

**TOWNSHIP OF MANSFIELD
BURLINGTON COUNTY**

ORDINANCE NO. 2018-11

**AN ORDINANCE DIRECTING THE ESTABLISHMENT AND MAINTENANCE OF AN
ABANDONED PROPERTY LIST PURSUANT TO N.J.S.A. 55:19-78 et seq., And
ESTABLISHING PROCEDURES FOR ADDRESSING ABANDONED AND VACANT
PROPERTIES WITHIN THE TOWNSHIP OF MANSFIELD**

WHEREAS, the Mayor and Township Committee of the Township of Mansfield wish to protect the public health, safety, and welfare of its residents by establishing minimum standards for the maintenance of commercial and residential premises; and

WHEREAS, the Township Committee concurs with the findings of the State Legislature articulated at N.J.S.A. 55:19-79 that abandoned properties, particularly those located in close proximity to occupied residences and businesses, create a wide range of problems for local communities, foster crime, create public health problems, and otherwise diminish the quality of life for residents and business operators; and

WHEREAS, the Township further finds that abandoned properties diminish the property values of neighboring properties, have a negative effect on the quality of life of adjacent property owners, increase the risk of property damage through arson and vandalism, and discourage neighborhood stability and revitalization; and

WHEREAS, the Township further finds that it is well established that a property owner has the obligation to maintain his property in sound condition and prevent it from becoming a nuisance to others, which responsibility extends to properties which are not in use; and

WHEREAS, recent events in the local and national economy and its associated housing market have led to a drastic rise in the number of foreclosed houses; and closed businesses and homes are frequently repossessed by banks, financial institutions and large real estate conglomerates who have little or no connection with the municipality in which they own property; and;

WHEREAS, many of these businesses and homes are frequently vacated prior to the conclusion of the foreclosure process. Businesses and homes sit empty for months or years at a time awaiting foreclosure sales; often creating a substantial unattractive, unsafe public nuisance and neighborhood blight. In many instances, these businesses and homes are in violation of multiple aspects of state and local building, sanitary and nuisance codes. The mortgagees are large financial institutions located out-of-State and fail to adequately maintain and secure these vacant properties, making enforcement efforts very difficult; and

WHEREAS, the presence of vacant residences and businesses can discourage potential buyers and/or tenants from purchasing a home and/or business adjacent to, and/or within neighborhoods with such vacant properties; and

WHEREAS, foreclosures, closed businesses and vacant homes and their impact on local residents' quality of life have become a nationwide epidemic. Banks and other financial institutions are failing to adequately maintain properties they now own and municipal inspectors have turned into investigators as they try to find out who the new owners are and how to contact them to correct code violations; and

WHEREAS, it is in the public interest for the Township of Mansfield to impose a fee in conjunction with the registration of vacant and abandoned properties in light of the disproportionate costs imposed on the Township in dealing with the problems of vacant and abandoned properties, including, but not limited to, property inspections, neighborhood complaints, etc.; and

WHEREAS, fees generated by registration of vacant properties will be utilized to maintain safe conditions, address any quality of life violations, administrative costs, and the like; and

WHEREAS, the Township desires to use the powers granted by local governments under the laws of the State of New Jersey to address the conditions created by these building and unimproved properties, and further their re-use for productive purposes;

WHEREAS, in furtherance of the efforts to control the blight of abandoned properties, it is necessary for the Township to: (1) provide for the identification and listing of such properties; (2) maintain such list of abandoned properties, which may exist throughout the community; (3) designate the Public Officer charged with the responsibility for identifying such properties and maintaining such list; and (4) develop procedures to address the rehabilitation/possession of such properties; and

NOW THEREFORE BE IT ORDAINED AND ENACTED by the Mayor and Township Committee of the Township of Mansfield, County of Burlington, State of New Jersey as follows:

ARTICLE I. A new chapter to the Code of the Township of Mansfield entitled "Abandoned & Vacant Properties" is hereby created. Pursuant to the authority contained in N.J.S.A. 55:19-78 et seq., the Chapter shall read as follows:

Section One. Definitions.

As used under this Article, these words shall have the following meanings:

OWNER-every Mortgagor, Mortgagee, Executor, Administrator of Estate, Trustee, Agent, Real Estate Agency, Property Manager, or interested parties, who along or severally with others, has legal or equitable title to any dwelling, dwelling unit, mobile dwelling unit, business, commercial property, or parcel of land, vacant or otherwise; or

1. Has care, charge or control of any such property, vacant or otherwise, in any capacity, including, but not limited to, Agent, Executor, Executrix, Administrator, Administratrix, Trustee or Guardian of the Estate of the holder of legal title or

2. Is a Mortgagee in possession of any such property; or
3. Is An agent, trustee, or other person appointed by the Courts and vested with possession or control of any such property; or
4. Is an Officer or Trustee of the Association of unit owners of a condominium. Each such person is bound to comply as if he/she were the owner. However, this Ordinance shall not apply to any Condominium Association or Co-Op that forecloses or initiates the foreclosure process for unpaid assessments due or owing the Association; or
5. Every person who operates a rooming or boarding house; or
6. Is a Trustee who holds, owns or controls mortgage loans for mortgage-backed securities, transactions and has initiate foreclosure process.

