

ORDINANCE NO. 2014-18_____

**AN ORDINANCE AMENDING AND SUPPLEMENTING
CHAPTER 246 OF THE CODE OF THE BOROUGH OF BERLIN
ENTITLED “PROPERTY MAINTENANCE”**

BE IT ORDAINED BY THE MAYOR AND GOVERNING BODY OF THE BOROUGH OF BERLIN, COUNTY OF CAMDEN, STATE OF NEW JERSEY, AS FOLLOWS:

SECTION 1. Chapter 246 of the Code of the Borough of Berlin is amended and supplemented by the addition of a new Article II, as follows:

**Article II
Abandoned Properties**

§ 246-20. Foreclosure complaints.

- A. A creditor serving a summons and complaint in an action to foreclose on a mortgage on a residential property in Berlin Borough shall, within ten (10) days of service of the summons and complaint, notify the municipal clerk of Berlin Borough that a summons and complaint in an action to foreclose on a mortgage has been filed against the subject property. The notice shall contain the name and contact information for the representative of the creditor who is responsible for receiving complaints of property maintenance and code violations, may contain information about more than one (1) property, and shall be provided by mail or electronic communication, at the discretion of the municipal clerk. The municipal clerk shall forward a copy of the notice to the property maintenance official or shall otherwise provide it to any other local official responsible for administration of any property maintenance or public nuisance code.
- B. The notice shall also include the street address, lot and block number of the property, and the full name and contact information of an individual located within the State who is authorized to accept service on behalf of the creditor. The notice shall be provided to the municipal clerk within ten (10) days of service of a summons and complaint in an action to foreclose on a mortgage against the subject property.
- C. An out-of-state creditor shall include the full name and contact information of the in-state representative or agent in the notice required to be provided pursuant to subsection A above.
- D. In the event that the property being foreclosed on is an affordable unit pursuant to the “Fair Housing Act,” P.L. 1985, c.222 (C.52:27D-301 et al.), then the creditor shall identify that the property is subject to the “Fair Housing Act.”

§ 246-21. Listing of residential properties.

Any creditor that has initiated a foreclosure proceeding on any residential property which is pending in Superior Court shall provide to the municipal clerk of Berlin Borough a listing of all residential properties in the Borough for which the creditor has foreclosure actions pending by street address and lot and block number. The municipal clerk shall forward a copy of the notice to the property maintenance official, or shall otherwise provide it to any other local official responsible for administration of any property maintenance or public nuisance code.

§ 246-22. Abatement of nuisance.

If the owner of a residential property vacates or abandons any property on which a foreclosure proceeding has been initiated or if a residential property becomes vacant at any point subsequent to the creditor's filing 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 the property is found to be a nuisance or in violation of any applicable State or local code, the property maintenance official, municipal clerk, or other authorized municipal official shall notify the creditor, which 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. The notice shall include a description of the conditions that gave rise to the violation with the notice of violation and shall provide a period of not less than 30 days from the creditor's receipt of the notice for the creditor to remedy the violation. If the creditor fails to remedy the violation within that time period, the Borough may impose penalties allowed for the violation of municipal ordinance pursuant to R.S. 40:49-5.

§ 246-23. Public funds.

If Berlin Borough expends public funds in order to abate a nuisance or correct a violation on a residential property in situations in which the creditor was given notice pursuant to the provisions of subsection 22 of this section but failed to abate the nuisance or correct the violation as directed, Berlin Borough shall have the same recourse against the creditor as it would have against the title owner of the property, including, but not limited to, the recourse provided under section 23 of P.L. 2003, c.210 (C.55:19-100).

§ 246-24. Notice to creditors.

The property maintenance official shall 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 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 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).

§ 246-25. Penalties.

- A. An out-of state creditor subject to this Article found by the municipal court of Berlin 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 Section 20(D) above 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 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 this Article found by Berlin Borough 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 the 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.

§ 246-26. Municipal code enforcement.

No less than 20 percent of any money collected pursuant to this Article shall be utilized by the Borough of Berlin for Borough code enforcement purposes.

SECTION 2. All ordinances or parts of ordinances which are inconsistent with the provisions hereof, are, to the extent of such inconsistencies, hereby repealed.

SECTION 3. This ordinance shall take effect upon final passage, adoption, and publication in the manner prescribed by law.

Attest:

BOROUGH OF BERLIN

Charleen Santora, Clerk

John J. Armano, Mayor