

Introduction: 10/23/19
Public Hearing: 11/14/19
Effective: 12/15/19

**TOWNSHIP OF MAHWAH
ORDINANCE NO. 1890**

**AN ORDINANCE AMENDING SECTION 3-6 OF THE CODE OF THE
TOWNSHIP OF MAHWAH ENTITLED BRUSH, GRASS, WEEDS**

WHEREAS, N.J.S.A. 40:48-2.13 and 2.14 authorize ordinances for the removal or destruction of brush, weeds, debris, etc. and for charging liens for the costs thereof; and,

WHEREAS, the Township Code of the Township of Mahwah Sections 3-6.8 to 3-6.10 provide for removal of Brush, Weeds and Debris at the direction of the Construction Code Official and the Township wants to amend the code to provide that the Property Maintenance Officer shall make the determinations required in the Township Code 3-6.9 and 3-6.10; and

WHEREAS, the maintenance of residential properties which are in the process of foreclosure and are vacant and/or abandoned is in the public interest for the preservation of the public health, safety and welfare; and

WHEREAS, N.J.S.A. 40-48-2.12(s) authorizes ordinances to regulate the care, maintenance, security and upkeep of certain residential properties in foreclosure consistent with the provisions of N.J.S.A. 46:10B-51 for notification of mortgage foreclosure actions,

NOW THEREFORE, BE IT ORDAINED by the Township Council of the Township of Mahwah that:

Section 1. Section 3-6.9 of the Code of the Township of Mahwah is amended to read in its entirety as follows:

3-6.9 Notice to Remove.

If the Property Maintenance Officer determines, as a result of investigation by any municipal official or employee, that the owner, tenant, or person in possession of any dwelling and/or lands in the Township has failed to comply with subsection 3-6.8a, he or she will notify in writing the owner, tenant, or person in possession of the dwelling and/or lands to remedy or abate the condition complained of within ten (10) days after receipt of notice. Notice may be served either personally or by certified mail, return receipt requested, to the person at the last known address shown on the Township's records. The Property Maintenance Officer will reinspect the property in question after the ten-day period has expired, and will determine if the conditions complained of have been abated or removed. (Ord.#1731)

Section 2. Section 3-6.10 of the Code of the Township of Mahwah is amended to read in its entirety as follows:

3-6.10 Removal by Township, Lien.

If the owner, tenant, or person in possession of the dwelling or lands has failed or refused to remedy or abate the condition complained of within ten (10) days after receipt of the notice provided for in subsections 3-6.8b. and/or 3-6.9 then the Property Maintenance Officer will cause the conditions complained of to be abated or removed by an appropriate municipal official, employee, or contractor. The official, employee, or contractor directed to remedy or abate the condition complained of will keep a record of all costs and expenses incurred in connection with the remedy or abatement, and will certify it to the Township Council, which will examine the certificate and, if found correct, will cause the cost as shown thereon to be charged against said dwelling or lands; the amount so charged will forthwith become a lien upon such dwelling or lands and will be added to and become and form part of the taxes next to be assessed and levied upon such dwelling or lands, the same to bear interest at the same rate as taxes, and will be collected and enforced by the same officers and in the same manner as taxes. The remedy provided by this subsection will be in addition to any penalty that may be imposed for a violation of this section. (Ord#1731)

Section 3. The Code of the Township of Mahwah is amended by the addition of the following new sections: 3-6.11, 3-6.12 and 3-6.13 to read as follows:

3-6.11 Creditor Responsibility for Vacant Properties

a. Pursuant to the provisions of N.J.S.A. 40:48-2.12(s), a creditor filing a summons and complaint in an action to foreclose on a residential property within the Township 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 Paragraph a. of this section. Notice of said representative or agent shall be provided to the Township Clerk in a manner that is consistent with N.J.S.A. 46:10B-51, and shall further include the full name and contact information of the in-state representative or agent.

3-6.12 Notice

a. The Township Property Maintenance Officer responsible for the administration of any property maintenance or public nuisance code 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 Township, if the public officer determines that the creditor

has violated this section by failing to provide for the care, maintenance, security, and upkeep of the exterior of the property. 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 subsection 3-6.11 of this chapter.

b. The notice referenced in paragraph a. of this section shall require the creditor to correct the violation(s) 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.

c. The issuance of a notice pursuant to paragraph a. of this section shall constitute proof that a residential property is "vacant and abandoned" for the purpose of this section and for purposes of N.J.S.A. 2A:50-73.

3-6.13 Violations and Penalties

a. An out-of-state creditor subject to sections 3-6.11 and 3-6.12 that is found by the Municipal Court of the Township, or by any other court of competent jurisdiction, to be in violation of the requirement to appoint an in-state representative or agent shall be subject to a fine of two thousand five hundred (\$2,500.00) dollars for each day of the violation. Any fines imposed on an out-of-state 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. 2018, 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 sections 3-6.11 and 3-6.12 that is found by the Municipal Court of the Township, 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 section shall be subject to a fine of one thousand five hundred (\$1,500.00) dollars for each day of the violation. Any fines imposed pursuant to this subsection shall commence thirty-one (31) days following the creditor's receipt of the notice, except where the violation is deemed to present an imminent risk to the public health and safety, in which case any fines shall commence eleven (11) days following receipt of the notice.

c. No less than twenty (20%) percent of any money collected by the Township pursuant to this section shall be utilized by the Township for municipal code enforcement purposes.

d. The penalties provided by this subsection will be in addition to any remedies provided for a violation of the Township Code.

Section 4. Severability

If any section, paragraph, sub-section, clause or provision of this ordinance shall be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of this ordinance as a whole or any part thereof.

Section 5. Repealer

All ordinances or parts of ordinances of the Township heretofore adopted that are inconsistent with any terms and provisions of this ordinance are hereby repealed to the extent of such inconsistency.

Section 6. Effective Date

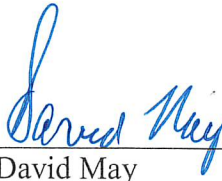
This Ordinance shall take effect as provided by law.

Ordinance No. 1890

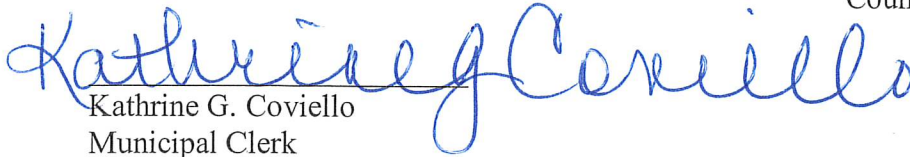
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Dated: ~~December 9,~~ 2019

Attest



David May
Council President



Kathrine G. Coviello
Municipal Clerk

I, Kathrine G. Coviello, Municipal Clerk of the Township of Mahwah, hereby certify that the within Ordinance was passed and adopted at a meeting of the Township Council held on the 14th day of November, 2019.



Kathrine G. Coviello, RMC/CMC/MMC
Municipal Clerk