

MONROE TOWNSHIP, MIDDLESEX COUNTY

ORDINANCE NO.: O-11-2018-040

ORDINANCE OF THE TOWNSHIP OF MONROE
CREATING CHAPTER 22A OF THE TOWNSHIP CODE
ENTITLED “VACANT AND ABANDONED PROPERTY”

WHEREAS, the Township of Monroe (“Township”) regulates the maintenance of property within the Township by and through Chapter 22 of the Code of the Township of Monroe (“Code”); and

WHEREAS, the Legislature of the State of New Jersey has enacted P.L. 2014, c. 35, described as “[a]n Act concerning the maintenance of certain residential properties, supplementing Chapter 48 of Title 40 of the Revised Statutes ...” (the ‘Act”); and

WHEREAS, the Act authorizes the Township to adopt an ordinance for the purpose of requiring creditors to be responsible for the care, maintenance, security and upkeep of the exterior of vacant and abandoned residential properties for which the creditor has filed an action to foreclose a mortgage; and

WHEREAS, the Act authorizes the Township to impose monetary fines and penalties on creditors for failure to provide for the care, maintenance, security and upkeep of vacant and abandoned properties for which the creditor has filed an action to foreclose a mortgage, or to remediate conditions at the creditor’s expense; and

WHEREAS, the Township Council finds that it is in the best interests of the Township and its residents to amend the Code as hereinafter provided to require creditors to be responsible for the care, maintenance, security and upkeep of the exterior of vacant and abandoned residential properties for which the creditor has filed an action to foreclose a mortgage;

NOW, THEREFORE, BE IT ORDAINED as follows:

Section 1. The Code of the Township of Monroe is hereby amended and new Chapter 22A is hereby adopted, entitled “Vacant and Abandoned Property,” to provide as follows:

CHAPTER 22A – VACANT AND ABANDONED PROPERTY

- §22A-1 **Definitions.**
- §22A-2 **Creditor responsibility for Vacant and Abandoned properties.**
- §22A-3 **Notice requirements of foreclosing Creditors; fee.**
- §22A-4 **Notice of Violation.**
- §22A-5 **Penalties.**

§22A-1 Definitions.

A. “Creditor” shall mean a federal or state chartered bank, savings bank, savings and loan association or any credit union, any person required to be licensed under the provisions of the “New Jersey Residential Mortgage Lending Act,” or any person who regularly extends consumer credit that is subject to a finance charge or is payable by written agreement in more than four installments (not including a down payment), and any entity acting on behalf of a lender or successor in interest to a lender named in the debt obligation, including but not limited to servicers.

B. "Vacant and Abandoned" property shall mean, consistent with N.J.S.A. 2A:50-73, residential real estate for which a notice of violation has been issued pursuant to municipal ordinance, or where a mortgaged property is not occupied by a mortgagor or tenant as evidenced by a lease agreement entered into prior to the service of a notice of intention to commence foreclosure according to N.J.S.A. 2A:50-73 (the "Fair Foreclosure Act"), and at least two of the following conditions exist:

- (1) overgrown or neglected vegetation;
- (2) the accumulation of newspapers, circulars, flyers or mail on the property;
- (3) disconnected gas, electric, or water utility services to the property;
- (4) the accumulation of hazardous, noxious, or unhealthy substances or materials on the property;
- (5) the accumulation of junk, litter, trash or debris on the property;
- (6) the absence of window treatments such as blinds, curtains or shutters;
- (7) the absence of furnishings and personal items;
- (8) statements of neighbors, delivery persons, or government employees indicating that the residence is vacant and abandoned;
- (9) windows or entrances to the property that are boarded up or closed off or multiple window panes that are damaged, broken and unrepaired;
- (10) doors to the property that are smashed through, broken off, unhinged, or continuously unlocked;
- (11) 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;
- (12) 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;
- (13) 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;
- (14) a written statement issued by any mortgagor expressing the clear intent of all mortgagors to abandon the property; and
- (15) any other reasonable indicia of abandonment.

§22A-2. Creditor responsibility for Vacant and Abandoned properties.

If a residential property within the Township for which a Creditor has initiated a proceeding to foreclose a mortgage is Vacant and Abandoned, or becomes Vacant and Abandoned at any point subsequent to a Creditor initiating a foreclosure proceeding but prior to the vesting of title in the Creditor or any other third party, the Creditor shall be responsible for the care, maintenance, security and upkeep of the exterior of the property.

§22A-3. Notice requirements of foreclosing Creditors; fee.

A. A Creditor who has filed a summons and complaint in an action to foreclose on a mortgage on residential property within the Township, who is required to provide notice to the Township Clerk pursuant N.J.S.A. 46:10B-51, shall include in the notice the full name and contact information of the representative of the Creditor who is responsible for the care, maintenance, security and upkeep of the exterior of the property in the event the property is or becomes Vacant and Abandoned.

B. A Creditor who has filed a summons and complaint in an action to foreclose on a mortgage on residential property within the Township, who is required to provide notice to the Township Clerk pursuant N.J.S.A. 46:10B-51, and whose principal place of business is not in New Jersey (an "out-of-state Creditor"), shall include in the notice the full name and contact information of an in-state representative or agent appointed by the Creditor who is responsible for the care, maintenance, security and upkeep of the exterior of the property in the event the property is or becomes Vacant and Abandoned.

