

**BOROUGH OF RIVERTON  
BURLINGTON COUNTY**

**ORDINANCE O- 2022-07**

**ORDINANCE OF THE BOROUGH OF RIVERTON ESTABLISHING PROVISIONS  
FOR VACANT AND ABANDONED PROPERTY AND RESCINDING  
ALL PRIOR ORDINANCES CONCERNING SAME**

**WHEREAS**, P.L. 2021, Chapter 444, signed into law on January 18, 2022, governs a municipality's ability to regulate, manage, and enforce the proper administration of vacant and abandoned real property; and

**WHEREAS**, the Council of the Borough of Riverton desires to update its existing Code provisions to be in accord with the provisions of P.L. 2021, Chapter 444 in order to serve the best interests of the Borough and its residents.

**NOW THEREFORE BE IT ORDAINED** by the Council of the Borough of Riverton, County of Burlington, and State of New Jersey, that Chapter 97, Article I concerning "vacant and abandoned property" is hereby repealed.

**BE IT FURTHER ORDAINED** that the following new provisions shall be established for vacant and abandoned property in the Borough of Riverton as Chapter 97, Article I:

**Section 97-1. Definitions.**

The following definitions apply with respect to this ordinance:

- a. "Building" shall mean any building, structure, or part thereof whether used for human habitation or otherwise and includes any outbuildings or accessory structures.
- b. "Borough" shall mean the Borough of Riverton, its governing body and any agent, employee, or third party authorized to act on the Borough's behalf with respect to Vacant or Abandoned Property.
- c. "Creditor" shall mean a State-chartered bank, savings bank, savings and loan association or credit union, any person required to be licensed under the provisions of the "New Jersey Residential Mortgage Lending Act," sections 1 through 39 of P.L.2009, c.53 (C.17:11C-51 through C.17:11C-89), and/or any entity acting on behalf of the creditor named in the debt obligation including, but not limited to, servicers. 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. 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.
- d. "Maintained" shall mean that the exterior of any building and grounds are being kept in compliance with applicable construction, property maintenance, habitability, and health codes. Compliance means without violation or, if cited for violation, the abatement of the violation within thirty (30) days of the receipt of notice from the Borough or confirmation of the violation in Municipal Court. Compliance includes the payment of all applicable fines and penalties.
- e. "Owner" or "Responsible Party" shall mean the holder or holders of title to a property, an agent of the title holder authorized to act with respect to a vacant property, any foreclosing party required to provide notice to the Borough pursuant to N.J.S.A. 46:10b-51, or any other Party in Interest determined by the Public Officer to have authority to act with respect to the maintenance of a vacant property. A "Responsible Party" shall also include a creditor filing a summons and complaint in an action to foreclose who 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. A

“Responsible Party” shall also include an in-State representative or agent of the creditor who shall be responsible for the care, maintenance, security, and upkeep of the exterior of the property if it becomes vacant and abandoned.

- f. "Public officer" pursuant to N.J.S.A. C.40:48-2.4 et seq. shall mean the officer, officers, board or body who is or are authorized by ordinances adopted to exercise the powers prescribed by such ordinances and by P.L.1942, c.112 (N.J.S.A. C.40:48-2.3 et seq.). Notwithstanding any other provision of law to the contrary, nothing shall prevent a municipality from designating more than one public officer for different purposes as provided by law. By way of example, but not limited to: Code Official, Code Enforcement Officer, Construction Official, Housing Code Officer, Health Official, or other designated public officer having authority to designate structures unfit for habitation or dangerous or detrimental to the health or safety or otherwise inimical to the welfare of the residents.
- g. “Street Address” shall mean an address at which a natural person who is the responsible party or an authorized agent actually resides or actively uses for business purposes, and shall include a street name or rural delivery route.
- h. “Vacant and abandoned” shall mean that any property shall be considered vacant and abandoned if it is not legally occupied by an Owner, 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 conditions exist; or

