

BOROUGH OF HAMBURG

ORDINANCE No. 02-2023

AN ORDINANCE AMENDING CHAPTER 156 , ENTITLED PROPERTY, VACANT, ABANDONED AND FORECLOSED, AND CHAPTER 156-A – PROPERTY, REGISTRATION STATEMENT OF THE CODE OF THE BOROUGH OF HAMBURG, COUNTY OF SUSSEX, STATE OF NEW JERSEY TO ESTABLISH A REGISTRY FOR PROPERTY IN FORECLOSURE AND TO PROVIDE REQUIREMENTS FOR MAINTENANCE AND FEES, FINES AND PENALTIES FOR NON-COMPLIANCE AND TO PROVIDE FOR ANNUAL RENEWAL OF REGISTRATION.

BE IT ORDAINED by the Mayor and Council of the Borough of Hamburg, County of Sussex, State of New Jersey that Chapter 156 – Property, Vacant, Abandoned and Foreclosed, and Chapter 156-A Property, Registration Statement of the Code of the Borough of Hamburg, are hereby repealed and a new Chapter 156 entitled Property Registration Program is hereby established, providing as follows:

156.1 Definitions

The following terms, wherever used herein or referred to in this Chapter shall have the respective meanings assigned to them unless a different meaning clearly appears from the context:

(a) 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 section. For the 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.

(b) Vacant and Abandoned Property

Any residential or commercial building which is not legally occupied by an owner, a mortgagor or tenant, which is in such condition that it cannot be legally reoccupied, and two or more of the 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, curtain, or shutters;
7. The absence of furnishings and personal items;

8. Statements of neighbors, delivery persons, or government employees indicating that the property 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 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 a mortgagor expressing the clear intent of all mortgagors to abandon the property; or
15. Any other reasonable indicia of abandonment.

156.2 Property Registration Program

- (a) There is hereby established a Borough Property Registration Program for the purpose of identifying and monitoring vacant and abandoned residential and commercial properties for which a Summons and Complaint has been filed in foreclosure;
- (b) The Borough Property Registration Program shall be responsible for regulating the care, maintenance, security and upkeep of the exterior of vacant and abandoned residential and commercial properties in foreclosure;
- (c) The Property Registration Program shall be administered and enforced by such persons or agencies as determined by Resolution of the Mayor and Council

156.3 Residential or Commercial Foreclosures

- (a) A Creditor filing a summons and complaint in an action to foreclose shall, in addition to the notice provided to the municipality pursuant to N.J.S.A. 46: 10B-51
 - (a) register the residential or commercial property with the Borough's Property Registration Program as a property in foreclosure.
- (b) Registration as a Property in Foreclosure. The Creditor must provide the municipality with:
 1. Information regarding the creditor required pursuant to N.J.S.A.46:10B-51a; and
 2. 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; and

3. Identify whether the property is vacant and abandoned in accordance with the definition of “Vacant and Abandoned Property” as provided herein; and
 4. 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
 5. If there is any change in the property’s status, update the property registration and Borough’s Property Registration Program to reflect the change; and
 6. If the Creditor is located out-of-State, the information of an in-State representative or agent to act for the foreclosing Creditor.
- (c) A creditor filing a summons and complaint in an action to foreclose shall be responsible for the care, maintenance, security, and upkeep of the exterior of the property if the property is vacant and abandoned at any time while the property is registered with the Property Registration Program in accordance with the Maintenance and Security Requirements of this Chapter. The maintenance requirements herein are in addition to any other property maintenance ordinances, statutes, rules or regulations.
- (d) Maintenance Requirements.
1. Registerable Properties subject to this Chapter shall be kept free of weeds, overgrown bush, dead vegetation; trash, junk, debris, building materials, any accumulation of newspaper 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.
 2. Registrable property shall be maintained free of graffiti or other similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior structure.
 3. Front, side, and rear yards, including landscaping, or registrable property shall be maintained in accordance with the applicable code(s) at the time registration is required.
 4. Registrable 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. Acceptable maintenance of yards and/or landscape shall not include weeds, gravel, broken concrete, asphalt or similar material.

5. Maintenance shall include, but not be limited to, watering, irrigation, cutting and mowing of required ground cover or landscape and removal of all trimmings.
6. Pools 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).
7. The maintenance duties and responsibilities of owners and operators as set forth in Chapter 155-7 of the Code of the Borough of Hamburg are incorporated herein by reference as if set forth at length and are applicable to creditors as defined in this Chapter.

(e) Security Requirements.

1. Registrable Properties shall be maintained in a secure manner so as not to be accessible to unauthorized persons.
2. 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 by re-glazing of the window.

156.4 Property Manager and Responsibilities:

(a) If a property is registrable, and the property is or has become vacant and abandoned, a property manager shall be designated by the Creditor to perform the work necessary to bring the property into compliance with the maintenance and security requirements of this Chapter and all other applicable laws, and the property manager must perform regular inspections to verify compliance with the requirements of this Chapter, and any other applicable laws.

