

**ORDINANCE NO. 2019-27**

**ORDINANCE OF THE BOROUGH COUNCIL, BOROUGH OF BELMAR, COUNTY OF MONMOUTH, STATE OF NEW JERSEY, CREATING NEW SECTION, HAZARDOUS MATERIALS COLLECTION AND DISPOSITION IN CHAPTER XXIII IN THE REVISED GENERAL ORDINANCES**

WHEREAS, the Mayor and Council of the Borough of Belmar has a desire to amend Chapter 23 of the Revised General Ordinances to create Section 10, Hazardous Materials Collection and Disposition as follows:

**SECTION I.            23-10    HAZARDOUS MATERIALS COLLECTION AND DISPOSITION**

**10-1.    Definitions.**

As used in this chapter, the following terms shall have the meanings hereinafter prescribed:

**HAZARDOUS MATERIALS** -- Any material, solid, liquid or gas, listed as such under the NFPA Guide Book, the list of hazardous substances adopted by the Federal Environmental Protection Agency (EPA), pursuant to Section 311 of the Federal Water Pollution Control Amendment of 1972, as amended by the Clean Water Act of 1977, and the list of toxic pollutants designated by Congress or the EPA, pursuant to Section 307 of the Federal Water Pollution Control Act, any hospital or medical waste, including but not limited to, syringes, bandages, and discarded pharmaceutical products, and any material warranting removal or cleanup in the opinion of the Belmar Office of Emergency Management.

**VEHICLE** -- Any motorized equipment, registered or unregistered, including, but not limited to, a passenger car, motorcycle, truck, tractor trailer, construction equipment, farm machinery, watercraft, aircraft and trains.

**VESSEL** -- Any container, drum, box cylinder, or tank used to hold, contain, carry, or store any hazardous materials, whether or not said container was manufactured for the containment of hazardous materials.

**DISCHARGE** -- Any intentional or unintentional action or omission resulting in the releasing, spilling, leaking, pumping, pouring, emitting, emptying or dumping of any hazardous substances into any waters which flow within the jurisdiction of this borough or any land within the jurisdiction of this borough.

**EXPENDABLE ITEMS** -- Any items used to extinguish or prevent any hazardous material fire, or stop or contain any leak, release, or spill involving any hazardous material, which cannot be reused or cannot be replenished without cost after that particular incident. These expendable items include, but are not limited to, firefighting foam, chemical extinguishing agents, absorbent materials, sand, recovery drums, and any protecting equipment and clothing to include, but not restricted to, chemical protective suits, chemical protective gloves, goggles, and any other item owned or controlled by the Borough of Belmar or Belmar Fire Department.

**BOROUGH** -- Shall include the Borough of Belmar's employees, agents, officers, officials, and supporting units as directed by the Office of Emergency Management.

**COLLECTING AGENCY** -- Hereunder shall be the Borough of Belmar.

**10-2.    Purpose of chapter.**

This chapter provides for the reimbursement of any and all equipment utilized by the Borough of Belmar, for costs expended, without regard to ownership, for the purposes of mitigating, controlling or containing any incident in which a hazardous material is involved in a fire, leak, release or spill, or where the potential thereof exists, or for the prevention of same.

This chapter also provides for the reimbursement for the expenses incurred by the borough for the wages (regular and overtime) paid to its employees, agents, or servants as a result of an incident involving a hazardous material, fire, leak, release, or spill of a hazardous material and for the costs incurred by agents, servants and employees of the borough.

This chapter also provides for a penalty for the violation of the chapter for either committing a spill or for failure to report same.

### **10-3. Hazardous substances, discharge, prohibition.**

- A. The discharge of hazardous substances is prohibited. This section shall not apply to discharge of hazardous substances pursuant to and in compliance with the conditions of a federal or state permit.
- B. Any person who may be subject to liability for a discharge or become aware of a discharge which occurred prior to or after the effective dates of this chapter shall immediately notify the Borough of Belmar Police Department or the Borough Clerk.
- C. Whenever any hazardous substance is discharged, the borough may in its discretion act to remove or arrange for the removal of such discharge.
- D. Any person who has discharged a hazardous substance or who has failed to report a discharge or who is in any way responsible for any hazardous substance which has been or shall be removed by the borough, shall be strictly liable jointly and severally, without regard to fault, for all cleanup and removal costs and shall be liable for the wages (regular and overtime) paid and the costs of medical and hospital treatment for injuries incurred by the agents, servants and employees of the borough.

### **10-4. Parties responsible.**

Reimbursement to the borough for expendable items used shall be made by the owner or operator of the vehicle responsible for the hazardous material fire, leak, or spill of hazardous material; by the owner or person responsible for the vessel containing the hazardous material involved in such fire, leak or spill on public or private property, whether stationary or in transit and whether accidental or through negligence; by the owner or person responsible for any property from which any leak or spill of hazardous material emanates, whether accidental or through negligence; and by the person responsible for the hazardous material fire, leak or spill of hazardous material on public or private property, whether accidental or through negligence.

