

ORDINANCE 2015-07

ORDINANCE OF THE BOROUGH OF BEACHWOOD, OCEAN COUNTY, NEW JERSEY SUPPLEMENTING CHAPTER X ENTITLED "BUILDING AND HOUSING" IN ORDER TO PROVIDE FOR CERTAIN CARE, MAINTENANCE, SECURITY AND UP-KEEP OF ABANDONED RESIDENTIAL PROPERTIES IN FORECLOSURE

WHEREAS, the Borough of Beachwood contains residential structures which are vacant and/or abandoned; and

WHEREAS, in many cases, the owners or responsible parties of these abandoned structures, including mortgage foreclosing entities, are neglectful of them, and are not maintaining or securing them to an adequate standard or restoring them to productive use; and

WHEREAS, it has been established that said vacant and abandoned residential structures cause severe harm to the health, safety and general welfare of the community, including diminution of neighboring property values, increased risk of fire and potential increases in criminal activity and public health risks; and

WHEREAS, the Borough incurs disproportionate costs in order to deal with the problems and vacant and abandoned residential structures, including, but not limited to, excessive police calls, fire calls and property inspections; and

WHEREAS, it is in the public interest for the Borough to establish minimum standards of accountability of the owners or other responsible parties of vacant and abandoned structures in foreclosure in order to protect the health, safety and the welfare of the residents of the Borough; and

WHEREAS, is it in the public interest of the Borough to impose a fine in conjunction with failure to register the vacant or abandoned structure once a foreclosure Complaint has been filed in light of the disproportionate costs imposed on the Borough by the presence of these structures.

NOW, THEREFORE, be it ordained by the Borough of Beachwood as follows:

SECTION 1. **Owner Defined.** An Owner shall include the title holder, any agent of the title holder having authority to act with respect to a vacant/abandoned property, any foreclosing

entity that has filed a Complaint in foreclosure pursuant to P.L. 2014, Chapter 35. Said entity shall further be responsible for the care, maintenance, security and up-keep of the exterior of the vacant, abandoned residential property and, if located out of State, shall be responsible for appointing an in State representative or agent to act for the foreclosing creditor.

SECTION 2. **Vacant Property.** Vacant property shall include any building used or to be used as a residence which is not legally occupied or is abandoned or at which substantially all lawful construction operations or occupancy has ceased, and which is in such condition that it cannot legally be reoccupied without repair or rehabilitation, including but not limited to any property meeting the definition of "abandoned property" in N.J.S.A. 55:19-54, 55:19-78, 55:19-79, 55:19-80 and 55:19-81; and properties that are covered by P.L. 2014, Chapter 35; provided, however, that any property where all building systems are in working order, where the building and grounds are maintained in good order, or where the building is in habitable condition, and where the building is being actively marketed by its owner for sale or rental, shall not be deemed a vacant property for purposes of this Ordinance.

SECTION 3. **Enforcement.** The Zoning Officer or any other local official responsible for administration of any property maintenance or public nuisance code is authorized to issue a notice to the creditor filing the Summons and Complaint in an action to foreclose if that public officer or other authorized Municipal official determines that the creditor has violated the Ordinance by failing to provide for the care, maintenance, security, and up-keep of the exterior of the property. Such notice shall require the person or entity to correct the violation within thirty (30) days of receipt of the notice, or within ten (10) days of receipt of the notice if the violation presents an imminent threat to the public health and safety. The issuance of a notice pursuant to this paragraph constitute proof that the property is "vacant and abandoned" for the purpose of N.J.S.A. 2A:50-73.

SECTION 4. **Registration Requirements.** Any out of State creditor that is required to register upon filing of a foreclosure Complaint for an abandoned or vacant property shall provide its full

name and contact information of the in State representative or agent in the notice required to be provided pursuant to paragraph (1), subsection a of Section 17 of P.L. 2008, Chapter 127 (c.46:10B-51).

SECTION 5. **Failure to Appoint In State Representative and Penalty.** Any out of State creditors subject to the within Ordinance adopted pursuant to Section 1 above found by the Municipal Court of the Borough of Beachwood or any other Court of competent jurisdiction to be in violation of the requirement to appoint an in State representative or agent pursuant to the Ordinance shall be subject to a fine of \$2,500.00 for each day of the violation. Any fines imposed on said creditor for the failure to appoint an in State representative or agent shall commence on the day after the ten (10) day period set forth in (1) of subsection a of Section 17 of P.L. 2008, Chapter 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.

SECTION 6. **Failure to Maintain and Penalties.** Any creditor found to have violated Section 1 above found by the Municipal Court of the Borough of Beachwood or any other Court of competent jurisdiction, to be in violation of the requirement to correct a care, maintenance, security or up-keep violation cited in a notice issued pursuant to the Ordinance shall be subject to a fine of \$1,500.00 for each day of the violation. Any fine imposed pursuant to this paragraph shall commence thirty-one (31) days following receipt of the notice, except if the violation presents an imminent risk to the public health and safety, in which case any fine shall commence eleven (11) days following receipt of the notice.

SECTION 7. **Fine monies collected by the Municipality.** Not less than twenty percent (20%) of any money collected by the Borough of Beachwood pursuant to the requirements of Section 1 above shall be utilized by the Municipality for the Municipal Code enforcement purposes.

SECTION 8. This Ordinance repeals any inconsistent ordinance or ordinances or part or parts thereof.

SECTION 9. If any section, subsection, paragraph, sentence, clause, or phrase of

this Ordinance shall be declared invalid for any reason whatsoever, such a decision shall not affect the remaining portions of the Ordinance, which shall remain in full force and effect, and for this purpose the provisions of this Ordinance are hereby declared to be severable.

SECTION 10. This Ordinance shall take effect immediately upon its final passage and publication as required by law.

Introduction: September 16, 2015 ROLL CALL

COMMITTEE	MOTION	2 ND	AYES	NAYS	ABSTAIN	ABSENT
<i>Councilman Cairns</i>			X			
<i>Councilwoman Clayton</i>	X		X			
<i>Councilman Feeney</i>			X			
<i>Councilman Komsa</i>						X
<i>Councilman LaCrosse</i>						X
<i>Councilman Zakar</i>		X	X			

Susan A. Minock
Township Clerk
Beachwood Borough

NOTICE

The Ordinance published herewith was introduced and passed upon first reading at a meeting of the Borough Council of the Borough of Beachwood, Ocean County, New Jersey held on the 16th day of September, 2015. It will be further considered for final passage by the Borough Council at a meeting to be held at the Beachwood Municipal Complex, 1600 Pinewald Avenue, Beachwood, New Jersey on the 7th day of October, 2015 at 7:00 p.m. or at any time and place to which such meeting may be adjourned. All persons interested will be given the opportunity to be heard concerning such Ordinance. During the week prior to and including the date of such further consideration, copies of said ordinance will be made available at the Clerk's Office in said Borough Hall to the members of the general public who shall request the same.

SUSAN A. MINOCK, Clerk

Adoption: October 7, 2015 ROLL CALL

COMMITTEE	MOTION	2 ND	AYES	NAYS	ABSTAIN	ABSENT
<i>Councilman Cairns</i>			X			
<i>Councilwoman Clayton</i>	X		X			
<i>Councilman Feeney</i>			X			
<i>Councilman Komsa</i>						X
<i>Councilman LaCrosse</i>			X			
<i>Councilman Zakar</i>		X	X			

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SUSAN A. MINOCK, RMC
Municipal Clerk

ATTESTED BY:

Ronald F. Roma, Jr., Mayor

Susan A. Minock, RMC
Municipal Clerk

October 7, 2015