

BOROUGH OF BOUND BROOK
County of Somerset

ORDINANCE No. 15-10

**AN ORDINANCE REQUIRING REGISTRATION AND MAINTENANCE OF
PROPERTIES THAT ARE VACANT OR IN FORECLOSURE**

BE IT ORDAINED by the Mayor and Council of the Borough of Bound Brook, County of Somerset, State of New Jersey, as follows:

Section 1. Purpose.

It is the intent of this chapter to protect and preserve the public health, safety and welfare and security and quiet enjoyment of residents and neighborhoods by (i) requiring all property owners, including lenders, trustees and service companies to properly maintain vacant and/or foreclosing properties, and (ii) regulating the maintenance of vacant and/or foreclosing properties in order to prevent blighted and unsecured properties.

Section 2. Definitions.

For the purposes of this chapter, the following terms, phrases, words and their derivations shall have the meaning given herein. When consistent with the context, words used in the present tense include the future, words in the plural include the singular and words in the singular include the plural. The word "shall" is always mandatory and not merely directory.

"Borough" means the Borough of Bound Brook.

"Creditor" means the creditor having a right of foreclosure, including but not limited to the holder of a mortgage on a property, and any agent, servant or employee of the creditor, a loan servicing company, or any successor in interest and/or assignee of the creditor's rights, interests or obligations under the document granting foreclosure rights.

"Days" mean consecutive calendar days.

"Foreclosing" means the process by which property, placed as security for a real estate loan, is prepared for sale to satisfy the debt if the borrower defaults.

"Property" means any real estate, or portion thereof, located in the Borough of Bound Brook, including any improvements thereon.

"Residential property" means any property that contains one or more dwelling units used, intended or designed to be occupied for living purposes.

"Security" means measures taken to ensure that the property is inaccessible to unauthorized persons.

"Vacant" means, with regard to any property, that no portion of the property is legally occupied. A property shall not be deemed "vacant," for purposes of this Ordinance: (a) where there is a building on the property containing multiple units, if any of the units are legally occupied; (b) where the legal occupant has temporarily left the property for vacation or other purposes for a period not exceeding 180 days, possessing both the intent to return and the legal right to return, such as a residential property owner or tenant who resides in another municipality or state for a portion of the year; or (c) where the building is under construction with current valid construction permits, and work is being performed on the property on a regular basis.

Section 3. Registration of vacant properties; Designation of responsible individual.

- a. All owners of vacant property must register such vacant properties with the Bound Brook Borough Clerk within fourteen days of such property becoming vacant. The registration must be renewed annually as set forth below for as long as the property remains vacant.
- b. Owners of vacant properties shall designate an individual or property management company responsible for the security and maintenance of the property. The individual or property management company responsible for the security and maintenance of the property shall have an office located within twenty five miles of the property.
- c. The registration required by this section must contain the following information:
 1. The owner's name, telephone number, and mailing address. The mailing address may not be a P.O. Box.
 2. The street address and tax map designation (lot and block) of the property.
 3. Whether the property is residential, non-residential, or mixed use.
 4. The name, telephone number, and mailing address of an individual or property management company responsible for the security and maintenance of the property. The mailing address may not be a P.O. Box.
 5. Certification that the property was inspected as required by this Ordinance.
 6. Proof of utility (gas, electric, water) connections or disconnections.
 7. Proof of insurance meeting the requirements of Section 6(c) of this Ordinance.
- d. The owner shall have a continuing duty to notify the Borough of any changes to the information contained in the registration.
- e. The Bound Brook Borough Clerk may promulgate forms on which the information in the registration must be provided.

- f. The owner must notify the Bound Brook Borough Clerk if, at any time subsequent to registration as a vacant property, the property is no longer vacant, and provide proof that the property is no longer vacant.

Section 4. Registration of foreclosing properties; Designation of responsible individual.