### **10-5. Reimbursement for services of Recovery Company, towing company or technical assistance.**

Any person causing any hazardous material fire, leak, spill or release involving a hazardous material must provide for services rendered by any recovery company, towing company or any other technical assistance called for by the borough to handle such incident. In the event of a vehicle having been responsible for an incident, such vehicle shall be impounded until such time as it has been deemed safe to proceed by the responsible official in conjunction and in cooperation with the Borough of Belmar, and until such time as arrangements have been made to reimburse the borough and the towing company for their expenditures under the terms of this chapter.

### **10-6. Period for payment.**

The person or entity responsible for any fire, leak or spill of hazardous materials shall reimburse the borough the full price of expendable items and costs used to extinguish such fire, or to stop or contain such leak, or to control such spill, within forty five (45) days after the receipt of a bill therefore. The collecting agency shall utilize its best efforts to collect costs hereunder and shall reimburse its agents or the local units of amounts collected. In the event that the collecting agency is not able to collect said costs or only a portion thereof, the collecting agency shall not be responsible to its agents or the local units for the full amount of same.

### **10-7. Fees relative to hazardous materials collection and disposal.**

From the effective date of this section, fees payable under this chapter are, pursuant to Chapter 23 of the Code of the Borough of Belmar, incorporated herein by reference. Fees are subject to change by resolution of the Governing Body.

### **10-8. Fees relative to hazardous materials collection and disposal.**

A. The following schedule of fees shall be charged from and after the effective date of this section: 1

(1) **Personnel:**

**Police Rate:** Standard overtime rate per hour paid to the Borough of Belmar.

**DPW:** Standard overtime rate per hour paid to the Borough of Belmar.

**Administrative**

**Personnel:** Twenty-five dollars (\$25.00) per hour paid to the Borough of Belmar.

(2) The responsible party shall reimburse the borough for the value of all expendable materials. Any material not included in Section 10-3 shall be reimbursed at cost.

**B.** The following schedule of fees shall be charged from and after the effective date of this section and are to be paid to the Borough of Belmar.

- |                                  |  |
|----------------------------------|--|
| (1) Speedy Dry:                  | Thirty dollars (\$30.00) per bag.  |
| (2) Sorbital:                    | Forty dollars (\$40.00) per bag.   |
| (3) Peat sorb:                   | Sixty dollars (\$60.00) per bag.   |
| (4) Lime:                        | Fifteen dollars (\$15.00) per bag.   |
| (5) Bales of oil absorbent pads: | One hundred dollars (\$100.00) each.   |
| (6) Bales of booms:              | One hundred fifty dollars (\$150.00) each.   |
| (7) Large booms:                 | One hundred seventy-five dollars (\$175.00) each.  |
| (8) Large water booms:           | Two hundred dollars (\$200.00) each.   |
| (9) Pillows:                     | Ninety dollars (\$90.00) each.   |
| (10) Over pack drums:            | Three hundred fifty dollars (\$350.00) each.   |
| (11) Salvage drums:              | One hundred fifty dollars (\$150.00) each.   |
| (12) Tyvek suit:                 | Twenty dollars (\$20.00) each.   |
| (13) Encapsulated suit:          | One thousand four hundred ninety-five dollars (\$1,495.00) each.                                     |
| (14) Gloves (latex):             | Five dollars (\$5.00) each.  |
| (15) Gloves (fire):              | Fifteen dollars (\$15.00) each.  |
| (16) Gloves (rubber):            | Eight dollars (\$8.00) each.   |
| (17) Duct tape (roll):           | Three dollars (\$3.00) each.   |
| (18) Barrier tape (roll):        | Twenty-five dollars (\$25.00) each.  |
| (19) Rope (roll):                | Forty dollars (\$40.00) each   |
| (20) Sand (ton):                 | Twenty-five dollars (\$25.00) each.  |
| (21) Dump truck:                 | Eighty-five dollars (\$85.00) per hour.  |
| (22) Loader:                     | One hundred fifty dollars (\$150.00) per hour.   |
| (23) Backhoe:                    | One hundred fifty dollars (\$150.00) per hour.   |
| (24) Sweeper:                    | One hundred twenty-five dollars (\$125.00) per hour.   |
| (25) Refuse packer:              | One hundred twenty-five dollars (\$125.00) per hour.   |
| (26) Dumpster:                   | Market rate + dumping fee. A dumpster permit issued by the Code Enforcement Office is also required. |
| (27) Disposal:                   | To be reimbursed at cost.  |
| (28) Light tower:                | One hundred seventy-five dollars (\$175.00) plus ten dollars (\$10.00) per hour.                     |
| (29) Mobile command center:      | One hundred dollars (\$100.00) per hour.   |
| (30) Police vehicle:             | Twenty dollars (\$20.00) per hour.   |

**SECTION II.** If any section, paragraph, subdivision, clause or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of the Ordinance shall be deemed valid and effective.

