

**BOROUGH OF SUSSEX
COUNTY OF SUSSEX
ORDINANCE NO. 2023-19**

AN ORDINANCE TO AMEND SECTION 12-5, ENTITLED “VACANT AND ABANDONED PROPERTIES”, OF CHAPTER 12, ENTITLED “BUILDINGS AND HOUSING” AND TO ADD SECTION 12-7, ENTITLED “REGISTRATION AND COMPLIANCE REQUIREMENTS FOR PROPERTIES IN FORECLOSURE” TO CHAPTER 12, ENTITLED “BUILDINGS AND HOUSING” OF THE CODE OF THE BOROUGH OF SUSSEX, COUNTY OF SUSSEX, STATE OF NEW JERSEY.

BE IT ORDAINED, by the Mayor and Council of the Borough of Sussex, in the County of Sussex, New Jersey, as follows:

SECTION 1. Subsection 12-5.1, entitled “Definitions”, of Section 12-5, entitled “Vacant and Abandoned Properties”, of Chapter 12, entitled “Buildings and Housing”, of the Code of the Borough of Sussex, County of Sussex, State of New Jersey, is amended to delete the following definition:

CREDITOR

Shall mean a creditor who files a summons and complaint in an action to foreclose.

SECTION 2. Subsection 12-5.1, entitled “Definitions”, of Section 12-5, entitled “Vacant and Abandoned Properties”, of Chapter 12, entitled “Buildings and Housing”, of the Code of the Borough of Sussex, County of Sussex, State of New Jersey, is amended to replace the definition of “Public Officer” with the following:

PUBLIC OFFICER

Shall mean the Code Enforcement Officer of Sussex Borough.

SECTION 3. Subsection 12-5.5, entitled “Responsibilities of creditors; violations and fines”, of Section 12-5, entitled “Vacant and Abandoned Properties”, of Chapter 12, entitled “Buildings and Housing”, of the Code of the Borough of Sussex, County of Sussex, State of New Jersey, is deleted and replaced with the following:

Section 12-5.5 Responsibilities of creditors; violations and fines. **See Section 12-7.**

SECTION 4. Subsection 12-5.7, entitled “Public officer” of Section 12-5, entitled “Vacant and abandoned properties”, of Chapter 104, entitled “Property Maintenance”, of the Code of the Borough of Sussex, County of Sussex, State of New Jersey, is amended to read as follows:

Section 12-5.7 Public officer.

The public officer is responsible for enforcing the provisions of Section 12-5 and for rehabilitation of abandoned property. All enforcement of the provisions of Section 12-5, unless expressly stated to the contrary, shall be under his/her direction and supervision.

SECTION 5. A new Section 12-7, entitled “Registration and Compliance Requirements for Properties in Foreclosure” shall be added to Chapter 12, entitled “Buildings and Housing”, of the Code of the Borough of Sussex, County of Sussex, State of New Jersey, and shall read as follows:

Section 12-7. Registration and Compliance Requirements For Properties in Foreclosure.

Section 12-7.1 Definitions.

CREDITOR

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 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.

PROPERTY

Any building or structure or portion thereof and the land appurtenant thereto.

PUBLIC OFFICER

The Code Enforcement Officer of Sussex Borough.

Section 12-7.2 Vacant and Abandoned Property.

For the purposes of this section, a property shall be considered vacant and abandoned if it is not legally occupied by a mortgagor or tenant, which is in such condition that it cannot be legally reoccupied, because of the presence or finding of at least two of the following:

- a. overgrown or neglected vegetation;
- b. the accumulation of newspapers, circulars, flyers, 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 property is vacant and abandoned;
- i. windows or entrances to the property that are boarded up or closed off, or multiple windowpanes 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 due to acts of vandalism, loitering, criminal conduct, or the physical destruction or deterioration of the property;
- l. 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;
- m. 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;
- n. a written statement issued by a mortgagor expressing the clear intent of all mortgagors to abandon the property; or
- o. any other reasonable indicia of abandonment.

Section 12-7.3 Duties of creditors.

- a. A creditor shall, in addition to the notice provided to the Borough of Sussex pursuant to section 17 of N.J.S.A 46:10B-51 or section 2 of N.J.S.A. 40:48-2.12s2 register the residential or commercial property with the municipality's property registration program as a property in foreclosure and, as part of that registration: (a) provide the municipality with the information regarding the creditor required by paragraph (1) of subsection a. of section 17 of N.J.S.A 46:10B-51 or paragraph (1) of subsection a. of section 2 of N.J.S.A 40:48-2.12s2 (b) identify the date the 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 (c) identify whether the property is vacant and abandoned in accordance with Subsection 12-7.2.
- b. 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 requirements following the filing of the complaint, the creditor shall update the property registration with the Borough within 10 days of the change in that information.
- c. The creditor shall, if the registered property becomes vacant and abandoned in accordance with Subsection 12-7.2 after the property is initially registered with the municipality, update the property registration with the Borough to reflect the change in the property's status.
- d. The creditor 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 Borough and shall specifically, but without limitation, comply with the duties applicable to owners of vacant and abandoned property as set forth in Subsection 12-5.3.
- e. A creditor located out-of-State shall be responsible for appointing an in-State representative or agent to act for the foreclosing creditor.
- f. A creditor shall comply with the requirements of Subsection 12-5.3 relating to the care, maintenance, security, and upkeep of the exterior of the property, and post a sign affixed to

the inside of the property and visible to the public indicating the name, address, and telephone number of the creditor or an out-of-State creditor's in-State representative or agent for the purpose of receiving service of process, or acquire and otherwise maintain liability insurance by procuring a vacancy policy, covering any damage to any person or any property caused by any physical condition of the property while registered with the Borough.

