

(Revised March 17, 2015)

**BOROUGH OF WATCHUNG**

**ORDINANCE NO. OR:15/04**

**AN ORDINANCE OF THE BOROUGH OF WATCHUNG AMENDING CHAPTER XIV, TITLED "PROPERTY MAINTENANCE" OF THE CODE OF THE BOROUGH TO ADD ARTICLE IX, TITLED "REGISTRATION AND MAINTENANCE OF PROPERTIES PENDING FORECLOSURE."**

**WHEREAS**, vacant or abandoned buildings or structures can cause harm to the health, safety, and welfare of the community and its residents, including detriment to nearby properties, and increased risk of fire or public health and safety risks, and such vacant or abandoned structures may result in increased costs to the Borough of Watchung for police calls, fire calls, and property maintenance to protect the neighborhood; and

**WHEREAS**, N.J.S.A. 40:48-2.12a and other statutes authorize and permit municipalities to adopt an Ordinance to provide that the care, maintenance and security of vacant or abandoned structures upon which a Summons and Complaint in a foreclosure action has been filed shall be the responsibility of the foreclosing creditor, and to regulate the notification by foreclosing creditors to the Borough; and

**WHEREAS**, pursuant to that authority, the Mayor and Council adopts this Ordinance to require such notification and assist and allow such responsibilities to be placed upon the appropriate parties so that the detrimental effects regarding abandoned and vacated properties may be reduced or mitigated.

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Borough of Watchung, County of Somerset, State of New Jersey, that the Code of the Borough of Watchung, Chapter XIV, titled "Property Maintenance", is hereby amended to add a new Article IX, titled "Registration and Maintenance of Property Pending Foreclosure", as follows:

## ARTICLE IX

### REGISTRATION AND MAINTENANCE OF PROPERTIES PENDING FORECLOSURE

#### **§14-46 Purpose.**

The intent of this Ordinance is to provide for the enforcement of Borough Property Maintenance Code and other applicable law against and to vacant and abandoned properties pending foreclosure.

#### **§14-47 Responsibility for Maintenance of Vacant and Abandoned Properties in Foreclosure.**

A creditor filing a Complaint in a foreclosure action shall be responsible for the care, maintenance, security, and upkeep of the exterior of the vacant and abandoned residential property. If the creditor is located out of the State of New Jersey, the creditor must appoint an in-State representative or agent to act for the foreclosing creditor.

#### **§14-48 Service of Notice, contents.**

A. A creditor filing a Complaint in a foreclosure action on residential property located in the Borough of Watchung shall, within ten (10) days of serving the Summons and Complaint, serve the Borough Clerk with a Notice advising that a Summons and Complaint in a foreclosure action has been filed against the subject property. The Notice shall contain and include the information set forth in (C) below and shall be provided by mail.

B. Any creditor that has filed a Complaint in a foreclosure action on any residential property which is pending in Superior Court shall provide to the Borough Clerk with the Notice as described in (C) below for any residential properties in the Borough for which the creditor has pending foreclosure actions.

C. The Notice shall state:

- (i) The name and contact information for the representative (located within the State of New Jersey) of the creditor who is responsible for property maintenance and will respond to Borough communications regarding the property;

- (ii) Whether the property being foreclosed on is an affordable unit pursuant to the "Fair Housing Act";
- (iii) The street address, lot and block number of the property; and
- (iv) If the creditor is located out of State, the Notice should include the full name and contact information of the representative/agent located within the State of New Jersey authorized to act on behalf of the entity/creditor, accept service on behalf of the entity/creditor, and to receive and act on notifications regarding maintenance of the property in foreclosure.

**§14-49 Responsibilities of Creditor Filing a Foreclosure Action as to Vacant and Abandoned Property.**

Any creditor having filed a Complaint in an action in foreclosure on a property, and that creditor having been notified by the Code Official in writing that the property appears to be or is abandoned or vacant, shall be responsible within thirty (30) days of said notification as follows:

- (i) Investigate and inspect the property as required to determine if the property is abandoned and vacant, and notify the Code Official in writing of that determination.
- (ii) Secure the building and structure on the property from unauthorized entry.
- (iii) Perform such appropriate repairs or maintenance of the exterior grounds of the property, including yards, fences, sidewalks, walkways, driveways as may be needed or directed by the Code Official so that the property is free from trash, debris, or excessive grass or weed growth, or safety hazards.
- (iv) Continue to maintain the structures in a secure condition and the grounds in a clean, properly maintained state.

**§14-50. Violation of State or Local Law at Property on List; Responsibility of Creditor.**

If the owner of a residential property vacates or abandons any property upon which a Complaint in a foreclosure action has been filed or if a property is otherwise vacated and/or abandoned subsequent to the filing of the Complaint in a foreclosure action, but prior to the vesting of title in any third party, the foreclosing creditor shall have the responsibility to abate any nuisance or correct any violations of the Property Maintenance Code and applicable law 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 the Property Maintenance Code or applicable law.

**§14-51 Notification of Violation.**

In the event of a violation of the Property Maintenance Code or applicable law, the Borough shall serve the creditor with a Notice that shall include a description of the condition(s) that gave rise to the violation and shall provide a period of thirty (30) days, or ten (10) days if the condition presents an imminent threat to public health and safety as determined by the Code Official, for the creditor to remedy the violation or condition. The creditor must remedy and/or repair the conditions noticed within the specific period.

**§14-52 Repair by Borough.**

If the Borough expends public funds in order to abate a nuisance or correct a violation on a residential property in which the creditor was given notice pursuant to §14-51 but failed to abate the nuisance or correct the violation as directed, the Borough shall have the same recourse against the creditor as it would have had against the title owner of the property including but not limited to the recourse in the Property Maintenance Code and applicable law.

**§14-53 Enforcement.**

The Code Official is hereby authorized to enforce this Ordinance and is further authorized to contact the New Jersey Bankers Association, with a current address of 411 North Avenue East, Cranford, New Jersey, for assistance in enforcing this Ordinance.

**§14-54. Violation and Penalties.**

Any person or corporation shall, upon conviction by any court having jurisdiction of a violation of this Article, be subject to a fine not to exceed \$2,500 per day commencing as of the date after the expiration of the ten (10) day period provided in §14-48(B). Any person or corporation upon conviction by any Court of a violation of §14-50 and/or §14-51 shall be subject to a fine not to exceed \$1,500 per day, to commence thirty-one (31) days after receipt of the notice or, if the violation presented an imminent risk to public safety and health and was so noticed, commencing eleven (11) days after receipt of the notice.

**BE IT FURTHER ORDAINED** that a copy of this Ordinance shall be sent to the New Jersey Bankers Association.

**BE IT FURTHER ORDAINED** that if any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereto.

This Ordinance shall take effect upon adoption and publication as required by law.

ATTEST:

BOROUGH OF WATCHUNG

By: Michelle DeRocco  
Michelle DeRocco, Clerk

By: Stephen K. Pote  
Stephen K. Pote, Mayor

Introduced by: JOREN  
Passed: March 19, 2015  
Published: March 26, 2015  
Adopted: April 2, 2015