

BOROUGH OF WOODCLIFF LAKE

Bergen County, New Jersey

ORDINANCE NO. 24-02

AN ORDINANCE TO REPEAL AND AMEND CHAPTER 233 ENTITLED "PROPERTIES, ABANDONED" OF THE BOROUGH CODE OF THE BOROUGH OF WOODCLIFF LAKE, STATE OF NEW JERSEY

BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF WOODCLIFF LAKE IN THE COUNTY OF BERGEN AND STATE OF NEW JERSEY, AS FOLLOWS:

WHEREAS, Chapter 233 of the Code of the Borough of Woodcliff Lake sets forth all regulations regarding Abandoned Properties within the Borough of Woodcliff Lake; and

BE IT ORDAINED, by the Mayor and Council of the Borough of Woodcliff Lake, County of Bergen, and State of New Jersey, that Section 233 of the Borough Code be repealed in its entirety and replaced with the following.

Chapter 233-1. Definition of Terms.

The following terms, wherever used herein or referred to in this section, shall have the respected meanings assigned to them, unless a different meaning clearly appears from the context as used in this section:

CREDITOR

Shall mean a mortgagee or an agent or assignee of a mortgagee, such as the servicer, who has filed a complaint in Superior Court seeking to foreclose upon a residential or commercial mortgage. If the entity seeking to foreclose upon the residential or commercial mortgage changes as a result of an assignment, transfer, or otherwise after the filing of the foreclosure complaint in the Superior Court, the new entity shall be deemed the creditor for the purposes of this Ordinance. For purposes of this Ordinance, a creditor shall not include the State, a political subdivision of the State, a State, county or local government entity or their agent or assignee, such as the servicer.

EXTERIOR OF PREMISES

Shall mean those portions of a structure which are exposed to public view or are visible from adjoining or adjacent lots, including all outside surfaces and appurtenances thereto, and the open land space of any premises outside of any building or structure erected thereon, including vacant lots.

NUISANCE

Shall mean:

A. Any public or private condition that would constitute a nuisance according to the statutes, laws and regulations of the State of New Jersey, its governmental agencies or the ordinances of the Borough.

B. Any physical condition existing in or on the exterior of any premises which is potentially dangerous, detrimental or hazardous to the life, health or safety of persons on, near or passing within the proximity of the premises where the condition exists.

OPERATOR

Shall mean any person, persons or entity not the owner, but including any agent of the owner, who has charge, possession, custody, care or control of a dwelling or premises or a part thereof.

OWNER

Shall mean any person, persons or entity who shall have legal or equitable title in any form whatsoever to any premises or part thereof, including any fiduciary, trustee, receiver, guardian or mortgagee in possession. Any lessee, sublessee or assignee of a lessee of any part of any premises shall be deemed an "owner" with respect to that portion of the premises sublet, leased or assigned.

PREMISES

Shall mean a lot, plot or parcel of land, right-of-way or multiples thereof, including the building or structures thereon.

PUBLIC OFFICER

Shall mean the individual designated by the Borough in accord with N.J.S.A. 55:19-80.

REFUSE or RUBBISH

Shall mean all discarded, useless, unusable, unused or worthless solid waste matter or materials, combustible or noncombustible, including but not limited to garbage, trash, ashes, paper, paper goods and products, wrappings, cans, bottles, containers, yard clippings, garden waste, debris, junk, glass, boxes, crockery, wood, plastic, rubber, leather, furniture, household goods, appliances, bedding, scrap lumber, scrap metal, construction material, inoperable machinery or parts thereof, garden or farming implements and supplies, dead or rotting vegetation, tires and abandoned, inoperative or unusable automobiles and vehicles and solid commercial or industrial waste. Anything herein to the contrary notwithstanding, a compost pile free of discarded foodstuffs shall not be deemed to be "refuse" or "rubbish".

UNREGISTERED MOTOR VEHICLE

Shall mean a motor vehicle without a valid and current State inspection sticker.