- a. A creditor serving a summons and complaint in an action to foreclose on a mortgage on property in this Borough, including but not limited to residential property, shall, within 10 days of serving the summons and complaint, file a registration with the Bound Brook Borough Clerk. The registration must be renewed as set forth below until title to the property has been transferred to a new owner or the foreclosure action is dismissed. A creditor who takes title to a vacant property shall then be required to register as an owner of such vacant property, and to renew such registration for as long as the property remains vacant.
- g. If the property is vacant, the creditor must designate an individual or property management company responsible for the security and maintenance of the property. The individual or property management company responsible for the security and maintenance of the property shall have an office located within twenty five miles of the property.
- b. The registration shall contain the following information:
 - 1. The creditor's name, telephone number, and mailing address. The mailing address may not be a P.O. Box.
 - 2. The street address and tax map designation (lot and block) of the property for which foreclosure has been sought.
 - 3. Whether the property is residential, non-residential, or mixed use.
 - 4. The name, telephone number, and mailing address of a designated representative of the creditor who is responsible for receiving complaints of property maintenance and code violations for that property. The mailing address may not be a P.O. Box.
 - 5. If the property is vacant, the name, telephone number, and mailing address of an individual or property management company responsible for the security and maintenance of the property. The mailing address may not be a P.O. Box.
 - 6. If the property is vacant, certification that the property was inspected as required by this Ordinance.
 - 7. If the property is vacant, proof of utility (gas, electric, water) connections or disconnections.
 - 8. If the property is vacant, proof of insurance meeting the requirements of Section 6(c) of this Ordinance.
- c. The creditor shall have a continuing duty to notify the Borough of any changes to the information contained in the registration.

- d. The Bound Brook Borough Clerk may promulgate forms on which the information in the registration must be provided.
- e. Once the foreclosure action has terminated, either through dismissal, or transfer of title, the creditor must provide proof of such termination, sale, transfer or occupancy to the enforcement authority within thirty (30) days of sale, transfer or occupancy.

Section 5. Registration Fees.

- a. The initial registration fee shall be five hundred dollars (\$500.00) and must accompany the registration form. The initial registration shall be valid for the remainder of the calendar year in which the property is registered. Renewals for subsequent calendar years shall run from January 1 to December 31, and payment of the renewal registration fee shall be due by January 15th of the relevant year. The fee for the first annual renewal shall be one thousand dollars (\$1,500.00); the fee for the second annual renewal shall be three thousand dollars (\$3,000.00); and the fee for the third and subsequent renewals shall be five thousand (\$5,000.00). Registration fees and renewal fees will not be prorated or refunded.
- b. No governmental agency shall be required to pay the annual or renewal registration fee.

Section 6. Maintenance requirements.

- a. Properties subject to the requirements of this Ordinance must be maintained in accordance with the all applicable federal, state and local laws, rules and regulations. The owner, creditor, local individual or local property management company, as appropriate, must inspect the property twice a month for the duration of the vacancy or foreclosure as appropriate.
- b. In addition to, and not in lieu of meeting all other applicable federal, state, and local laws, rules, and regulations:
 - i. Properties subject to the requirements of this Ordinance shall be kept free of accumulated snow and ice, weeds, dry brush, dead vegetation, trash, junk, debris, building materials, unregistered vehicles, any accumulation of newspapers, circulars, flyers, notices (except those required by law), and discarded personal items including but not limited to furniture, clothing, large and small appliances, printed material or any other items giving the appearance that the property is vacant.
 - ii. Properties subject to the requirements of this Ordinance shall be maintained free of graffiti, tagging, or similar markings. In the event that any graffiti, tagging, or similar markings are placed on the Property, it/they shall either

be removed or painted over with an exterior-grade paint matching the color of the portion of the structure where the graffiti, tagging, or similar marking was placed.

