

ORDINANCE NO. 2499

**AN ORDINANCE OF THE BOROUGH OF ROSELLE PARK AMENDING
CHAPTER XIX OF THE CODE OF THE BOROUGH OF ROSELLE PARK
INSERTING SECTION 19-6 TO BE ENTITLED “RESIDENTIAL MAINTENANCE
AND REGISTRATION” TO ESTABLISH STANDARDS FOR THE REGISTRATION
AND MAINTENANCE OF VACANT AND ABANDONED RESIDENTIAL
PROPERTIES IN FORECLOSURE BY CREDITORS**

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

WHEREAS, P.L., 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 properties for which a creditor has filed an action to foreclose; and,

WHEREAS, it is in the public interest for the Borough of Roselle Park to establish a mechanism to identify and track vacant and abandoned residential properties in the Borough, which are in foreclosure, to establish standards for the maintenance of those properties, and to enforce those standards of maintenance.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Roselle Park, County of Union, State of New Jersey that Chapter XIX of the Code of the Borough of Roselle Park be and is hereby amended so as to insert a new Section 19-6, to be entitled “Residential Maintenance and Registration,” as follows:

SECTION 1. 19-6.1 Purpose.

The Purpose of this chapter is to create a regulation regarding registration and maintenance of vacant and abandoned residential properties in foreclosure.

SECTION 2. 19-6.2 Definitions.

- A. “Creditor” means a State chartered bank, saving 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 foreclosure entity subject to the provisions of C. 46:10B-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, services.

- B. “Vacant and Abandoned” residential property means, consistent with N.J.S.A. 2A:50-73, residential real estate, where a notice of violation has been issued pursuant to N.J.S.A. 40:48-2.12s(1)(b). Residential property shall further be deemed vacant and abandoned where a mortgage property is not occupied by a mortgagor or tenant and at least two of the following conditions exists:

1. Overgrown or neglected vegetation;
2. The accumulation of newspapers, circulars, flyers, or mail on the property;
3. Disconnected gas, electric, or water utility to the property;
4. The accumulation of hazardous, noxious, or unhealthy substances or materials on the property;
5. The accumulation of junk, litter, trash, or debris on the property;
6. The absence of window treatments such as blinds, curtains or shutters;
7. The absence of furnishings and personal belongings;
8. Windows or entrances to the property that are boarded up or closed off or multiple window panes that are damaged, broken, and unrepaired;
9. Doors to the property that are smashed through, broken-off, unhinged, or continuously unlocked;
10. 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;
11. An uncorrected violation of a municipal building, housing, or similar code during the preceding year, or an order by municipal authorities declaring the property to be unfit for occupancy and to remain vacant and unoccupied;
12. 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;
13. A written statement issued by any mortgagor expressing the clear intent of all mortgagors to abandon the property;
14. Any other reasonable indicia of abandonment.

C. A residential property shall not be considered “Vacant and Abandoned” if, on the property:

1. There is an unoccupied building which is undergoing construction, renovation or rehabilitation that is proceeding diligently to completion, and the building is in compliance with all applicable ordinances, codes, regulations, and statutes;
2. There is a building occupied on a seasonal basis, but otherwise secure; or
3. There is a building that is secure, but is the subject of a probate action, action to quiet title, or other ownership dispute.

SECTION 3. 19-6.3 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 of Roselle Park, shall be immediately

responsible for the care, maintenance, security, and upkeep of the exterior of the property, after the property becomes Vacant and Abandoned.

- 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 N.J.S.A. 2A:50-73(d)(1). Notice of said representative or agent shall be provided to the Municipal Clerk pursuant to N.J.S.A. 40:48-2.12(b)(3) & (4) and pursuant to N.J.S.A. 46:10B-51(a)(1).
- C. A Creditor filing a summons and complaint in an action to foreclose on a residential property within the Borough of Roselle Park, shall post a sign affixed to the building indicating the name, address and telephone number of the owner, the owner's authorized agent for purposes of service of process (if designated pursuant to section B of this section), and the person responsible for day-to-day supervision and management of the building, if such person is different from the owner holding title or authorized agent. The sign shall be of a size and placed in such a location as to be legible from the nearest public street or sidewalk, whichever is nearer, but shall be no smaller than 18" x 24".

SECTION 4. 19-6.4 Property Inspection and Notice.