VACANT PROEPTY

Shall mean any building commercial or residential which is not legally occupied or at which substantially all lawful construction operations or residential occupancy has ceased, and which is in such condition that it cannot legally be reoccupied without repair or rehabilitation; provided however, that any property that contains all building systems in working order and is being actively marketed by its owner for sale or rental, shall not be deemed vacant. All commercial and residential properties that meet the aforementioned criteria and are subject to a summons and complaint in an action for foreclosure shall be deemed vacant property in accord with P.L. 2014, c. 35. Property deemed to be "abandoned property" in accord with the meaning of such term in the Abandoned Properties Rehabilitation Act, N.J.S.A. 55:19-798 et seq., shall also be deemed to be vacant property for purposes of this section.

VACANT AND ABANDONED RESIDENTIAL OR COMMERCIAL PROPERTY

Shall mean commercial or residential property which is not occupied and at least two of the following conditions exist:

- a. Overgrown or neglected vegetation;
- b. The accumulation of the newspapers, circulars, flyers or mail on the property;
- c. Disconnected gas, electric or water utility services to the property;
- d. The accumulation of hazardous, noxious or unhealthy substances or material on the property;
- e. The accumulation of junk, litter, trash or debris on the property;
- f. The absence of window treatments such as blinds, curtains or shutters;
- g. The absence of furnishings and personal items;
- h. Statements of neighbors, association management, delivery person or government employee indicating that the residence is vacant and abandoned;
- i. Window or entrances to the property that are boarded up or closed off or multiple panes that are damaged, broken and unrepaired;
- j. Doors to the property that are smashed through, broken off, unhinged, or continuously unlocked;
- k. A risk to the health, safety or welfare of the public, or any adjoining or adjacent property owner exists due to acts of vandalism, loitering, graffiti, criminal conduct or the physical destruction or deterioration of the property;
- l. An uncorrected violation of the municipal building, housing, or similar code within the past six months, or an order by municipal authorities declaring the property to be unfit for occupancy and to remain vacant and unoccupied;
- m. 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;
- n. A written statement issued by a mortgagor expressing the clear intent of all mortgages to abandon the property;
- o. Any responsible indicia of abandonment.

Sec. 233-2. Creation of an Abandoned Property List and Properties Subject to Foreclosure List.

A. The Public Officer or their designee is directed to identify abandoned property for the purpose of creating an "abandoned property list" throughout the Borough. Each item of abandoned property so identified shall include the tax block and lot number, the name and address of the owner of record, if known, the street address of the lot and the basis for a determination that the property is abandoned.

B. The Public Officer or their designee is also directed to identify all properties that are subject to foreclosure by creating a "foreclosure property list" throughout the Borough. Each item of a foreclosure property so identified shall include the tax block and lot number, name and address of the creditor or their representative, the street address of the property and docket number of the summons and complaint of the foreclosure action.

Sec. 233-3. General Requirements.

A. Sixty (60) days after the effective date of this section or thirty (30) days after a building or lot becomes abandoned as defined within this section, the owner shall file a registration statement for each such abandoned property with the Public Officer, on forms provided by the Public Officer for such purposes. The registration shall remain valid for one (1) year. The owner shall be required to renew the registration annually as long as the building or lot continues to be abandoned as defined herein and shall pay a registration or renewal fee in the amount prescribed within this section.

B. The owner shall notify the Public Officer within thirty (30) days of any change in the registration information by filing an amended registration statement on a form provided by the Public Officer for such purpose.

C. 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 of Woodcliff Lake against the owner or owners of the property.

Sec. 233-4. Registration for Abandoned and Vacant Property Owners.

A. The owner of abandoned and vacant properties shall provide the following information to the Public Officer or their designee on the initial registration form, amendment registration form, or any other form(s) prescribed by the Public Officer or their designee:

1. Name, address, email address and contact telephone number of the owner, the owner's address must include a street address; a post office box is not acceptable.