VACANT PROPERTY-shall mean any building used or to be used for residential and/or commercial/business purposes which is not occupied or legally occupied or at which substantially all lawful construction operations or residential or commercial occupancy has ceased, and which is in such condition that it cannot 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. 55:19-81; provided, however, that any property where all building systems are in working order, where the building and grounds are maintained in good order and 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.

Section Two. Identification of Designated Public Officer.

The “Public Officer” charged with the responsibility for identifying abandoned properties and giving notice as set forth in N.J.S.A. 55:19-82 shall be that officer qualified to carry out the responsibilities and designated by the Township pursuant to N.J.S.A. 55:19-80.

Section Three. Duties and Powers of Public Officer.

- A. The Public Officer shall identify all properties within the municipality which are deemed abandoned pursuant to N.J.S.A. 55:19-78 *et seq.* The abandoned properties so identified shall include any and all properties found unfit for occupancy pursuant to the provisions of Chapter 25 of this Code.
- B. Each item of abandoned property shall be identified by tax block and lot number, the name of the owner of record (if known), and the street address of the lot.
- C. Upon identification of abandoned property, the Public Officer shall create and maintain a list of such property to be called the “Abandoned Property List.” Properties may be added to the list at any time, or deleted from the list at any time

the Public Officer finds that the property no longer meets the definition of an abandoned property. An interested party may request that a property be included on the abandoned property list following the procedure set forth in N.J.S.A. 55:19-105.

- D. An abandoned property shall not be included on the Abandoned Property List if rehabilitation is being performed in a timely manner, as evidenced by building permits issued and diligent pursuit of the rehabilitation work authorized by those permits. A property on which an entity other than the municipality has purchased or taken assignment from the municipality of a tax sale certificate, which has been placed on the Abandoned Property List, may be removed from the list in accordance with the provisions of N.J.S.A. 55:19-103. Notwithstanding the foregoing, a property deemed unfit pursuant to the provisions of Chapter 25 of this Code shall be subject to an order setting forth a specific time within which the repair, alteration or improvement of such unfit structure shall be made.

Section Four. Additional Duties of Public Officer; Notice.

- A. The Public Officer, within ten (10) days of the establishment of the abandoned property list, or any additions thereto, shall send a notice, by certified mail, return receipt requested, and by regular mail, to the owner of record of every property included on the list and shall cause the list to be published in the official newspaper of the municipality, which publication shall constitute public notice. The published and mailed notices shall identify the property determined to be abandoned setting forth the owner of record (if known), the tax lot and block number, and street address. The notice shall also include procedures on appealing the determination pursuant to N.J.S.A. 55:19-55(e). The Public Officer, in consultation with the tax collector, shall also send out a notice by regular mail to any mortgagee, servicing organization, or property tax processing organization that receives a duplicate copy of the tax bill pursuant to subsection d of N.J.S.A. 54:4-64. When the owner of record is not known for a particular property and cannot be ascertained by the exercise of reasonable diligence by the tax collector, notice shall not be mailed but instead shall be posted on the property in the manner provided in N.J.S.A. 40:48-2.7. The mailed notice shall indicate the factual basis for the Public Officer's finding that the property is abandoned property as that term is defined in N.J.S.A. 55:19-81, and the rules and regulations promulgated thereunder, specifying the information relied upon in making such finding. In all cases a copy of the mailed or posted notice shall also be filed by the public officer in the office of the Burlington County Clerk. This filing shall have the same force and effect as a notice of *lis pendens* under N.J.S.A. 2A:15-6.
- B. The Public Officer shall seek reimbursement for the postage costs and search fees associated with providing notice in accordance with paragraph A of this section from the Authority (as defined in N.J.S.A. 40:48-2.4) or its subsidiaries in accordance with procedures and rules promulgated by the Department of Community Affairs.

Section Five. Criteria for the Determination of Abandonment.

