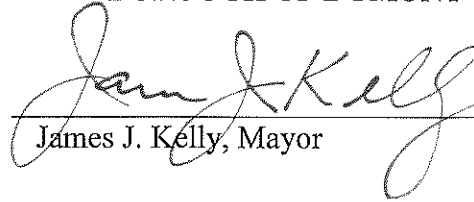
3. The Owner of a property, or a Creditor subject to this Section, that is found by the municipal court of the Borough, or by any other court of competent jurisdiction, to be in violation of the requirement to register a Vacant and Abandoned property pursuant to Section 306-26 of this Article shall be subject to a fine not exceeding two thousand (\$2,000.00) dollars. Any fines imposed on a Creditor under this Paragraph shall commence 11 days following receipt of notice from the Borough pursuant to Section 306-26 of this Article.
4. No less than 20 percent of any money collected by the Borough pursuant to this Section shall be utilized by the Borough for municipal code enforcement purposes.
5. Nothing in this Article is intended to nor shall be read to conflict or prevent the Borough from taking action against buildings found to be unfit for human habitation or unsafe structures as provided in the applicable provisions of the Dumont Borough Code and/or the Uniform Construction Code. Further, any action taken under any such Code provision other than the demolition of a structure shall not relieve the Owner from its obligations under this Article.
6. Municipal powers to rehabilitate abandon property. The Borough hereby grants to itself all such powers granted to municipalities by the State of New Jersey for the rehabilitation of abandoned property. Such powers are set forth, inter alia, in the "Abandoned Properties Rehabilitation Act" (N.J.S.A. 55:19-78 et seq.) and in applicable portions of the "New Jersey Urban Development Corporation Act" (N.J.S.A. 55:19-1 thru -77). These statutory powers are collectively referred to as the "Enabling Statutes".

Section 2. All ordinances or parts of ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

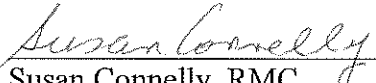
Section 3. If any section, subsection, clause or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the remaining portions of this ordinance.

Section 4. This ordinance shall take effect after the final passage and publication according to law.

BOROUGH OF DUMONT


James J. Kelly, Mayor

ATTEST:


Susan Connelly, RMC
Municipal Clerk

Introduced: April 4, 2018
Adopted: April 17, 2018