(b) When a property subject to this Chapter is or becomes vacant and abandoned, it shall be posted with the name and twenty-four-hour contact telephone number of the property manager. The property manager shall be available to be contacted by the Borough, Monday through Friday between 9:00 a.m. and 5:00 p., legal holidays excepted. The sign shall be placed in a window facing the street and shall be visible from the street. The posting shall be no less than 18 inches by 24 inches and shall be of a font that is legible from a distance of 45 feet. The posting shall contain the following language with supporting information:

THIS PROPERTY IS MANAGED BY AND IS
INSPECTED ON A REGULAR BASIS. THE
PROPERTY MANAGER CAN BE CONTACTED

BY TELEPHONE AT:
OR BY EMAIL AT:

(c) The required posting shall be placed on the interior of a window facing the street to the front of the property so that it is visible from the street, or secured to the exterior of the building/structure facing the street to the front of the property so that it is visible from the street, or if no such area exists, on a stake of sufficient size to support the posting in a location that is at all times visible from the street to the front of the property but not readily accessible to vandals. Exterior posting shall be constructed of and printed with weather resistant materials.

(d) The Creditor shall obtain and maintain liability insurance by procuring a vacancy policy covering injury to persons and damage to property caused by the physical condition of the property while registered.

156.5 Notice. In the case of a violation for failure to provide care, maintenance, security and up keep of the exterior of vacant and abandoned property, or violation of any other provision of this chapter 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 the public health and safety.

156.6 Fees.

- (a) \$500.00 per property annually for any property that is required to be registered because a summons and complaint in an action to foreclose was filed by the Creditor.
- (b) An additional \$2,000 per property annually if the property is vacant and abandoned when the summons and complaint in an action to foreclose is filed, or becomes vacant and abandoned pursuant to the definition in the ordinance at any time thereafter while the property is in foreclosure..
- (c) Annual registration fees shall be due on the day of registration and subsequent annual registration fees shall be due on each yearly anniversary of the initial registration day until the property is no longer registered.
- (d) Property registration fees are considered a municipal charge pursuant to the tax sale law, **N.J.S.A. 54:5-1**, et seq.

156.7 Penalties and Fines.

- (a) Unless otherwise provided in this Chapter, the fine for violating any provision of this Chapter shall be a penalty of \$1500.00.
- (b) Each day that a violation continues shall constitute an additional, separate and distinct offense.
- (c) Any fines imposed pursuant to this section 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.
- (d) Penalties for Out-of-State Creditors. An out-of-State Creditors who fails to appoint an in-State representatives or agent after the 10th day of the period set forth in N.J.S.A. 46:10B-51 shall be subject to a fine of \$2,500.00 for each day of the violation.

156.8 Interpretation. This Chapter shall be interpreted and enforced in accordance with the fullest extent of the authority granted to municipalities under P.L. 2021, c.444, and any subsequent amendments or supplements thereto and to the extent that any provision of this Chapter conflicts with P.L. 2021,c.444, the latter shall control.

156.9 Repealer. Ordinances, resolutions, regulations or parts of ordinances, resolutions and regulations inconsistent herewith are hereby repealed to the extent of such inconsistencies.

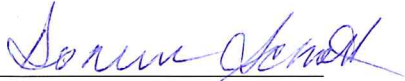
156.10 Survival. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid by a court of competent jurisdiction, such a decision shall not affect the remaining portions of this Ordinance.

156.11 Effective Date. This Ordinance shall take effect upon passage and publication as provided by law.

CERTIFICATION

NOTICE is hereby given that the above ordinance was introduce and passed on first reading of a meeting of the Mayor and Council of the Borough of Hamburg, held on Wednesday, January 4, 2023 at 7 p.m. and will be considered for a final passage at a regular meeting of the Mayor and Council to be held on Wednesday, January 18, 2023 at 7 p.m. or as soon thereafter as same can be considered, in the Municipal Building, 16 Wallkill Avenue, Hamburg, New Jersey at which time and place all persons interested therein or affected thereby will be given an

opportunity to be heard concerning the same. A copy of said Ordinance is on file in the Office of the Borough Clerk, Municipal Building, 16 Wallkill Avenue, Hamburg, New Jersey and is available for public inspection during regular business hours. During the week prior and up to the time of public hearing, copies of said Ordinance will be available to the member of the general public who request the same.



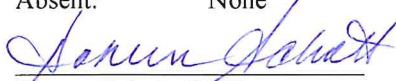
Doreen Schott, RMC
Municipal Clerk

STATEMENT

The above ordinance was duly adopted by roll call vote at the January 18, 2023 Regular Meeting of the Hamburg Mayor and Council.

Roll Call:

Ayes: Burd, Oehler, Law, Haig, Sena
Nays: None
Abstain: None
Absent: None



Doreen Schott, RMC