2. Name, address, email address and contact telephone number of any local agent(s) or representative for the building or lot.

3. Name, address, email address and contact telephone number of the person assigned to the property for the security and maintenance of the building or lot.

4. Common address and Tax Assessor's block and lot designation of the building or lot.

5. The date on which the building became abandoned.

6. Proof of utility (gas, electric, water) connections or disconnections; and

7. Any other information reasonably required by the Borough to ensure the safety of all persons and to prevent neglect.

B. Any government entity that owns abandoned property will be exempt from the provisions of this subsection. For purposes of this section, the holder of a Federal Housing Administration ("FHA") mortgage, United States Housing and Urban Development ("HUD") mortgage, or any other federally insured mortgage shall not be considered a government entity and shall not be exempt from the provisions of this section. The owner of any property that is acquired by the owner through the foreclosure of an FHA mortgage, HUD mortgage or any other federally insured mortgage shall also not be exempt from the provisions of this section.

C. By designating an authorized agent under the provisions of this subsection, the owner consents to receive any and all notices of code violations concerning the

registered abandoned property and all process in any court proceedings or administrative enforcement proceeding brought to enforce code provisions concerning the registered abandoned property by service of the notice of process on the authorized agent. Any owner who has designated an authorized agent under the provisions of this section shall be deemed to consent to the continuation of the agent's designation for the purpose of this section until the owner notifies the Borough of a change of an authorized agent or until the owner files a new annual registration statement.

D. The owner is required to update the form within thirty (30) days of a change of any information contained within the form.

E. 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 abandoned property.

F. The Public Officer may identify abandoned properties through his/her routine inspection process as well as through notification by residents, or other community groups that a property be eligible for inclusion on the registry. Notice will be served upon, or sent by mail, to the owner and will be deemed received by the owner, upon personal delivery, or five (5) days after service by first class mail.

Sec. 233-5. Registration for Vacant and Abandoned property Creditors.

A. Every creditor filing an action to foreclose on a mortgage of any kind of residential or commercial property within the Borough, shall within ten (10) days thereof, notify the Borough Clerk for the Borough in writing by mail of said filing (N.J.S.A. 436:10B-51). The notice shall include the foreclosure docket number, 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.

B. The notice shall also contain the name and contact information of the representative of the creditor who is responsible for receiving complaints of property maintenance and code violations. In the event the creditor that has served a summons and complaint in an action to foreclose on a residential property is located out-of-State, the notice shall also contain the full name 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.

1. Any creditor filing a summons and complaint in an action to foreclose on a vacant and abandoned property, or a creditor who has previously filed a summons and complaint to foreclosure on a residential or commercial property which subsequently becomes vacant and abandoned, shall within thirty (30) calendar days after the building becomes vacant and abandoned or within thirty (30) calendar days after assuming ownership of the vacant and abandoned property, whichever is earlier; or within ten (10) calendar days of receipt of notice from the Borough, and annually thereafter, file a registration statement for such vacant and abandoned property with the Public Officer consistent with subsection 233-4a of this section, for such purposes. Any failure to receive notice from the Borough shall not constitute grounds for failing to register the vacant and abandoned property.

2. Each vacant and abandoned property having a separate block and lot number as designed in the official tax maps of the Borough shall be registered separately.

3. The registration statement shall include the name, street address, telephone number and email address (if applicable) of a person twenty-one (21) years or older, designated by the creditor as the authorized agent for receiving notices of code violations and for receiving process in any court proceeding or administrative enforcement proceeding on behalf of such creditor in connection with the enforcement of any applicable code.

4. The registration statement shall include the name, street address, telephone number and email address (if applicable) of the firm and the actual name(s) of the firm's individual principal(s) responsible for maintaining the abandoned and vacant property. The individual or representative of the firm responsible for maintaining the abandoned and vacant property shall be available by telephone or in person on a twenty-four (24) hour per day, seven (7) day per week basis. The two (2) 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.

