

**BOROUGH OF FRANKLIN
ORDINANCE NO. 5-2015**

**AN ORDINANCE AMENDING CHAPTER 205 ENTITLED "PROPERTY
MAINTENANCE" TO REQUIRE CREDITORS TO CARE FOR AND
MAINTAIN THE EXTERIOR OF VACANT AND ABANDONED
PROPERTIES UNDER FORCLOSURE**

BE IT ORDAINED by the Council of the Borough of Franklin, in the County of Sussex and State of New Jersey that Chapter 205 of the Code of the Borough of Franklin entitled "Property Maintenance" is hereby amended as follows:

SECTION I. Chapter 205 entitled "Property Maintenance," is hereby amended, supplemented, and revised by adding Section 205-7.1 entitled "Responsibilities of Creditors, violations and fines" as follows:

§205-7.1. Responsibilities of Creditors, violations and fines.

- A. Pursuant to the provisions of N.J.S.A. 40:48-2.12s, the creditor filing the summons and complaint in an action to foreclose shall be responsible for the care, maintenance, security, and upkeep of the exterior of the vacant and abandoned residential property. This obligation applies whether the determination that the property is vacant and abandoned is made by the public officer pursuant to Chapter 205 "Property Maintenance", N.J.S.A. 2A:50-73, or otherwise.
- B. If the creditor is located out-of-State, the creditor shall be responsible for appointing an in-State representative or agent to act for the foreclosing creditor.
- C. An out-of-State creditor shall include the full name and contact information of the in-State representative or agent in the notice required to be provided to the municipal clerk pursuant to N.J.S.A. 46:10B-51(a)(1).
- D. An out-of-State creditor found by the municipal court, or by any other court of competent jurisdiction, to be in violation of §205-7.1(B) shall be subject to a fine of \$2,500.00 for each day of the violation, commencing on the day after the ten (10) day period set forth in N.J.S.A. 46:10B-51(a)(1) for providing notice to the municipal clerk that a summons and complaint in an action to foreclose has been served.

- E. A public officer appointed pursuant to N.J.S.A. 40:48-2.3 et seq., or any enforcement officer described in §205-9, shall be authorized to issue a notice to the creditor filing the summons and complaint in an action to foreclose, if the public officer or enforcement 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. The 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 public health and safety. The issuance of this notice shall constitute proof that a property is “vacant and abandoned” for purposes of N.J.S.A. 2A:50-73.
- F. A creditor found by the municipal court, 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 §205-7.1(E) shall be subject to a fine of \$1,500 for each day of the violation commencing 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 eleven (11) days following receipt of the notice.

SECTION II. Chapter 205 entitled “Property Maintenance,” is hereby amended, supplemented, and revised by deleting Section 205-11(B) and (C) in their entirety and replacing same as follows:

§205-11. Notice of violation; abatement; appeals

- B. Contents of notice. The notice shall specify the violation or violations committed; what must be done to correct the same; a reasonable period of time not to exceed 60 days to correct or abate the violation except as otherwise provided by §205-7.1(E); the right of the person served to request a hearing; and that the notice shall become an order of the public officer in 10 days after service unless a hearing is requested pursuant to Subsection D below.
- C. Service of Notice. Notice may be served personally or by prepaid telegram or by mail with postage prepaid addressed to the last known address of the person to be served. Where it is ascertained that the owner does not reside on the premises, the last known address shall be the address of the owner as shown in the office of the Tax Collector. If the last known address cannot be ascertained, the notice may be posted on the outside front entrance of the building. The public officer shall file and provide notice to any owner, operator, creditor or occupant of any violation at any address other than the last known address if such other address is or has been

filed with the public officer personally or by certified mail addressed to the public officer. Service upon an owner, operator, creditor or occupant may also be attained by service of any notice upon a member of the family of the owner, operator or occupant of the age of 14 years or over then residing therein. Time of service of the notice shall be determined, where service is by mail, as of the day following the day of mailing for notices to addresses within the borough and as of the fourth day after the day of mailing for notices to addresses outside the borough. Where the day of service would fall upon a Sunday or other day when mail is not ordinarily delivered, then the day of service shall be the next regular delivery day.

SECTION III. Chapter 205 entitled "Property Maintenance," is hereby amended, supplemented, and revised by deleting Section 205-13 in its entirety and replacing same as follows:

§205-13. Violations and penalties.

- A. Except as set forth in §205-7.1(D) and (F), a violation of any section or subsection of this chapter shall be punishable by the penalties set forth in Chapter 1, General Provisions. Each day that the violation shall continue shall be considered a separate violation.
- B. In the event of the imposition of a fine or penalty by the Municipal Court or any other court of competent jurisdiction against the owner, operator, creditor or lessor of any building or structure in the borough, the fine or penalty shall be collectible as a lien against the premises and, in addition thereto, shall be collectible pursuant to any other remedies now provided by law.

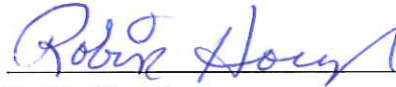
SECTION IV. If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

SECTION V. 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 VI. This Ordinance shall take effect immediately upon final passage and publication according to law. A certified copy of this ordinance shall be forwarded to the New Jersey Department of Transportation for approval of the "intersection" designations.

NOTICE

NOTICE is hereby given that the foregoing Ordinance was introduced to pass on first reading at a regular meeting of the Council of the Borough of Franklin held on April 14, 2015, at 7:00 p.m. and ordered published in accordance with the law. Said Ordinance will be considered for final reading and adoption at a regular meeting of the Borough Council to be held on April 28, 2015, at 7:00 p.m., or as soon thereafter as the Borough Council may hear this Ordinance at the Municipal Building, 46 Main Street, Franklin, New Jersey 07416, at which time all persons interested may appear for or against the passage of said Ordinance.



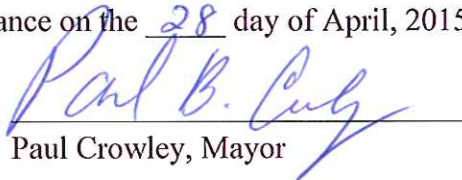
Robin Hough
Borough Clerk

CERTIFICATION

I, Robin Hough, Clerk of the Borough of Franklin, do hereby certify that the Borough of Franklin Council duly adopted the foregoing Ordinance on the 28 day of April, 2015.



Robin Hough, Clerk
Borough of Franklin



Paul Crowley, Mayor

Introduced: 4/14/15
Adopted: 4/28/15

**BOROUGH OF FRANKLIN
LEGAL NOTICE**

ORDINANCE # 5-2015

**AN ORDINANCE AMENDING CHAPTER 205 ENTITLED "PROPERTY MAINTENANCE"
TO REQUIRE CREDITORS TO CARE FOR AND MAINTAIN THE EXTERIOR OF
VACANT AND ABANDONED PROPERTIES UNDER FORCLOSURE**

NOTICE is hereby given that the above Ordinance was introduced and passed on first reading at a meeting of the Borough Council of the Borough of Franklin, in the County of Sussex, State of New Jersey, held in the Municipal Building on the 14th day of April, 2015, and the same came up for final passage at a meeting of the said Borough Council on the 28th day of April, 2015, at which time, after persons interested were given an opportunity to be heard concerning said ordinance, the same was passed and will be in full force in the Borough according to law by order of the Borough Council of the Borough of Franklin, County of Sussex and State of New Jersey.



Robin Hough, Municipal Clerk