- A. The owner and/or creditor of any vacant property shall provide access to the Borough of Roselle Park to conduct an exterior and interior inspection of the building to Determine compliance with the municipal code following reasonable notice.
- B. The enforcement officers designated in Section 19-6.5 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 of Roselle Park, if the enforcement officers determine that the Creditor has violated this Section by failing to provide the care, maintenance, security, and upkeep of the exterior of a Vacant and Abandoned property, or otherwise fail to comply with this Section.
- C. 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 N.J.S.A. 2A:50- 73(d)(2) and N.J.S.A. 46:10B-51(a)(1).
- D. The Notice referenced in paragraphs (b) and (c) of this subsection shall require the Creditor to correct the violation(s) within thirty (30) days of receipt of the notice, or within ten (10) days of the receipt of the notice if the enforcement officer has deemed the violation presents an imminent threat to public health and safety.

- E. The issuance of a notice pursuant to paragraphs (b) and (c) of this subsection shall constitute proof that a residential property is Vacant and Abandoned for the purposes of this Chapter.

SECTION 5. 19-6.5 Enforcement Officers.

The duty of administering and enforcing the provisions of this Chapter is conferred upon the Municipal Clerk, Director of Code Enforcement, Zoning Officer, Deputy Code Enforcement Officer, Board of Health, or their designees, and any other duly appointed representative of the Borough of Roselle Park.

SECTION 6. 19-6.6 Registration of Vacant and Abandoned properties.

The creditor of any property defined in Section 19-6.2, as defined herein shall, within thirty (30) days after the property becomes vacant and abandoned as defined herein, file a Registration Statement for such property with the Municipal Clerk of the Borough of Roselle Park on such form as may be provided by the Borough for such provisions. Failure to receive notice by the Municipality shall not constitute grounds for failing to register the property. Each registration shall contain the following:

- A. Each property having a separate block and lot number as designated in official records of the municipality shall be registered separately.
- B. The registration statement shall include the name, street address, telephone number, and email address (if applicable) of a person 21 years of age or older, designated by the owner or owners as the authorized agent for receiving notices of code violations and for receiving process in any court proceeding or administrative enforcement proceedings on behalf of such owner or owners in connection with the enforcement of any applicable code; and the name, street address, telephone number, and email (if applicable) of the firm and the actual name(s) of the firm's individual principal(s) responsible for maintaining the property. The individual or representative of the firm responsible for maintaining the 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 as applicable.
- C. The registration shall remain valid for one (1) year from the date registration, except for the initial registration, which shall be prorated on a monthly basis through December 31. The owner shall be required to renew the registration annually as long as the building remains a vacant and abandoned property and shall pay a registration or renewal fee in the amount prescribed in Section 19:6-7, of this article for each vacant property registered.

- D. The annual renewal shall be completed by January 1 each year.
- E. The owner shall notify the Municipal Clerk within thirty (30) calendar days of any change in the registration information by filing an amended registration statement.
- F. 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 owner or owners of the building.

SECTION 7. 19-6.7 Registration Fee Schedule.

The initial registration fee for each building, subject to Section 19-6.6 shall be \$500.00 per annum. The fee for the first renewal is \$1,500.00 per annum; the fee for the second renewal is \$3,000.00 per annum; and the fee for any subsequent renewal beyond the second renewal is \$5,000.00 per annum.

The initial registration fee shall apply upon initial registration of a building qualified by this Section, or upon transfer of ownership to another creditor.

SECTION 8. 19-6.8 Violations and Penalties.

- A. A Creditor subject to this Chapter that is found by the Roselle Park Municipal Court or by any other court of competent jurisdiction, to be in violation of the requirement to correct, care, maintenance, secure, 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 violation imposed pursuant to this paragraph shall commence thirty-one (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 violation shall commence eleven (11) days following receipt of the notice.
- B. An out-of-State Creditor subject to this Chapter that is found by the Municipal Court of the Borough of Roselle Park, or by any 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 \$2,500.00 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 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 on a mortgage has been served.

- C. A Creditor subject to this Chapter that is found by the Roselle Park Municipal Court or by any other court of competent jurisdiction, to be in violation of the requirement to register a Vacant and Abandoned property pursuant Section 19-6.6 of this Chapter shall be subject to a penalty imposed pursuant to the provisions of the General Penalty, Section 1-5 of the Code of the Borough of Roselle Park.

SECTION 9. 19-6.9 Grandfathering

No properties and/or buildings shall be grandfathered.

SECTION 10. Severability.

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

SECTION 11. Inconsistent Ordinances Repealed.

All ordinances or parts of ordinances, to the extent that they are inconsistent herewith, are hereby repealed.

SECTION 12. Captions.

Captions contained in this Ordinance have been included only for the purpose of facilitating reference to the various sections and are not intended and shall not be utilized to construe the intent and meaning of the text of any section.

SECTION 13. Effective Date.

This amendment to the Code of the Borough of Roselle Park shall become effective upon publication and in accordance with law with an implementation date of August 1, 2017.

Introduced: June 1, 2017

Adopted:

Mayor

Attest: _____
Borough Clerk