

ORDINANCE TO REGULATE CARE, MAINTENANCE, SECURITY, AND UPKEEP OF CERTAIN RESIDENTIAL PROPERTIES

January 19, 2016

(date of introduction)

WHEREAS, N.J.S.A. 40:48-2.12 provides that the governing body of any municipality may 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 an action to foreclose has been filed; now, therefore, be it

ORDAINED by the Township Council of the Township of Montclair, that Chapter 249 of the Montclair Code is amended by adding the following:

Additional Requirements for Properties Subject to Foreclosure.

- (1) Any creditor filing a summons and complaint in an action to foreclose on a vacant and abandoned residential property shall be responsible for the care, maintenance, security, and upkeep of the exterior of the subject property, and if located out-of-State, shall be responsible for appointing an in-State representative or agent to act for the foreclosing creditor.
- (2) The Manager, or his/her designee or delegatee, or any Zoning and Code Enforcement Inspector (a “public officer”), is hereby authorized pursuant to P.L.1942, c.112 ([C.40:48-2.3](#) et seq.), to issue a notice to the creditor filing the summons and complaint in an action to foreclose, if the public officer or other authorized municipal official 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. Such 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 a notice

pursuant to this paragraph shall constitute proof that a property is “vacant and abandoned” for the purposes of [P.L.2012, c.70 \(C.2A:50-73\)](#).

(3) An out-of-State creditor filing a summons and complaint in an action to foreclose on a vacant and abandoned residential property shall include the full name and contact information of the in-State representative or agent in the notice required to be provided pursuant to paragraph (1) of subsection a. of section 17 of [P.L.2008, c.127 \(C.46:10B-51\)](#).

(4) Violations of this ordinance is punishable as follows:

(a) An out-of-State creditor subject to this ordinance found by the municipal court, 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 the ordinance 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.

(b) A creditor subject to the requirements of this ordinance 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 this 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, 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.

(c) All money collected pursuant to this ordinance shall be utilized by the municipality for municipal code enforcement purposes.