

CITY OF ABSECON

ORDINANCE 01-2015

AN ORDINANCE CREATING CHAPTER 150 OF THE CODE OF THE CITY OF ABSECON ENTITLED VACANT AND ABANDONED RESIDENTIAL PROPERTIES

WHEREAS, many New Jersey homeowners are at risk of losing their homes as a result of mortgage foreclosures; and

WHEREAS, foreclosure of a family home often represents the loss of the family's most valuable financial asset; and

WHEREAS, foreclosures result in the loss of millions of dollars in assets, not only for the homeowners but also in terms of property values of homes located in the vicinity of the foreclosed properties and the associated loss for local governments such as the City of Absecon of property tax revenue; and

WHEREAS, defaults and foreclosures have a significant economic impact and effect on residential neighborhoods; and

WHEREAS, there is a compelling need for the City of Absecon to address properties that are abandoned and vacant and subject of a foreclosure; and

WHEREAS, the City Council of Absecon wishes to protect neighborhoods and address the condition of vacant and abandoned property and the social, economic, health, safety and welfare issues associated therewith.

NOW, THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF ABSECON, NEW JERSEY AS FOLLOWS:

Section 1. Definition - The following terms shall have the following meaning unless stated otherwise:

- a. Creditor - means a State chartered bank, savings bank, savings and loan association, credit union, or any other person or institution required to be licensed under the provisions of the New Jersey Residential Mortgage Lending Act and any entity acting on behalf of the Creditor including, but not limited to, Servicers.

Section 2. Required Notice To Municipal Clerk - a Creditor serving a summons and complaint in an action to foreclose on a mortgage for residential property located within the jurisdictional boundaries of the City of Absecon shall, within ten (10) days of serving the summons and complaint notify the Absecon Municipal Clerk that a summons and complaint in an action to foreclose on a mortgage has been filed against the subject property. The notice shall contain the name and contact information for the representative of the Creditor who is responsible for receiving complaints of property maintenance and Code violations and shall be provided by mail or electronic communication at the discretion of the Municipal Clerk. Upon receipt of the same, the Municipal Clerk shall forward a copy of said notice to the Construction Official.

The Notice shall also indicate whether the property being foreclosed upon is subject to the provisions of the Fair Housing Act.

In addition, the Notice shall also include the street address, lot and block number of the property, and the full name and contact information of an individual located within the State who is authorized to accept service on behalf of the Creditor.

Section 3. Creditor's Responsibility For Maintenance Of Property - If an owner of a residential property vacates or abandons any property on which a foreclosure proceeding has been initiated or if a residential property becomes vacant at any point subsequent to the Creditor filing a 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 third party, and the property is found to be a nuisance or in violation of any applicable State or local Code, the Municipal Clerk, Construction Official, or other authorized agent of the City of Absecon shall notify the Creditor, in writing, of the property address and the violations. Upon such notice being forwarded, the Creditor shall have the responsibility to abate the nuisance and correct all violations in the same manner and to the same extent as the title owner of the property would have as required by State law or the Code of the City of Absecon.

Section 4. Determination of Vacant and Abandoned - When considering whether a property is vacant and abandoned, officials acting on behalf of the City of Absecon may consider the property vacant and abandoned if at least two of the following conditions exist:

- a. Overgrown or neglected vegetation;
- b. The accumulation of newspapers, circulars, fliers or mail on the property;
- c. Disconnected gas, electric or water utility services to the property;
- d. The accumulation of hazardous, noxious, or unhealthy substances or materials on the property;
- e. The accumulation of junk, litter, trash or debris on the property;
- f. The absence of window treatments such as blinds, curtains or shutters;
- g. The absence of furnishings and personal items;
- h. Statements of neighbors, delivery persons, or Government employees indicating that the residence is vacant and abandoned;
- i. Windows or entrances to the property that are boarded up or closed off or multiple window panes that are damaged, broken and unrepaired;
- j. Doors to the property that are smashed through, broken off, unhinged or continuously unlocked;
- k. A risk to the health, safety or welfare of the public, or any adjoining or adjacent property owners, exist due to acts of vandalism, loitering, criminal conduct, or the physical destruction or deterioration of the property;
- l. An uncorrected violation of the Municipal Building, Housing, or similar Code during the preceding year, or an Order by Municipal authorities declaring the property to be unfit for occupancy or to remain vacant and unoccupied;

