

**BOROUGH OF FREEHOLD  
COUNTY OF MONMOUTH  
NO. 2015/2**

**AN ORDINANCE OF THE BOROUGH OF FREEHOLD ESTABLISHING AND  
ADOPTING THE ABANDONED PROPERTY REHABILITATION ACT (N.J.S.A. 55:19-  
78 ET.SEQ.) AND AMENDING CHAPTER 8.40 (PROPERTY MAINTENANCE),  
SECTION 8.40.050 (MAINTENACE OF VACANT/ABANDONED PROPERTIES) OF  
THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF FREEHOLD**

**WHEREAS**, the Borough of Freehold (the “Borough”) contains structures which are vacant and/or abandoned in whole or large part; and

**WHEREAS**, in many cases, the owners or responsible parties of these structures are neglectful of them, are not maintaining or securing them to an adequate standard or restoring them to productive use; and

**WHEREAS**, it has been established that vacant and abandoned structures cause severe harm to the health, safety and general welfare of the community, including diminution of neighboring property values, increased risk of fire and potential increases in criminal activity and public health risks; and

**WHEREAS**, the Borough incurs disproportionate costs in order to deal with the problems of vacant and abandoned structures, including but not limited to, excessive police calls, fire calls and property inspections; and

**WHEREAS**, it is in the public interest for the Borough to establish minimum standards of accountability on the owners or other responsible parties of vacant and abandoned structures in order to protect the health, safety and general welfare of the residents of the Borough; and

**WHEREAS**, it is in the public interest for the Borough to impose a fee in conjunction with registration of vacant and abandoned structures in light of the disproportionate costs imposed on the Borough by the presence of these structures.

**NOW, THEREFORE, BE IT ORDAINED** as follows:

**SECTION 1**

**8.40.050 Maintenance of Vacant/Abandoned Properties**

The Borough of Freehold hereby adopts the Abandoned Property Rehabilitation Act (N.J.S.A. 55:19-78 et seq.)

**8.40.050-5.1 Definitions**

Owner:

Shall include the title holder, any agent of the title holder having authority to act with respect to vacant/abandoned property, any foreclosing entity subject to the provisions of C.46:10B-51 (P.L. 2008, c.127, Sec. 17 as amended by P.L. 2009, c.296), or any other entity determined by the Borough of Freehold to have authority to act with respect to the property.

#### Vacant Property:

Any building used or to be used as a residence, commercial or industrial structure which is not legally occupied or at which substantially all lawful construction operations or occupancy has ceased, and which is in such condition that it can not legally be reoccupied without repair or rehabilitation, including but not limited to any property meeting the definition of abandoned property in N.J.S.A. 55:19-54, 55:19-78, 55:19-79, 55:19-80 and 55:19-81; provided however, that any property where all building systems are in working order, where the building and grounds are maintained in good order, or where the building is in habitable condition, and where the building is being actively marketed by its owner for sale or rental, shall not be deemed a vacant property for purposes of this ordinance.

#### Abandoned Property:

Pursuant to N.J.S.A. 55:19-81 is defined as follows: Any property that has not been legally occupied for a period of six months and which meets anyone of the following additional criteria may be deemed to be abandoned property upon a determination by the public officer that:

- a. The property is in need of rehabilitation in the reasonable judgment of the public officer, and/or rehabilitation has taken place during that six month period; and
- b. Construction was initiated on the property and was discontinued prior to completion, leaving the building unsuitable for occupancy, and no construction has taken place for at least six months as of the date of a determination by the public officer pursuant to this section;
- c. At least one installment of property tax remains unpaid and delinquent on that property in accordance with chapter 4 of title 54 of the Revised Statutes of the date of the determination by the public officer pursuant to this section; or
- d. The property has been determined to be a nuisance by the public officer in accordance with section 5 of P.L.2003, c. 210 (C.55:19- 82). A property which contains both residential and non-residential space may be considered abandoned pursuant to P.L. 2003, c. 210 (C.55:19-78 et al.) so long as two-thirds or more of the total net square footage of the building was previously legally occupied as residential or commercial space and none of the residential or commercial space has been legally occupied for at least six months at the time of the determination of abandonment by the public officer and the property meets the criteria of either subsection a. or subsection d. of this section.
- e. "Public Officer" means a person designated or appointed by the municipal governing body pursuant to N.J.S.A. 40:48-2.5 et seq.

#### **8.40.050-5.2 Identification of Abandoned properties**

- a. The Public Officer is hereby directed to identify abandoned properties within the Borough, place said properties on an abandoned property list to be established by the public officer as provided in Section 36 of P.L. 1996, c. 62 (N.J.S.A. 55:19-55), as amended, and provide such notices and carry out such other tasks as are required to effectuate an abandoned property list as

provided by law. The Public Officer may add properties to the list at any time.

