

Mayor Nolan offered the following ordinance pass final reading and moved on its adoption:

**BOROUGH OF HIGHLANDS
COUNTY OF MONMOUTH**

O-14-24

**An Ordinance Amending Chapter X “Buildings And Housing”
Of The Borough Code To Adopt Laws Regarding The Care,
Maintenance, Security, And Upkeep Of Vacant And
Abandoned Residential Properties In Foreclosure**

WHEREAS, the Borough of Highlands regulates the maintenance of commercial and residential property within the Borough by and through Chapter X of the Borough Code, “Buildings and Housing”; and

WHEREAS, the Legislature and the Governor of the State of New Jersey have enacted P.L. 2014, c.35, described as “[a]n Act concerning the maintenance of certain residential properties, supplementing chapter 48 of Title 40 of the Revised Statutes....” (the Act); and

WHEREAS, the Act authorizes the Borough to adopt an ordinance for the purpose of regulating the care, maintenance, security, and upkeep of the exterior of vacant and abandoned residential properties for which a creditor has filed a summons and complaint in an action to foreclose; and

WHEREAS, the Act authorizes designated Borough officials to issue notices to creditors that have filed a summons and complaint in an action to foreclose, if the public official determines that the property is vacant and abandoned and that the creditor has failed to provide for the care, maintenance, security, and upkeep of the exterior of the property; and

WHEREAS, the Act authorizes the Borough to impose monetary fines and penalties for each violation of this ordinance and its respective provisions in the Borough Code; and

WHEREAS, the Borough wishes to amend the Borough Code to enact the provisions of P.L. 2014, c.35; and

WHEREAS, the Governing Body finds that it is in the best interests of the Borough to amend the Borough Code as hereinafter provided to enact the provisions of P.L. 2014, c.35.

NOW, THEREFORE BE IT ORDAINED as follows:

Section One. The Borough Code, Article X, “Buildings and Housing” shall be amended and a new chapter, Chapter 10-12 shall hereinafter be adopted to provide as follows:

10-12 UPKEEP OF VACANT AND ABANDONED RESIDENTIAL PROPERTIES.

10-12.1. Definitions.

A. "Creditor" shall mean, consistent with section 3 of P.L. 2008, c.86, a State chartered bank, savings bank, savings and loan association or any credit union, any person required to be licensed under the provisions of the "New Jersey Residential Mortgage Lending Act," and any entity acting on behalf of the Creditor named in the debt obligation, including but not limited to, servicers.

B. "Vacant and Abandoned" residential property shall mean, consistent with section 1 of P.L. 2010, c.70 (C.2A:50-73), residential real estate for which a notice of violation has been issued pursuant to Section 10-12.3 of this Chapter and subsection b. of section 1 of P.L. 2014, c.35. Where a notice of violation has not been issued pursuant to Section 10-12.3 of this Chapter and subsection b. of section 1 of P.L. 2014, c.35, residential property shall be deemed "Vacant and Abandoned" where a mortgaged property is not occupied by a 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 and at least two of the following 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, curtains or shutters;
- (7) the absence of furnishings and personal items;
- (8) statements of neighbors, delivery persons, or government employees indicating that the residence 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, exists 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 any mortgagor expressing the clear intent of all mortgagors to abandon the property; and

(15) any other reasonable indicia of abandonment.

10-12.2. Creditor Responsibility for Vacant and Abandoned Properties.

A. A Creditor filing a summons and complaint in an action to foreclose on a residential property within the Borough shall be immediately responsible for the care, maintenance, security, and upkeep of the exterior of the property, after the property becomes Vacant and Abandoned as defined in this Chapter.

B. Where a Creditor is located out-of-State, the Creditor shall be responsible for appointing an in-State representative or agent to act on the Creditor's behalf for the purpose of satisfying the requirements of Paragraph A of this Section. Notice of said representative or agent shall be provided to the Borough clerk in a manner that is consistent with subsection a. of section 17 of P.L. 2008, c.127 (the "Save New Jersey Homes Act of 2008"), and shall further include the full name and contact information of the in-State representative or agent.

10-12.3. Notice.

A. Any public officer designated by the Borough or authorized municipal official responsible for the administration of any property maintenance or public nuisance code shall be authorized to issue a notice to a Creditor that has filed a summons and complaint in an action to foreclose on a residential property within the Borough, if the public officer determines that the Creditor has violated this Chapter by failing to provide for the care, maintenance, security, and upkeep of the exterior of the property.

Where a Creditor is an out-of-State Creditor, the notice shall be issued to the representative or agent that has been identified by the Creditor pursuant to Section 10-12.2 of this Chapter and the Save New Jersey Homes Act of 2008.

B. The notice referenced in Paragraph A of this Section shall require the Creditor to correct the violation(s) 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.

C. The issuance of a notice pursuant to Paragraph A of this Section shall constitute proof that a residential property is "Vacant and Abandoned" for the purposes of this Chapter.

10.12.4. Violations and Penalties.

A. A Creditor subject to this Chapter that is found by the municipal court of the Borough, or by any other court of competent jurisdiction, to be in violation of the requirement to correct a care, maintenance, security, or upkeep violation cited in a notice issued pursuant to this Chapter shall be subject to a fine of \$1,500 for each day of the violation.

Any fines imposed pursuant to this sub-section shall commence 31 days following the Creditor's receipt of the notice, except where the violation is deemed to present an imminent risk to the public health and safety, in which case any fines shall commence 11 days following receipt of the notice.

B. An out-of-state Creditor subject to this Chapter that is found by the municipal court of the Borough, 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 an out-of-state 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 P.L. 2008, c.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.

C. No less than 20 percent of any money collected by the Borough pursuant to this Section shall be utilized by the Borough for municipal code enforcement purposes.

Section Three. SEVERABILITY. If any section, subsection, 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, which shall otherwise remain in full force and effect.

Section Four. REPEALER. All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section Five.
as provided by law.

EFFECTIVE DATE. This Ordinance shall take effect after final passage

	INTRODUCED	SECONDED	AYE	NAY	ABSTAIN	ABSENT
CARD			X			
KANE		X	X			
REDMOND			x			
RYAN						
NOLAN	X		X			
			X			
ON CONSENT AGENDA			YES	X	NO	

DATE: October 22, 2014

Carolyn Cummins, Borough Clerk

I hereby certify this to be a true copy of Ordinance O-14-24 adopted by the Governing Body of the Borough of Highlands on October 22, 2014.

Borough Clerk/Deputy Clerk