For the purposes of this section, "vacant and abandoned" residential property is further defined as residential real estate with respect to which the mortgagee proves, by clear and convincing evidence, that the mortgaged real estate is vacant and has been abandoned or where a notice of violation has been issued pursuant to section 3 of P.L.2021, c.444 (N.J.S.A. C.40:48-2.12s3). Where a notice of violation has not been issued pursuant to section 3 of P.L.2021, c.444 (N.J.S.A. C.40:48-2.12s3), real property shall be deemed "vacant and abandoned" if the court finds that the property, mortgaged or not is not occupied by an owner, mortgagor or tenant as evidenced by a lease agreement entered into prior to the service of a notice of intention to commence foreclosure according to section 4 of the "Fair Foreclosure Act," P.L.1995, c.244 (N.J.S.A. C.2A:50-56), and at least two of the following conditions exist:

- i. overgrown or neglected vegetation;
- ii. the accumulation of newspapers, circulars, flyers, or mail on the property;
- iii. disconnected gas, electric, or water utility services to the property;
- iv. the accumulation of hazardous, noxious, or unhealthy substances or materials on the property;
- v. the accumulation of junk, litter, trash, or debris on the property;
- vi. the absence of window treatments such as blinds, curtains, or shutters;
- vii. the absence of furnishings and personal items;
- viii. statements of neighbors, delivery persons, or government employees indicating that the property is vacant and abandoned;
- ix. windows or entrances to the property that are boarded up or closed off, or multiple window panes that are damaged, broken, and unrepaired;
- x. doors to the property that are smashed through, broken off, unhinged, or continuously unlocked;
- xi. 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;
- xii. 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;
- xiii. 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;
- xiv. a written statement issued by a mortgagor expressing the clear intent of all mortgagors to abandon the property; or

xv. any other reasonable indicia of abandonment.

**Section 97-2. Registration Statement.**

A. The Owner of a vacant and abandoned property that is vacant and abandoned on the effective date of P.L. 2021, c.444, shall file a certificate of registration with the Code Enforcement Officer, Public Officer or other designee. The Owner of a property that becomes vacant and abandoned shall file a certificate of registration with the Code Enforcement Officer or designee after the property becomes vacant and abandoned or within 30 days after the responsible party assumes ownership of or responsibility for an already vacant and abandoned property. The registration shall remain valid until the end of the calendar year. The Owner shall be required to renew the registration annually, no later than January 31 or by another date agreed upon by the Borough and the Creditor, as long as the building remains vacant and abandoned property and shall pay a registration or renewal fee in the amount prescribed in Section 4 of this chapter for each vacant and abandoned property registered.

B. Any creditor that has initiated a foreclosure proceeding on any commercial property that is pending in Superior Court shall provide to the Municipal Clerk, and the Mayor or other chief executive officer of the municipality in which the property is located, a listing of all commercial properties in the municipality for which the creditor has foreclosure actions pending by street address and lot and block number. If the municipality has designated or appointed a public officer pursuant to P.L.1942, c.112 (N.J.S.A. C.40:48-2.3 et seq.), the municipal clerk shall forward a copy of the notice to the public officer, or shall otherwise provide it to any other public officer responsible for administration of any property maintenance, health, or public nuisance code.

C. The certificate of registration shall be filed on forms prescribed by the New Jersey Commissioner of Community Affairs and shall contain the information required under Section 3 of this chapter, as well as any additional information that the Borough may reasonably require.

D. 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 be provided in a notice pursuant to this paragraph following the filing of the summons and complaint, the creditor shall provide a notice to the Municipal Clerk, and the Mayor or other chief executive officer of the municipality containing the updated name, address, or telephone number within 10 days of the change in that information.

E. The registration statement shall be deemed prima facie proof of the statements therein contained in any administrative enforcement proceeding or court proceeding instituted by the Borough against the Owner or Owners of the building.

**Section 97-3. Registration statement requirements; property inspection; designated agent**

A. After filing a registration statement or a renewal of a registration statement, the Owner of any vacant and abandoned property shall provide access to the Code Enforcement Officer or other Public Officer to conduct an exterior and interior inspection of the building to determine compliance with the applicable codes, following reasonable notice, during the period covered by the initial registration or any subsequent renewal.