5. The registration shall remain valid for one year from the date of registration except for the initial registration which shall be valid through December 31st of the year in which it was filed. The creditor shall be required to renew the registration annually as long as the building remains vacant and abandoned and shall pay a registration or renewal fee in the amount prescribed in Section 233-8 for each vacant and abandoned property registered.

6. The annual renewal shall be completed by January 1st each year. The initial registration fee shall be pro-rated for registration statements received less than ten (10) months prior to that date.

7. The creditor shall notify the Borough Clerk within ten (10) calendar days of any change in registration information by filing an amended registration statement on a form provided by the Borough Clerk of such purpose.

8. The registration statements shall be deemed prima facie proof of the statements therein contained in any administrative enforcement processing or court proceeding instituted by the Borough against the creditor.

Sec. 233-6. Abandoned Property Inspection.

After filing a registration statement or a renewal of a registration statement and upon reasonable notice, the owner and/or creditor of any abandoned property shall provide access to the Borough to conduct an exterior and interior inspection of the building to determine compliance with the Borough Code, during the period covered by the initial registration or any subsequent renewal.

Sec. 233-7. Requirements for Owners and/or Creditors of Abandoned Properties and Properties Subject to Foreclosure.

A. The owner and/or creditor of any abandoned property, shall immediately upon possession of the filing of a summons and complaint in an action to foreclose on a residential or commercial property within the Borough be immediately responsible for the care, maintenance, security and upkeep of the exterior of the property, after the property becomes vacant and abandoned and shall:

1. Enclose and secure the building against unauthorized entry in accord with the applicable provisions of the Code of the Borough of Woodcliff Lake and as per the

specifications established by the Department of Housing and Urban Development (“HUD”) for securing abandoned and/or vacant properties.

2. Post a sign affixed to the building indicating the name, address and telephone number of the owner, owner’s authorized agent for the purpose of service of process (if designated pursuant to this section) and a New Jersey resident responsible for day-to-day supervision and management of the property, if such person is different from the owner or authorized agent. The sign shall be of a size and placed in such a location so as to be visible from the nearest public street or sidewalk, whichever is nearer, but shall be no smaller than 8’x 10’ and shall state “WARNING: THIS BUILDING IS SECURED PURSUANT TO CHAPTER 233 OF THE BOROUGH OF WOODCLIFF LAKE CODE. ANYONE ENTERING THIS BUILDING WITHOUT AUTHORIZATION WILL BE SUBJECT TO ARREST”.

3. Secure the building from unauthorized entry and maintain the sign until the building is again legally occupied or demolished or until repair or rehabilitation of the property is complete.

4. Ensure that all bushes and trees are trimmed and that they do not interfere with neighboring properties.

5. Ensure that grass does not exceed eight (8) inches in height and that all grass clippings are removed from the lot when the grass is cut.

6. Lots must be clear of all garbage, litter and debris. Abandoned properties must be clear of all vehicles: cars, boats, campers, etc.

7. All sidewalks bordering abandoned properties must be maintained and be cleared of snow, ice, tripping hazards, obstructions, garbage, litter and debris.

8. The owner and/or creditor shall perform regular weekly inspections of the abandoned property to ensure compliance with the requirements of this section.

9. The owner and/or creditor shall maintain a property insurance policy for each registered property. Buildings with fewer than four (4) residential units are required to be insured at a minimum of \$300,000.00. All other properties must be insured at a minimum of \$1,000,000.00.

10. Ensure all vandalism, graffiti is removed and exterior hazards are repaired or corrected to the satisfaction of the Public Officer or their designee.

B. If the owner and/or creditor of the abandoned property fails to comply with all provisions of this section, the Borough shall take the necessary steps to bring the property into compliance with this section. All costs incurred by the Borough in connection with its efforts to bring the property into compliance shall be forwarded to the Tax Collector for inclusion as a municipal lien on the property.

