

**AN ORDINANCE CREATING CHAPTER 14, SECTION 20 OF THE REVISED
GENERAL ORDINANCES OF WEST ORANGE, ENTITLED “DUTIES AND
RESPONSIBILITIES OF FORECLOSING CREDITOR”**

BE IT ORDAINED, by the Township Council of the Township of West Orange (“Township”), in the County of Essex and the State of New Jersey, that there should be created a Chapter 14, Section 20 of the Revised General Ordinances of the Township, which shall provide as follows:

14-20 DUTIES AND RESPONSIBILITIES OF FORECLOSING CREDITOR

14-20.1 Purpose

The purpose of this Section is to enable the Township 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.

14-20.2 Definitions

As used in this section:

Foreclosing creditor shall mean a creditor serving a summons and complaint on a mortgage on residential property within the Township.

Foreclosure notice shall mean a document prepared by the foreclosing creditor providing notice to the Township of the initiation of a foreclosure action regarding residential property within the Township. The foreclosure notice shall also include the street address, lot and block number of the property that is the subject of the foreclosure action. In the event that the property being foreclosed on is an affordable unit pursuant to the “Fair Housing Act,” P.L. 1985, c. 222, then the foreclosing creditor shall expressly indicate that the property is subject to the “Fair Housing Act.” If the foreclosing creditor is located outside of New Jersey, the foreclosure notice shall set forth the name and contact information for an in-state representative of the foreclosing creditor, who shall be authorized to accept service on behalf of the foreclosing creditor, and who shall be responsible for receiving notices and complaints arising under this Code.

14-20.3 Duty to Report

- a. A foreclosing creditor shall, within 10 days of serving a summons and complaint, submit a foreclosure notice to the Township Clerk.
- b. Upon receipt of a foreclosure notice, the Township Clerk shall provide a copy of the foreclosure notice to the Zoning Officer and/or their designee(s) for enforcement of property maintenance regulations.

14-20.4 Penalties for Failure to Report

Any out-of-State foreclosing creditor that is found to be in violation of the requirement to appoint an in-State representative through the filing of a foreclosure notice shall be subject to a fine of \$2,500 for each day of the violation. Any fines imposed on a foreclosing creditor for failure to appoint an in-State representative shall commence on the day after the 10-day period set forth in Section 20.3a for providing notice to the Township Clerk that a summons and complaint in an action to foreclose on a mortgage has been served.

14-20.5 Responsibility to Maintain Property

In the event that any residential property becomes vacant and abandoned subsequent to a foreclosing creditor's filing of a summons and complaint but prior to the vesting of title in the foreclosing creditor or any third party, a foreclosing creditor shall assume all duties imposed upon owners and operators of property, pursuant to Section 8.1 and Section 8.2 of this Chapter, with respect to the subject property.

14-20.6 Notice of Violation

- a. The Zoning Officer and/or the Zoning Officer's designee for enforcement of property maintenance regulations shall be authorized to issue a notice to the foreclosing creditor if the Zoning Officer and/or the Zoning Officer's designee determines that the foreclosing creditor has violated Section 20.5 of this Chapter.
- b. A notice issued pursuant to subsection (a) 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.

14-20.7 Penalties for Failure to Maintain Property

A foreclosing creditor found to be in violation of Section 20.5 of this Chapter shall be subject to a fine of \$1,500 for each day of the violation. Fines shall begin to accrue 31 days following receipt of the notice provided for in Section 14-20.6 of this Chapter, except if the violation presents an imminent risk to public health and safety, in which case any fines shall begin to accrue 11 days following receipt of such notice.

14-20.8 Recourse in the Event of Abatement by Township

If the Township expends public funds in order to abate a nuisance or correct a violation on a residential property in situations in which the foreclosing creditor was given notice pursuant to Section 20.6 of this Chapter but failed to abate the nuisance or correct the violation as directed, the Township shall have the same recourse against the foreclosing creditor as it would have against the title owner of the property.

Robert D. Parisi, Mayor

Susan McCartney, Council President

Karen J. Carnevale, Municipal Clerk

Introduced: November 25, 2014

Adopted: December 9, 2014

Legislative History

This legislation is authorized by New Jersey Public Law 2014, Chapter 35 (“Chapter 35”), which was enacted on August 15, 2014 to permit municipalities to adopt ordinances regulating the care, maintenance, security and upkeep of the exterior of vacant and abandoned residential properties that are the subject of foreclosure actions.

This legislation imposes two primary responsibilities upon foreclosing creditors: (1) the responsibility to provide notice to the Township of the initiation of any foreclosure action pertaining to residential property located within the Township; and (2) the responsibility to maintain the foreclosed property in the event that it becomes vacant and abandoned subsequent to the initiation of the foreclosure action but prior to the vesting of title in the foreclosing creditor or any third party. As authorized by Chapter 35, this legislation provides for a fine of \$2,500 per day in the event that the foreclosing creditor fails to comply with its reporting obligation, and \$1,500 per day in the event that the foreclosing creditor fails to maintain the property. Moreover, this legislation affords the Township the same recourse against any foreclosing creditor as the Township would have against any title owner in the event that the Township is required to expend public funds in order to abate a nuisance or correct a violation on residential property.