B. The name, street address, and telephone number of a natural person who resides or maintains an office within the State and who is either the responsible party or an authorized agent designated of the Owner to receive notices and complaints of property maintenance and code violations on behalf of the Owner. The name, street address, and telephone number of the person responsible for maintaining the property, if different. Evidence of 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 property registration program.

C. An Owner who meets the requirements of this section as to location of residence or office may designate himself or herself as agent.

D. By designating an authorized agent under the provisions of this section, the Owner consents to receive any and all notices of code violations or other legal notices concerning the registered vacant and abandoned property and all process in any court proceeding or administrative enforcement proceeding brought to enforce code provisions concerning the registered building by service of the notice or process on the authorized agent. Any Owner who has designated an authorized agent under the provisions of this section shall be deemed to consent to the continuation of the agent's designation for the purposes of this section until the Owner notifies the Code Enforcement Officer or other Public Officer of a change of authorized agent or until the Owner files a new annual registration statement. The designation of an authorized agent in no way releases the Owner from any requirement of this chapter.

**Section 97-4. Fee schedule.**

A. A municipality may impose an annual fee on a creditor required to register a property. The fee shall not exceed:

1. \$500 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; and
2. an additional \$2,000 per property annually if the property is vacant or abandoned pursuant to the definition in this ordinance when the summons and complaint in an action to foreclose is filed, or becomes vacant or abandoned pursuant to the definition in the ordinance at any time thereafter while the property is in foreclosure. All such annual fees and due dates thereof shall be identified in this ordinance.

**Section 97-5. Responsibilities of Owners of vacant and abandoned property.**

A. After the Borough notifies the Owner that the Property [becomes] is vacant and abandoned and until the Property is reoccupied, the Owner for a vacant and abandoned property shall:

1. Enclose and secure the building against unauthorized entry as provided for in the International Property Maintenance Code 2012 Second Edition, or as set forth in any other applicable codes duly adopted by the Borough.
2. Post a sign affixed to the inside of the property and visible to the public indicating the name, address, and telephone number of the responsible party, any authorized agent designated by the responsible party for the purpose of receiving service of process, and the person responsible for maintaining the property if different from the responsible party or authorized agent.
3. Secure the building from unauthorized entry and maintain the sign until the building is again legally occupied or demolished or until repair or rehabilitation of the building is complete.
4. The Owner of any vacant and abandoned building shall acquire and otherwise maintain liability insurance by procuring a vacancy policy in an amount of not less than \$300,000 for buildings designed primarily for use as residential units and not less than \$1,000,000 for any other building, including, but not limited to, buildings designed for manufacturing, industrial, storage or commercial uses, covering any damage to any person or any property caused by any physical condition of or in the building.
5. The Owner shall attach evidence of the insurance to the Owner's registration statement.
6. If the Public Officer, or other authorized official from the Borough of Riverton determines the Owner, creditor, agent, or other Responsible Party fails to secure from unauthorized access, post notice, and/or otherwise fails to act, and the condition of such property is unsafe, unsanitary, dangerous or detrimental to the health or safety or otherwise inimical to the welfare of the residents, pursuant to N.J.S.A. 40:48-2.3 et seq., the Public Officer, or other authorized official may take necessary action to abate these nuisances and secure the property from unauthorized entry. The full costs of such action will be billed to the Owner, Creditor, agent or other Responsible Party. Failure of the

Creditor or other Responsible Party to pay these abatement costs within 30 days may result in a lien being placed on the property once authorized by the governing body.

**Section 97-6. Foreclosure.**

A. A Creditor serving a summons and complaint in an action to foreclose on a mortgage on a property in the Borough shall, within 10 days of serving the summons and complaint, notify the Municipal Clerk, and the Mayor or other chief executive officer of the municipality 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 full name, address, and telephone number for the representative of the Creditor who is responsible for receiving complaints of property maintenance and code violations and the full name and contact information for any person or entity retained by the creditor or a representative of the creditor to be responsible for any care, maintenance, security, or upkeep of the property.

1. Any Creditor that has initiated a foreclosure proceeding on any commercial property that is pending in Superior Court shall provide to the Municipal Clerk, and the Mayor or other chief executive officer of the municipality a listing of all commercial properties in the Borough for which the Creditor has foreclosure actions pending by street address and lot and block number.