**SECTION III.** All Ordinances or parts of ordinances inconsistent with or in conflict with the ordinance are hereby repealed to the extent of such inconsistency.

**SECTION IV.** This Ordinance shall take effect 20 days after final passage, adoption and publication according to law.

**ORDINANCE NO. 2019-28**

**ORDINANCE OF THE MAYOR AND BOROUGH COUNCIL OF THE  
BOROUGH OF BELMAR, COUNTY OF MONMOUTH, STATE OF NEW  
JERSEY, AMENDING AND SUPPLEMENTING CHAPTER XXVI OF  
THE BOROUGH CODE ENTITLED PROPERTY MAINTENANCE,  
ADDING SECTION 26-12**

**WHEREAS**, mortgage foreclosures often result in the abandonment and neglect of residential properties; and

**WHEREAS**, P.L. 2014, c.35, authorizes municipalities to adopt ordinances 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 an action to foreclose; and

**WHEREAS**, it is in the public interest for the Borough of Belmar to establish a mechanism to identify and track vacant and abandoned residential properties and to enforce those standards of maintenance.

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and the Council of the Borough of Belmar, County of Monmouth, State of New Jersey, that Section 26-12 be created as follows:

**SECTION I.**

**26-12 Registration and Maintenance of Vacant and Abandoned Residential Properties in Foreclosure**

26-12.1 Definitions

*Creditor* means a State chartered bank, savings bank, savings and loan association or credit union, any person or entity required to be licensed under the provisions of the New Jersey Residential Mortgage Act, P.L. 2009, c.53 (c.17:11C-51 et seq.) any foreclosing entity subject to the provisions of C.45:10B-51 (P.L. 2008, c.127, Sec. 17 as amended from time to time) and any entity acting on behalf of the creditor named in the debt obligation including, but not limited to servicers.

*Vacant and Abandoned* residential property means, consistent with section 1 of P.L. 2010, c70 (C.2A:50-73), residential real estate, where a notice of violation has been issued pursuant to Paragraph e. 1 of this section and subsection b. of section 1 of P.L. 2014, c.35 (C.40:48-2.12s). Residential property shall further be deemed Vacant and Abandoned where a mortgaged property is not occupied by a mortgagor or tenant and at least two of the following conditions exist;

- 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. Accumulation of hazardous, noxious, or unhealth 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, association management, 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, exists 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 the 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 any mortgagor expressing the clear intent of all mortgagors to abandon the property
- o. Any other reasonable indicia of abandonment

#### 26-12.2 Registration of Vacant and Abandoned Properties

- a. A creditor filing a summons and complaint in an action to foreclose on a Vacant and Abandoned property, or a Creditor who has previously filed a summons and complaint to foreclose on a residential property which subsequently becomes Vacant and Abandoned, shall within thirty (30) calendar days after the building becomes Vacant and Abandoned or within thirty (30) calendar days after assuming ownership of the Vacant and Abandoned property, whichever is later, or within ten (10) calendar days of receipt of notice from the Borough, and annually thereafter, file a registration statement for such Vacant and Abandoned property with the Municipal Clerk on forms provided by the Borough for such purposes. Any failure to receive notice from the Borough shall not constitute grounds for failing to register the Vacant and Abandoned property.
- b. Each Vacant and Abandoned property having a separate block and lot number as designated in the official tax maps of the Borough shall be registered separately.
- c. The registration statement shall include the name, street address, telephone number, and email address (if applicable) of a person twenty-one (21) years or older, designated by the Creditor as the authorized agent for receiving notices of code violations and for receiving process in any court proceedings or administrative enforcement proceeding on behalf of such Creditor in connection with the enforcement of any applicable code.
- d. The registration statement shall include the name, street address, telephone number, and email address (if applicable) of the firm and the actual name(s) of the firm's individual principal(s) responsible for maintaining the Abandoned and Vacant property. The individual or representative of the firm responsible for maintaining the Abandoned and Vacant property shall be available by telephone or in person on a twenty-four-hour per day, seven-day per week basis. The two entities may be the same or different persons. Both entities shown on the statement must maintain offices in the State of New Jersey or reside within the State of New Jersey.
- e. The registration shall remain valid for one year from the date of registration except for the initial registration which shall be valid through December 31<sup>st</sup> of the year in which it was filed. The Creditor shall be required to renew the registration annually as long as the building remains Vacant and Abandoned and shall pay a registration or renewal fee in the amount prescribed in Section 3 for each Vacant and Abandoned property registered.
- f. The annual renewal shall be completed by January 1<sup>st</sup> of each year. The initial registration fee shall be pro-rated for registration statements received less than ten (10) months prior to that date.
- g. The Creditor shall notify the Municipal clerk within thirty (30) calendar days of any change in the registration information by filing an amended registration statement on a form provided by the Municipal Clerk for such purpose.
- h. 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 Creditor.