Sec. 233-8. Fees, Penalties and Enforcement.

A. The initial registration fee for each abandoned property shall be One Thousand (\$1,000.00) dollars. The fee for a second year renewal shall be Two Thousand (\$2,000.00) dollars and Three Thousand (\$3,000.00) dollars for each subsequent year thereafter

B. If the property is required to be registered because of a summons and complaint action to foreclose was filed by the creditor, the fee shall be Five Hundred (\$500.00) dollars. If the property is vacant or abandoned pursuant to Sec. 233-1 when the summons and complaint in an action to foreclose is filed or becomes vacant and abandoned pursuant at any time thereafter while the property is in foreclosure, an additional Two Thousand (\$2,000.00) dollar fee shall be assessed.

C. The registration shall remain valid for one (1) year from the date of registration except for the initial registration which shall be valid through December 31st of the year in which it was filed. The owner and/or creditor shall be required to renew the registration annually as long as the building remains vacant and abandoned and or subject to foreclosure and shall pay a registration or renewal fee in the amount prescribed in paragraph A of this subsection for each vacant and abandoned property registered. The annual renewal shall be completed by January 1st each year. The initial registration fee shall be pro-rated for registration statement received less than ten (10) months prior to that date.

D. Any owner who is not in full compliance with this section or who otherwise violates any provision of this section or of the rules and regulations issued hereunder shall be subject to a fine of not less than Five Hundred (\$500.00) dollars and a maximum fine of Two Thousand Five Hundred (\$2,500.00) dollars. Every day that a violation continues shall constitute a separate and distinct offense. An out-of-State creditor who fails to appoint an in-State representative or agent pursuant to Sec. 233-5a shall be subject to a fine of Two Thousand Five Hundred (\$2,500.00) dollars for each day of the violation. Fines assessed under this section shall be recoverable from the owner and shall be a lien on the property.

E. For purposes of this section, failure to file a registration statement in time, failure to provide correct information on the registration statement and/or failure to comply with any other provisions of this section shall be deemed to be a violation hereunder.

F. The Public Officer shall be authorized to issue a notice to an owner and/or creditor that has filed a summons and complaint in an action to foreclose on a residential property within the Borough, if the Public Officer determines that the owner and/or creditor has failed to provide for the care, maintenance, security and/or upkeep of a vacant property.

G. Where an owner and/or creditor is an out-of-State owner and/or creditor, the notice shall be issued to the representative or agent that has been identified by the owner and/or creditor pursuant to subsection 233-3a-b of this section.

H. The notice referenced in paragraph F of this subsection and shall require the owner and/or creditor to correct the violation within twenty (20) days of receipt of this notice, or within five (5) days of receipt of the notice if the violation presents an imminent threat to public health and safety. A finding violation by the Borough Municipal Court or any other court of competent jurisdiction, excluding paragraph D of this subsection, shall be subject to a fine of \$1,500.00 for each day of the violation. Any fines imposed shall commence thirty-one (31) days following receipt of the 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 receipt of said notice.

I. The issuance of notice pursuant to paragraph F of this subsection shall constitute proof that a residential or commercial property is vacant and abandoned for the purposes of this section.

J. Any entity designated as a redeveloper pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12-1 et seq., may apply for a registration fee exemption if all approved plans for the property comply with Borough regulations and development has been delayed as a result project financing application.

K. Any fee collected pursuant to subsection A shall be utilized by the Borough for the further maintenance and regulation of abandoned properties. No less than twenty percent (20%) of any money collected pursuant to subsection B and D shall be utilized by the Borough for municipal code enforcement purposes.

Severability All provisions of this Ordinance are severable. If for any reason, any provision of this Ordinance is held to be invalid, the validity of the remainder of the Ordinance shall not be affected.

Effective Date. This Ordinance shall become effective upon final approval and publication, pursuant to law, and upon completion of all outstanding cases.