B. If the Public Officer, or other authorized municipal official, determines that a Creditor obligated to care, maintain, secure and keep up a vacant and abandoned property has failed to do so, in violation of the provisions of this chapter of the Borough Code, the public officer or other authorized municipal official shall issue a notice of violation to the Creditor that has filed a summons and complaint to foreclose on the property in question. The 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 public health and safety. The issuance of this notice shall constitute evidence that a property is vacant and abandoned for purposes of N.J.S.A. 2A:50-73.

C. If the Owner of a commercial property vacates or abandons any property on which a foreclosure proceeding has been initiated or if a commercial property becomes vacant 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 exterior of the property is found to be a nuisance or in violation of any applicable State or local code, the local public officer, Municipal Clerk, or other authorized Borough official shall notify the Creditor or the representative or agent of an out-of-State Creditor, as applicable, 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.

D. Any out-of-state Creditor shall notify the Municipal Clerk, and the Mayor or other chief executive officer of the municipality, of the full name, address, and telephone number of an in-State representative or agent who shall be responsible for the care, maintenance, security, and upkeep of the exterior of the property if it becomes vacant and abandoned. The notice shall also include the street address, lot, and block number of the property. If the out-of-state Creditor is found by a court of competent jurisdiction to have violated this provision shall be subject to a fine of \$2,500 for each day of the violation commencing on the day after the ten-day period with respect to notifying the Municipal Clerk that an action to foreclose on the property has been served.

Any Creditor subject to this ordinance found by the municipal court of the municipality in which the property subject to the ordinance is located, or by any other court of competent jurisdiction, to be in violation, excluding only a violation addressed by paragraph (D) of this subsection, of the ordinance 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.

E. 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 this Ordinance, but failed to abate the nuisance or correct the violation as directed, the Borough shall have the same recourse against the creditor as it would have against the title owner of the 15 property, including but not limited to the recourse provided under section 23 of P.L.2003, c.210 (N.J.S.A. C.55:19-100).

F. Except as set forth in this chapter and herein, any person, firm, corporation or entity violating any provision of this chapter shall, upon conviction, be punishable as provided in this Code. A creditor required to care, maintain, secure and keep up a property under this chapter cited in a notice issued pursuant to Subsection B shall be subject to a fine of \$1,500 for each day of the violation.

G. Notice of violations of property maintenance, building or other property codes for any property declared vacant and abandoned pursuant to this chapter shall be given to a foreclosing creditor pursuant to the procedures of this Code as required by P.L. 2014, c. 35.

**Section 97-7.** If any section, paragraph, subsection, clause, or provisions of this Amendment shall be adjudged by the courts to be invalid, such adjudication shall apply only to this section, paragraph, subsection, clause, or provisions so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective.

**Section 97-8.** If any ordinances or parts thereof are in conflict with the provisions of this Ordinance are repealed to the extent of such conflict.

**Section 97-9.** This Ordinance shall take effect upon passage and publication in accordance within applicable law.

<b>INTRODUCTION</b>						
<b>Roll Call Vote</b>						
<b>Council Member</b>	<b>Motion</b>	<b>Second</b>	<b>Aye</b>	<b>Nay</b>	<b>Abstain</b>	<b>Absent</b>
Corbi		x	x			
Fullerton			x			
Major			x			
Scott			x			
Quinn			x			
Wilburn	x					

<b>ADOPTION</b>						
<b>Roll Call Vote</b>						
<b>Council Member</b>	<b>Motion</b>	<b>Second</b>	<b>Aye</b>	<b>Nay</b>	<b>Abstain</b>	<b>Absent</b>
Corbi		x	x			
Fullerton			x			
Major			x			
Scott						x
Quinn			x			
Wilburn	x		x			

**CERTIFICATION**

I, Michelle Hack, Municipal Clerk of the Borough of Riverton, County of Burlington, and State of New Jersey, do hereby certify the forgoing to be a true and correct copy of an Ordinance which was introduced by the Council of the Borough of Riverton at its meeting of September 20 2022 with a second reading, public hearing, and final adoption held on October 18, 2022.

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**Michelle Hack, Municipal Clerk**