C. A Creditor who has filed a summons and complaint in an action to foreclose on a mortgage on residential property within the Township, who is required to provide notice to the Township Clerk pursuant N.J.S.A. 46:10B-51, shall include with such notice a registration fee of \$500.00 for each property upon which the Creditor has initiated a foreclosure proceeding, said funds to be used to offset the administrative expenses of the Township.

D. A Creditor shall notify the Clerk within thirty (30) calendar days of any change in the information required to be provided in the notice to the Township Clerk pursuant to N.J.S.A. 46:10B-51 or this Ordinance.

§22A-4. Notice of Violation.

A. If the Township Zoning Officer or any other municipal official responsible for the administration of any property maintenance or public nuisance code, determines that the exterior of a Vacant and Abandoned property is a nuisance or is in violation of any applicable State or local statute or ordinance, the Zoning Officer or other municipal official shall issue a notice of violation to the Creditor that includes a description of the condition or conditions that give rise to the violation. The notice shall require the Creditor to correct the violation to such standard or specification as may be required by State or local statute or ordinance.

B. The notice of violation shall require the Creditor to correct the violation within thirty (30) days of the date of the notice, or within ten (10) days of the date of the notice if the violation presents an imminent threat to public health and safety. The issuance of the notice shall constitute evidence that a property is Vacant and Abandoned for purposes of this Ordinance.

C. The Zoning Officer or any other municipal official responsible for the administration of any property maintenance or public nuisance code is authorized to exercise such powers as may be necessary or convenient to effectuate the purposes and provisions of this Ordinance, including without limitation to enter upon the grounds of Vacant and Abandoned properties for the purpose of making examinations of the conditions thereof.

§22A-5. Penalties.

A. Failure to appoint in-state representative or agent. An out-of-state Creditor found by the municipal court of the Township of Monroe, or by any other court of competent jurisdiction, to be in violation of the requirement to appoint an in-state representative or agent as provided by N.J.S.A. 46:10B-51, 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 ten (10) day period from the date of service of the summons and complaint in foreclosure as set forth in N.J.S.A. 46:10B-51.

B. Failure to provide for the care, maintenance, security or upkeep of Vacant and Abandoned property. A Creditor found by the municipal court of the Township of Monroe, or by any other court of competent jurisdiction, to be in violation of the requirement to provide for the care, maintenance, security or upkeep of Vacant and Abandoned property as cited in a notice issued pursuant to this Ordinance, shall be subject to a fine of \$1,500.00 for each day of the violation. Any fines imposed on a Creditor for failure to correct a violation shall commence thirty-one (31) days following the date 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 eleven (11) days following the date of the notice of violation.

C. No less than twenty (20%) percent of any money collected pursuant to this section shall be utilized by the Township for municipal code enforcement purposes.

D. If a Creditor who has been given notice of a violation of the requirement to provide for the care, maintenance, security or upkeep of Vacant and Abandoned property fails to abate the nuisance or correct the violation as directed in the notice within the time provided in this Ordinance, the Township may expend public funds in order to abate the nuisance or correct the violation, and 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 2. All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 3. If any section, paragraph, subsection, clause or provisions of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provision so adjudged, and the remainder of the Ordinance shall be deemed valid and effective.

Section 4. This Ordinance shall take effect upon final passage and publication as provided by law.

SO ORDAINED as aforesaid.



STEPHEN DALINA, Council President

RECORDED VOTE – INTRODUCTION – November 7, 2018						
COUNCIL	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
Councilman Baskin			X			
Councilwoman Cohen	X		X			
Councilman Dipierro		X	X			
Council V. President Schneider			X			
Council President Dalina			X			

NOTICE

Notice is hereby given that the foregoing Ordinance was introduced and passed on first reading at a meeting of the Monroe Township Council held on November 7, 2018. Said Ordinance will again be read and considered for final passage at the next scheduled meeting of the Monroe Township Council to be held on December 3, 2018 at 7:00 p.m. at the Monroe Township Municipal Building, 1 Municipal Plaza, Monroe Township, New Jersey 08831. At said time and place all persons having an interest in the foregoing Ordinance will be granted an opportunity to be heard concerning the same prior to consideration for final passage by the Council.



PATRICIA REID, Township Clerk

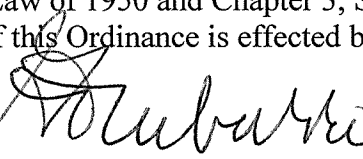
RECORDED VOTE – SECOND READING & FINAL ADOPTION – December 3, 2018						
COUNCIL	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
Councilman Baskin			X			
Councilwoman Cohen	X		X			
Councilman Dipierro		X	X			
Council V. President Schneider			X			
Council President Dalina			X			

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MAYORAL APPROVAL

By virtue of the Optional Municipal Charter Law of 1950 and Chapter 3, Section 19 of the Code of the Township of Monroe, my approval of this Ordinance is effected by the affixing of my signature hereto.



GERALD W. TAMBURRO, Mayor

Date signed: 12/4/18