- b. An owner or lienholder may challenge the inclusion of property on the abandoned property list by appealing that determination to the Public Officer within 30 days of the owner's receipt of the certified notice or 40 days from the date upon which notice was sent.

#### **8.40.050-5.3 Special Tax Sales**

- a. When the Borough determines each year which properties are eligible for tax sale, it may take any or all of the properties eligible for tax sale which also appear on the abandoned property list, and set them aside for a separate tax sale limited to those properties.
- b. In the event the Borough determines to hold a special tax sale, the Borough may, at its option, set the terms and conditions for such sale to include, but not be limited to:
  - i. The purchaser or assignee shall be obliged to perform and conclude any rehabilitation or repairs necessary to remove the property from the abandoned property list pursuant to N.J.S.A. 55:19-55 and to post a bond in favor of the Borough to guarantee the rehabilitation or repair of the property.
  - ii. The purchaser or assignee shall provide documentation of its ability to rehabilitate or otherwise reuse the property appropriately;
  - iii. Commitments by the bidder to rehabilitate or otherwise reuse the property;
  - iv. Commitments by the bidder to foreclosure on the lien by a specific date; and
  - v. Condition that if the successful purchaser or assignee fails to carry out any of the conditions of sale, the Borough may reclaim title to the property or lien and the purchaser or assignees shall forfeit the amount paid for the property at special tax sale.
- c. The Borough may waive any of the above requirements, at its option.
- d. Successful purchasers or assignees for properties at a special tax sale may move immediately to foreclose on the property and exercise their right of entry to the properties as provided in C.54:5-86 of the Tax Sale Law, as amended by the Abandoned Properties Rehabilitation Act.

#### **8.40.050--5.4 Registration Requirements.**

The owner of any vacant or abandoned property as defined herein shall, within 30 calendar days after the building becomes vacant property or within 30 calendar days after assuming ownership of the vacant property, whichever is later, or within 10 calendar days of receipt of notice by the municipality, and annually thereafter, file a registration statement for such vacant property with the Public Officer on forms provided by the Borough for such purposes. Failure to receive notice by the municipality shall not constitute grounds for failing to register the property.

- 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 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 24 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.
- c. The registration shall remain valid for one year from the date of registration, except for the initial registration which shall be prorated for that year. The owner shall be required to renew the registration annually as long as the building remains a vacant and/or abandoned property and shall pay a registration or renewal fee in the amount prescribed in this ordinance, for each vacant property registered.
- d. The annual renewal shall be completed by January 1st of each year. The initial registration fee shall be pro-rated for registration statements received less than 10 months prior to that date.
- e. The owner shall notify the Public Officer within 30 calendar 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.
- 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.

**8.40.050-5.5 Access to Vacant or Abandoned Properties.**

The owner of any vacant or abandoned property registered under this Article shall provide access to the Borough to conduct exterior and interior inspections of the building to determine compliance with municipal codes, upon reasonable notice to the property owner or the designated agent. Such inspections shall be carried out during normal business hours or such other times may be mutually agreed upon between the owner and Borough.

**8.40.050-5.6 Responsible Owner or Agent**

- a. An owner who meets the requirements of this Article with respect to the location of his or her residence or workplace in the State of New Jersey may designate him or herself as agent or as the individual responsible for maintaining the property.
- b. By designating an authorized agent under the provisions of this section the owner consents to receive any and all notices of code violations concerning the registered vacant property and all process in any court proceeding or administrative enforcement proceeding brought to enforce code provisions concerning the registered building by service of the notice or 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 purposes of this section until the owner notifies the Borough in writing of a change of authorized agent or until the owner files a new annual registration statement.
- c. Any owner who fails to register vacant/abandoned property under the provisions of this Article shall further be deemed to consent to receive, by posting on the building, in plain view, and by service of notice at the last known address of the owner of the property on record within the Borough by regular and certified mail, any and all notices of code violations and all process in an administrative proceeding brought to enforce code provisions concerning the building.

**8.40.050-5.7 Fee Schedule.**

The initial registration fee for each vacant or abandoned building shall be five hundred (\$500.00) dollars. The fee for the first annual renewal is one thousand five hundred (\$1,500.00) dollars, and the fee for the second annual renewal is three thousand (\$3,000.00) dollars. The fee for any subsequent annual renewal beyond the second renewal is five thousand (\$5,000.00) dollars.