- iii. Front yards, rear yards, and side yards of properties subject to the requirements of this Ordinance shall be landscaped and maintained to neighborhood standards. Landscaping and maintenance shall include, but is not limited to, care of grass, mulch, decorative rock, artificial turf/sod specifically designed for residential or commercial installation, or other ground cover, bushes, shrubs, hedges, trees, or similar plantings, removal or repair of gravel, broken concrete, asphalt, decomposed granite, plastic sheeting, mulch, indoor-outdoor carpet or any similar material, in addition to regular watering, irrigation, cutting, pruning and mowing of required vegetation and removal of all trimmings.
 - iv. Any pool, spa, or other standing body of water shall either be kept in working order so the water remains clear and free of growth, pollutants, and debris, and does not become a harborage for vermin or insects; or drained and kept dry. In either case, properties with pools or spas must comply with the security fencing requirements of the Borough.
- c. The owner of any vacant property shall acquire and maintain liability insurance covering injury or damage to any person or any property in not less than \$300,000 for residential buildings, and \$1,000,000 for non-residential buildings or property.
 - d. The property owner shall be responsible for property maintenance. However, if the owner of a property vacates or abandons any property on which a foreclosure proceeding has been initiated or if a property is or becomes vacant at the time of or at any point subsequent to the creditor's filing the summons and complaint in an action to foreclose on a mortgage against the subject property, but prior to vesting of title in the creditor or any other third party, and the property is found to be a nuisance or in violation of any applicable State or local code, the enforcement authority shall notify the creditor, which 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, to such standard or specification as may be required by State law or Borough ordinance. The enforcement authority shall include a description of the conditions that gave rise to the violation with the notice of 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. If the creditor fails to remedy the violation within that time period, the Borough may impose the penalties allowed for the violation of municipal ordinances pursuant to R.S.40:49-5 against the creditor to the same extent as they could be imposed against the owner of the property.

- e. Adherence to this Ordinance does not relieve the owner or creditor of obligations set forth in any other statute, regulation, ordinance, or other source of authority or obligation.

Section 7. Inspections.

The enforcement authority shall have the authority to inspect properties subject to this chapter for compliance and to issue summonses for any violations.

Section 8. Enforcement

Enforcement authority shall be vested in Bound Brook Code Enforcement Department and its officials and inspectors.

Section 9. Penalties.

- a. Violation of any of the terms of this ordinance shall be punishable by a fine of not less than one hundred dollars (\$100.00) nor greater than two thousand dollars (\$2,000.00) per occurrence in addition to any registration fee or renewal fee that may be due and owing. Each subsequent occurrence shall result in an increased penalty.
- b. Failure to abate a nuisance or correct a violation of any statute, regulation, or ordinance regulating the construction, maintenance, health, or security of a property shall be subject to the penalties set forth in the applicable statute, regulation, or ordinance for the specific violation.

Section 10. Borough's authority to abate and impose lien.

Nothing contained herein shall prevent the Borough from taking action to abate a nuisance or correct a violation where the owner or creditor, as applicable, has failed to abate the nuisance or correct the violation on a vacant property or a property in foreclosure after notice and the opportunity to abate or correct. In such situations, the Borough may impose a lien against the property for costs to correct the violation or abate the nuisance. Such lien shall hereafter form part of the taxes next to be assessed and levied upon said lands, the same to bear interest at the same rate as such taxes to be collected and enforced by the same officers and in the same manner as such taxes.

Section 11. Governmental entities exempt.

No governmental entity shall be required to register under this Ordinance. However, nothing contained herein shall be construed as granting exemption from property maintenance or other obligations imposed by any other statute, regulation, or ordinance.

Section 12. Implementation.

- a. Upon the effective date of this Ordinance, the owner of any currently vacant property and a creditor pursuing a pending foreclosure shall have thirty (30) days within which to comply with the provisions of this Ordinance.
- b. Notwithstanding the provisions of Section 5 of this Ordinance, the initial registration fee for any property registered in 2015 shall be the product of one dollar and thirty seven cents (\$1.37) times the number of calendar days remaining in 2015 at the time the property's registration is due.

Section 13. Severability.

If any provision or portion of a provision of this ordinance is held to be unconstitutional, preempted by Federal or State law, or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the ordinance shall not be invalidated.

Section 14. Repealer.

All ordinances or parts of ordinances, which are inconsistent with any provisions of this ordinance, are hereby repealed as to the extent of such inconsistencies.

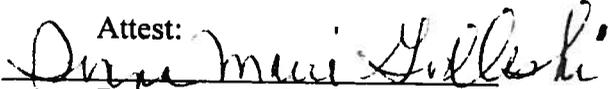
Section 15. Effective Date.

This ordinance shall take effect twenty days following adoption and publication in accordance with the laws of the State of New Jersey.

Approved:


Mayor Robert P. Fazen

Attest:


Donna Marie Godleski, Clerk

Date of Introduction: February 24, 2015

Date of Adoption: March 10, 20115