

ORDINANCE NO.16-2014

AN ORDINANCE FOR THE PARTIAL AMENDMENT, SUPPLEMENTATION AND REVISION OF CHAPTER 29, ENTITLED "PROPERTY MAINTENANCE CODE" OF THE "REVISED ORDINANCES OF THE BOROUGH OF MORRIS PLAINS, NEW JERSEY, 1972" WITH A NEW ARTICLE 2 THAT PROVIDES FOR THE REGULATION OF VACANT AND ABANDONED RESIDENTIAL PROPERTIES IN FORECLOSURE.

WHEREAS, the Borough of Morris Plains contains structures which are vacant and abandoned residential properties on which a summons and complaint in an action of foreclosure has been filed; and

WHEREAS, in many cases the creditor filing the summons and complaint in a foreclosure actions are out-of-state creditors, which are neglectful of the care, maintenance, security and upkeep of the exterior of the said residential properties; and

WHEREAS, N.J.S.A. 46:10B-51, which outlines the procedures for notifying a municipality about the filing of a foreclosure action, was amended by P.L. 2014, c. 35 to permit municipalities to adopt ordinances to regulate the care, maintenance, security and upkeep of the exterior of vacant and abandoned residential properties on which a summons and complaint in a foreclosure action has been filed and to require Out-of-State creditors to designate an In-State representative or agent for the care, maintenance, security and upkeep of the property in foreclosure; and

WHEREAS, the Borough Council is desirous of amending Chapter 29, entitled "Property Maintenance" consistent with P.L. 2014, c. 35 in order to protect the health, safety and general welfare of the residents of the Borough.

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Morris Plains, they being the Governing Body thereof, as follows:

Section 1:

Chapter 29, "Property Maintenance" of The Revised Ordinances of the Borough of Morris Plains, New Jersey, 1972" (hereinafter "Revised Ordinances or "Revision") is hereby amended, supplemented and revised by designating existing Sections 29-1 through 29-17 as "Article 1" and inserting the term "Article 1" before Section 29-1.

Section 2:

Chapter 29, "Property Maintenance" of The Revised Ordinances of the Borough of Morris Plains, New Jersey, 1972" (hereinafter "Revised Ordinances or "Revision") is hereby further amended, supplemented and revised with the addition of a new Article 2, entitled "Vacant and Abandoned Residential Properties In Foreclosure", which shall read, in its entirety, as follows:

Article 2.

Vacant and Abandoned Residential Properties In Foreclosure.

29-18. Additional Definitions.

(a) "Creditor" shall mean any person, or any federal or state chartered bank, savings bank, savings and loan association, credit union, or any other financial institution, or other entity servicers, located In-State or Out-of-State, who serves a summons and complaint in an action to foreclose on a mortgage on residential property located in the Borough of Morris Plains.

(b) "Code Enforcement Officer" shall mean the Borough Officers designated in Section 29-13 of this Chapter.

(c) "Residential property or properties" shall mean any real property and the improvements, buildings, structures thereon, used for residential purposes.

29-19.Maintenance.

Any Creditor filing a summons and complaint in an action to foreclose on a mortgage on residential property or properties shall be responsible for the care, maintenance, security and upkeep of the exterior of the vacant and abandoned residential property or properties and if the Creditor is located Out-of-State, shall be responsible for appointing an In-State representative or agent to act for the foreclosing creditor.

29-20.Notification to Borough Clerk.

(a) Any Creditor filing a summons and complaint in an action to foreclose on a mortgage on residential property located in the Borough of Morris Plains shall, within ten (10) days of serving the summons and complaint, provide written notice to the Borough Clerk that an action to foreclose on a mortgage has been filed against the subject property. The written notice to the Borough Clerk may contain information about more than one property and the written notice shall be provided to the Borough Clerk by regular or certified mail, courier service, or confirmed facsimile transmission. The Borough Clerk shall forward a copy of such written notice to the Code Enforcement Officer.

(b) The written notice to the Borough Clerk required pursuant to (a) above shall contain for each property identified in the notice: (1) the street address and block and lot number of the property, (2) the full name, address and contact information of an individual located within the State of New Jersey who is authorized to accept service on behalf of the Creditor (3) the name and contact information for the representative or agent of the Creditor who is responsible for receiving complaints of property maintenance and code violations; (4) if the Creditor is is located Out-of-State, the full name, address and contact information 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; and (5) if the property being foreclosed on is an affordable unit pursuant to

the Fair Housing Act, N.J.S.A. 52:27D-301 et seq., that the property is subject to the Fair Housing Act.

(c) Pursuant to the New Jersey Foreclosure Act, N.J.S.A. 2A:50-69, et seq., any Creditor that has initiated a foreclosure action on any residential property located in the Borough of Morris Plains which is pending in the New Jersey shall provide to the Borough Clerk a listing of all residential properties in the Borough for which the Creditor has foreclosure actions pending by street address and block and lot number. The Borough Clerk shall forward a copy of such listings to the Code Enforcement Officer.

29-21. Responsibility of Creditor for vacated or abandoned property in foreclosure; notice of violation.

(a) If the owner of a residential property vacates or abandons any residential property in the Borough on which a foreclosure action has been initiated, or if a residential property in the Borough becomes vacant at any point subsequent to the Creditor's filing and serving of 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 if the exterior of the property is found to be a nuisance or in violation of any applicable State law or Borough ordinance and the Code Enforcement Officer determines that the Creditor has violated the ordinance by failing to provide for the care, maintenance, security and upkeep of the exterior of the property, the Code Enforcement Officer shall provide the Creditor or the In-State representative/agent of an Out-of-State Creditor, as applicable, with written notice of the violation, which notice shall include a description of the conditions giving rise to the violation. The notice of violation to the Creditor shall require the Creditor to correct or remedy the violation within thirty (30) days from the Creditor's receipt of the said 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 a notice of violation pursuant to this Chapter shall constitute proof that a property is "vacant and abandoned" for the purpose of N.J.S.A. 2A:50-73.

(b) The Creditor or In-State representative/agent 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.

29-22. Fines and Penalties.

(a) A Creditor subject to this Chapter, which is found by the Municipal Court of the Borough of Morris Plains 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 \$1,500.00 for each day of the violation. Any fines imposed pursuant to this paragraph (a) shall commence thirty-one (31) days following the Creditor's receipt of notice of violation except if the violation presents an imminent risk to public health and safety, in which case any fines shall commence eleven (11) days following the Creditor's receipt of notice of violation.

(b) An Out-of-State Creditor subject to this Chapter, which is found by the Municipal Court of the Borough of Morris Plains 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 Chapter shall be subject to a fine of \$2,500 for each day of the violation. Any fines imposed on a Creditor for failure to appoint an In-State representative or agent shall commence on the day after the ten (10) day period set forth in N.J.S.A. 46:10B-51 for providing notice to the Borough Clerk that a summons and complaint in an action to foreclose on a mortgage has been served.

(c) No less than twenty (20%) percent of any money collected pursuant to Article 2 of this Chapter shall be utilized by the Borough for municipal code enforcement purposes.

Section 3:

All other provisions of the aforesaid Chapter 29 of the Revised Ordinances shall be unaffected and are hereby continued.

Section 4:

All Ordinances and parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 5:

If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be invalid by a Court of competent jurisdiction, such a decision shall not affect the validity of the remaining portions of this Ordinance.

Section 6:

This Ordinance shall take effect immediately after final passage and publication.

Introduced: November 13, 2014

Adopted: December 4, 2014

/s/ Frank J. Druetzler