Vacant/Abandoned Property Registration Fee Schedule

Initial Registration	\$500.00
First Annual Renewal	\$1,500.00
Second Annual Renewal	\$3,000.00
Subsequent Annual Renewal	\$5,000.00

**8.40.050-5.8 Requirements of Owners of Vacant/Abandoned Properties.**

The owner of any building that has become vacant/abandoned property, and any person maintaining or operating or collecting rent for any such building that has become vacant shall, within thirty (30) days thereof:

1. Enclose and secure the building against unauthorized entry as provided in the applicable provisions of the Borough Code, or as set forth in the rules and regulations supplementing those codes; and
2. Post a sign affixed to the building indicating the name, address and telephone number of the owner, the owner's authorized agent for the purpose of service of process, 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 so as to be legible from the nearest public street or sidewalk, whichever is nearer, but shall be no smaller than eight (8) inches by ten (10) inches; and
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 building is complete; and
4. Ensure that the exterior grounds of the structure, including yards, fences, sidewalks, walkways, right-of-ways, alleys, retaining walls, attached or unattached accessory structures and driveways, are well-maintained and free from trash, debris, loose litter, and gross and weed growth; and Continue to maintain the structure in a secure and closed condition, keep the grounds in a clean and well-maintained condition, and ensure that the sign is visible and intact until the building is again occupied, demolished, or until repair and/or the abolishment of the building is complete.

**8.40.050-5.9 Requirements/Responsibilities of Creditor of Vacant and Abandoned Property.**

A. Pursuant to N.J.S.A. 40:48-2.12s, as amended from time to time, a creditor filing a summons and complaint in an action to foreclose a vacant or abandoned property shall be responsible for the care, maintenance, security and upkeep of the vacant and abandoned property, and if located out of State, shall be responsible for appointing an in-State representative or agent to act for the foreclosing creditor.

1. The out-of-State creditor serving a summons and complaint in an action to foreclose a vacant or abandoned property shall, within 10 days of serving the summons and complaint, notify the Borough Clerk that an action to foreclose has been filed against the subject property and shall provide the full contact information of the in-

State agent or representative or agent in the notice to foreclose is responsible for receiving complaints of property maintenance or code violations.

2. A creditor serving a summons and complaint in an action to foreclose a vacant or abandoned property shall, within 10 days of serving the summons and complaint, notify the Borough Clerk that an action to foreclose has been filed against the subject property and shall provide the full contact information of the agent or representative in the notice to foreclose, which agent or representative is responsible for receiving complaints of property maintenance or code violations.
3. Within 30 days after the adoption of this Ordinance, any creditor that has previously initiated a foreclosure proceeding which is pending in the Superior Court shall provide to the Borough with a notice detailing all properties in the Borough for which the creditor has foreclosure actions pending, including all information required in the foregoing paragraphs.
4. In the event the Borough expends funds to abate a nuisance or correct a violation on vacant and abandoned properties in which the creditor was given notice but failed to abate or correct the violation, the Borough shall have the same recourse against the creditor as it would have against the title owner of the property.
5. An out-of-State creditor found by the municipal court, 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 the ordinance 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.
6. A creditor subject to this ordinance, found by the 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 this 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.

7. No less than 20 percent of any money collected pursuant to subsection a. of this section shall be utilized by the municipality for municipal code enforcement purposes.

B. The Code Enforcement Office and officers are hereby authorized to issue a notice of violation to the creditor filing a summons and complaint in an action to foreclose a vacant or abandoned property if the officer determines that the creditor has violated the ordinance by failing the ordinance by failing to provide for the care, maintenance, security and upkeep of the vacant and abandoned property.

1. Such notices 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. The issuance of a notice pursuant to this paragraph shall constitute proof that a property is “vacant and abandoned”.

#### **8.40.050-5.10 Violations.**

Except as set forth in 8.40.050-5, any person who violates any other provision of this Article or the rules and regulations issued hereunder shall be fined not less than \$100.00 and not more than \$1,250.00 for each offense. Everyday that a violation continues shall constitute a separate and distinct offense. Fines assessed under this chapter shall be recoverable from the owner and shall be a lien on the property.

For purposes of this section, failure to file a registration statement within 30 calendar days after a building becomes vacant property or within 30 calendar days after assuming ownership of a vacant property, whichever is later, or within 10 calendar days of receipt of notice by the municipality, and failure to provide correct information on the registration statement, or failure to comply with the provisions of such provisions contained herein shall be deemed to be violations of this ordinance.

### **SECTION 2**

Should any section, paragraph, sentence, clause or phrase of this ordinance be declared unconstitutional or invalid for any reason, the remaining portions of this ordinance shall not be affected thereby and shall remain in full force and effect, and to that end the provisions of this ordinance are hereby declared to be severable.

### **SECTION 3**

All ordinances or parts of ordinances inconsistent with this amending ordinance are hereby repealed to the extent of their inconsistencies only.

**SECTION 4**

This ordinance shall be in full force and take effect twenty (20) days after final passage and publication as required by law.

APPROVED: MARCH 2, 2015

ADOPTED: MARCH 16, 2015

APPROVED: \_\_\_\_\_  
J. NOLAN HIGGINS, MAYOR

ATTEST: \_\_\_\_\_  
TRACI L. DIBENEDETTO, RMC  
BOROUGH CLERK