26-12.3 Fee Schedule

The initial registration fee for each Vacant and Abandoned property under the provisions of this Section shall be five hundred (\$500.00) dollars. The fee for the first annual renewal shall be one thousand five hundred (\$1,500.00) dollars and the fee for the second annual renewal shall be three thousand (\$3,000.00) dollars. The fee for any subsequent annual renewal beyond the second renewal shall be five thousand (\$5,000.00) dollars.

26-12.4 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 Section.
- 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 the Paragraph a of this Section. Notice of said representative or agent shall be provided to the Municipal Clerk pursuant to Paragraph 12-2. c and d of this Section and pursuant to paragraph (1) of subsection a. of Section 17 of P.L. 2008, c. 127 (C.46:10B-51).

26-12.4 Notice

- a. The enforcement officers designated in this Section 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 enforcement officer determines that the Creditor has violated this Section by failing to provide for the care, maintenance, security and upkeep of the exterior of a Vacant and Abandoned 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 12.4b and paragraph (1) of subsection a. of section 17 of P.L. 2008, c.127 (C.46:10B-51).

- 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 purposed of this Section.

26-12.5 Enforcement Officers

The duty of administering and enforcing the provisions of this Section is conferred upon the Municipal Clerk, Construction Official, Zoning Officer, Housing Officer, Health Officer, Borough Police, and any other duly appointed representatives.

26-12.6 Violations and Penalties

- a. A Creditor subject to this Section 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 Section 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 the 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.
- b. An out-of-State Creditor subject to this Section 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 pursuant to this Section 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 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. A Creditor subject to this Section 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 register a Vacant and Abandoned property pursuant to Section 12.2 of this Section shall be subject to a fine not exceeding two thousand (\$2,000) dollars. Any fines imposed on a Creditor under this paragraph shall commence 11 days following receipt of notice from the Borough pursuant to Section 12.2 of this Section.
- d. 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 II.** If any section, paragraph, subdivision, clause or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of the Ordinance shall be deemed valid and effective.

**SECTION III.** All ordinances or parts of ordinances inconsistent with or in conflict with the Ordinance are hereby repealed to the extent of such inconsistency.

**SECTION IV.** This Ordinance shall be in full force and effect from and after its adoption and



**ORDINANCE NO. 2019-29**

**ORDINANCE OF THE BOROUGH COUNCIL OF THE BOROUGH OF  
BELMAR, COUNTY OF MONMOUTH, STATE OF NEW JERSEY,  
AMENDING AND SUPPLEMENTING CHAPTER 31 OF THE BOROUGH OF  
BELMAR REVISED GENERAL ORDINANCES PERTAINING TO THE SHADE  
TREE COMMISSION**

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and the Council of the Borough of Belmar, County of Monmouth, State of New Jersey, that certain changes must be made to the Borough Code.

**SECTION 1.** The Revised General Ordinances of the Borough of Belmar is hereby amended and supplemented so as to amend Section 31-2.01 of Chapter 31-2 as follows (~~stricken text~~ indicates deletions, underlined text indicates additions):

31-2 SHADE TREE COMMISSION.

*31-2.1 Establishment; Appointment; Terms; Vacancies.*

Pursuant to N.J.S.A. 40:64-1, there is hereby established the Shade Tree Commission of the Borough of Belmar, which shall consist of not less than five (5) members ~~nor more than seven (7) members, and may include not more than two (2) alternate members.~~ appointed by the Mayor, who shall be residents of the Borough and serve without compensation, except as provided for hereinafter. The first Commissioners, appointed within sixty (60) days after the effective date of this section, shall serve from the date of their appointment and be for the respective periods of one (1) through five (5) years, beginning on January 1 next succeeding such appointment. The term of each appointee shall be designated in his or her appointment. All subsequent appointments, except to fill vacancies, shall be for the full term of five (5) years, to take effect on January 1. Any vacancy caused by death, resignation or removal of any Commissioner shall be filled by the Mayor for the unexpired term.

**SECTION 2. SECTION 2.** All Ordinances and parts of Ordinances inconsistent herewith are hereby repealed.

**SECTION 3.** The Township Committee authorizes the Mayor, Township Clerk and Township Administrator to execute any and all necessary documents in order to implement the intent of this Ordinance.

**SECTION 4.** The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

**SECTION 5.** Any ordinances or parts thereof in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

**SECTION 6.** This Ordinance shall take effect upon publication in an official newspaper of the Township, as required by and in conformance with law.