- g. A creditor shall pay fees as required by Section 12-7 in accordance with Section 24-1.1(f).

Section 12-7.4. Enforcement.

- a. The public officer or other authorized municipal official is authorized to issue a notice to the creditor if the public officer or other authorized municipal official determines that the creditor has violated any requirements of Section 12-7.
- b. In the case of a violation for failure to provide care, maintenance, security, and upkeep of the exterior of vacant and abandoned property, such notice shall require the creditor 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 public health and safety. The notice issued shall include a description of the conditions which give rise to the violation. If the creditor fails to remedy the violation within that time period, the creditor shall be subject to the penalties set forth in Subsection 12-7.7.
- c. If the Borough expends public funds in order to abate a nuisance or correct a violation on a commercial property in situations in which the creditor was given notice pursuant to the provisions of Subsection 12-7.4 but failed to abate the nuisance or correct the violation as directed, the municipality 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 section 23 of P.L.2003, C. 210 (C.55:19-100).

Section 12-7.5 In its discretion, the Borough of Sussex may contract with and set the compensation of a private entity, pursuant to the "Local Public Contracts Law," N.J.S.A. 40A: 11-1 et seq., to assist the Borough in the implementation and administration of the property registration program.

Section 12-7.6 Creditors shall pay annual fees in accordance with the provisions of Section 24-1.1(f) of the Code of the Borough of Sussex.

Section 12-7.7 Violations; penalties.

- a. An out-of-State creditor subject to Section 12-7 found by the municipal court, or by any other court of competent jurisdiction, to be in violation of the requirement to appoint an in-State representative or agent shall be subject to a fine of \$2,500 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 10-day period set forth in paragraph (1) of subsection a. of section 17 of N.J.S.A. 46:10B-51 or paragraph (1) of subsection a. of section 2 of N.J.S.A. 40:48-2. 1 2s2 for providing notice to the Borough clerk that a summons and complaint in an action to foreclose on a mortgage has been served.
- b. A creditor subject to Section 12-7 found by the municipal court or by any other court of competent jurisdiction, to be in violation, excluding only a violation addressed by paragraph (a) of this Subsection 12-7.7 shall be subject to a fine of \$1,500 for each day of the violation. Any fines imposed pursuant to this paragraph 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.
- c. Fines assessed under Section 12-7 shall be a lien on the property.

Section 12-7.8 No less than 20 percent of any money collected pursuant to Section 12-7 shall be used for municipal code enforcement purposes.

Section 12-7.9 Compliance with other provisions.

Nothing in Section 12-7 is intended to nor shall be read to conflict or prevent the Borough of Sussex from taking action regarding buildings found to be unfit for human habitation or unsafe structures as provided in applicable provisions of the Code of the Borough of Sussex and/or the

Uniform Construction Code. Further, any action taken under any such code provision shall not relieve an owner or creditor from his, her or its obligations under Section 12-7.

Section 12-7.10 Interpretation.

All references in Section 12-7 to statutes include all amendments thereto. References to particular sections of enabling statutes are for ease of reference but may not be exhaustive and are not meant to be exclusive of other applicable statutory provisions contained in enabling statutes or elsewhere in New Jersey statutes.

SECTION 6. Severability. If any article, section, subsection, paragraph, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

SECTION 7. Repealer. In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Borough, the provisions hereof shall be determined to govern. All other ordinances of the Borough are hereby ratified and confirmed, except where inconsistent with the terms hereof.

SECTION 8. This Ordinance shall take effect upon final passage and publication in accordance with the laws of the State of New Jersey following the required 20-day period after adoption, as set forth in N.J.S.A. 40:69A-181(b).

Attest:

Antoinette Smith, Borough Clerk

Edward Meyer, Mayor

NOTICE

NOTICE IS HEREBY GIVEN that the attached Ordinance 2023-19 was introduced at a regular meeting of the Mayor and Council of the Borough of Sussex, Sussex County, New Jersey, held on August 15, 2023 and passed on first reading, and that such Ordinance was further considered for final passage and adoption at the regular meeting of the Mayor and Council to be held on September 5, 2023 at Borough Hall, 2 Main Street, in the Borough of Sussex at 7:00 p.m. and via the internet and after all persons present were given the opportunity to be heard concerning the same, it was finally passed and adopted and will be in full force and effect according to law.

Antoinette Smith, RMC