- m. The Mortgagee or other authorized party has secured or winterized the property due to the property being vacant and unprotected or in danger of freezing;
- n. A written statement issued by any Mortgagor expressing the clear intent of all Mortgagors to abandon the property;
- o. Any other reasonable indicia of abandonment.

For the purpose of this Section, a residential property shall not be considered vacant and abandoned if, on the property:

- a. There is an unoccupied building which is undergoing construction, renovation, or rehabilitation that is proceeding diligently to conclusion, and the building is in compliance with all applicable ordinances, codes, regulations and statutes;
- b. There is a building occupied on a seasonal basis, but otherwise secure; or
- c. There is a building that is secure, but is the subject of a probate action, action to quiet title, or other ownership dispute.

Section 5. Time To Comply - Once Representatives of the City of Absecon forward notice pursuant to this Chapter that a property is not compliant, the Creditor shall be responsible for the care, maintenance, security and upkeep of the exterior of the property. Such notice shall specify all violations and the Creditor shall have thirty (30) days from the receipt of the notice, or ten (10) days of receipt of the notice if any violations present an imminent threat to the public health and safety, to correct the same. Any Creditor who fails to correct the violations at the property within the time parameters set forth herein shall be considered in violation of the same and each day that a violation exists shall be considered a separate offense.

Section 6. Subsection A. Penalties - Any Creditor who has failed to supply notice as required herein shall be subject to a fine of One Thousand Five Hundred Dollars (\$1,500.00) for each day of the violation. This includes if the notice is defective or, if the Creditor is from outside of the State of New Jersey and does not designate a representative within the State of New Jersey including name, address and telephone number thereof, who will act on behalf of the Creditor.

Subsection B - A Creditor who is found to be in violation of the requirement to correct violations and provide for the care, maintenance, security and upkeep of the exterior of the property may be subject to a fine of One Thousand Five Hundred Dollars (\$1,500.00) for each day of the violation. Any fines 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 public health and safety, in which case any fines shall commence 11 days following receipt of the notice.

Subsection C - Any action alleging violations of this Article of the Code shall be filed in the Municipal Court of the City of Absecon. Fines or costs associated therewith shall be as determined by the Municipal Court Judge.

Section 7. Lien Against The Property - If the City of Absecon expends public funds in order to abate a nuisance or correct a violation on the residential property in situations where the Creditor was given notice pursuant to the provisions of this Article but failed to abate the nuisance or correct the violations directed, the municipality shall have the same recourse against the Creditor as it would have against the title owner of the property, including the placement of a lien against the property for any work performed. Said lien must be authorized by a Resolution of the Governing Body of the City Council of the City of Absecon.

Severability

If any section or part of this Chapter is deemed to be invalid or illegal in any Court of competent jurisdiction then said part is severable from this Chapter as a whole and the remaining sections or parts of this chapter shall remain in full force and effect. **Effective Date**

This ordinance shall become effective upon passage and publication pursuant to law.

Repealer. Any ordinance or section thereof, inconsistent with this ordinance shall be repealed upon passage and publication pursuant to law.

DATED: February 19, 2015

SIGNED:


John R. Armstrong, Mayor

ATTEST:


Carie A. Crone, RMC, Municipal Clerk

Passed on first reading at a regular meeting of the Municipal Council held on February 5th, 2015. Laid over and advertised for public hearing and final adoption on February 19th, 2015. Notice is hereby given that the foregoing Ordinance was approved for final adoption by the Municipal Council of the City of Absecon at a regular meeting held on February 19, 2015.