- A. Any property or building used or to be used as a residence or business which is not occupied, or not legally occupied, for a period of six months, and at least one of the following conditions exist:
 - (1) the property is in need of rehabilitation in the judgment of the Public Officer and no rehabilitation has taken place during the six month period; or
 - (2) construction was initiated on the property and then discontinued for a period of at least six months, leaving the building unsuitable for occupancy; or
 - (3) at least one installment of real property tax remains unpaid or delinquent; or
 - (4) the property has been determined to be a nuisance pursuant to N.J.S.A. 55:19-82.
- B. A property which contains both residential and non-residential space may be considered abandoned so long as two-thirds or more of the net square footage of the building was previously legally occupied as residential space and none of the residential space has been legally occupied for at least six months and otherwise meets the criteria of either Subsection A (1) or A (4) above.
- C. Notwithstanding the foregoing, a property used on a seasonal basis shall not be deemed abandoned unless it meets two additional criteria set forth in Subsection A above.

Section Six. Options for Enforcement by the Municipality.

The Public Officer may, as appropriate and in the discretion of the Public Officer, proceed to obtain repair, alteration, improvement or demolition of a property on the Abandoned Property List, including those deemed unfit for occupancy, pursuant to either the provisions authorized by N.J.S.A. 40:48-2.3 et seq. or as authorized by N.J.S.A. 55:19-54 through 55:19-59 and N.J.S.A. 55:19-78 through 55:19-107. Pursuant to the provisions of N.J.S.A. 55:19-82, a property determined by the Public Officer to be a nuisance under the provisions of Subsection 82 of the statute shall be subject to the provisions of Chapter 25.

Section Seven. Remedies Available Under Abandoned Properties Rehabilitation Act.

The Public Officer shall have all of the powers available to the municipality, its agents, servants, and employees under the under the Abandoned Properties Rehabilitation Act (N.J.S.A. 55:19-78 et seq.). Specifically, the Public Officer may:

- A. When the owner or party in interest has failed to submit or initiate a rehabilitation plan, the Public Officer may bring a summary action in Superior Court to transfer possession and control of the property to the municipality for the development of

such a plan. Upon being granted possession and control, in addition to adopting a rehabilitation plan, the municipality may commence and maintain further actions to: (1) conserve, protect or dispose of the property; (2) recover costs and expenses of the rehabilitation; and (3) if owner does not apply for reinstatement of control as provided for by N.J.S.A. 55:19-92, sell the property as directed by the court.

- B. After filing a notice of intent to take control of the property pursuant to N.J.S.A. 55:19-86, the Public Officer may enter onto the property as provided for in subsection C of this section of the statute in order to inspect, secure stabilize or repair the property for purposes of preparing a rehabilitation plan.
- C. Upon a proper showing to the court, the Public Officer may seek to obtain title to the property or sell same with the proceeds of such transaction to be distributed, in the following priority, for (1) the costs and expenses of sale; (2) other government liens; (3) repayment to the municipality for any borrowing or indebtedness granted priority lien status pursuant to N.J.S.A. 55:19-98; (4) a reasonable development fee to the municipality consistent with the standards established by the Department of Community Affairs or New Jersey Housing and Mortgage Finance Agency for rehabilitation programs; (5) other valid liens and security interests in accordance with their priority; and (6) the owner.
- D. With the approval of the court, place a lien on the property to cover the costs of proceeding under N.J.S.A. 55:19-78 et seq.

Section Eight. Additional Powers Available to the Municipality.

In addition to those powers set forth above, the municipality may proceed to tax sale on the property pursuant to N.J.S.A. 55:19-56, designate a qualified rehabilitation entity to act on behalf of the municipality in rehabilitating the property, borrow funds to facilitate the powers given to the municipality under the law and seek priority lien status for such borrowings. The purpose of this Chapter is to provide the municipality with all powers granted to it by the legislature under N.J.S.A. 40:48-2.3 et seq., N.J.S.A. 55:19-54 et seq., and N.J.S.A. 55:19-78 et seq. which are incorporated herein and made a part hereof.

Section Nine. Registration of Vacant/Abandoned Properties

Notwithstanding the requirements of any other section of the Code, all vacant or abandoned properties shall be required to register with the Township.

Section Ten. Registration Requirements.

Effective October 1, 2018, the owner of any vacant 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 from the municipality, file a registration statement for such vacant property with the Township Code Enforcement Officer on forms provided

by the Township for such purposes. The Owner of any property which meets the definition of vacant property at the time of the effectiveness of this Ordinance shall have thirty days to register the property. Any failure to provide notice by the municipality shall not constitute grounds for failing to register the property. A creditor serving a summons and complaint in an action to foreclose on a mortgage on residential property in the Township shall, within 10 days of serving the summons and complaint, notify the Township Clerk that an action has been filed on a property and contain the contact information and submit to the registration requirements detailed herein.

- 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 eighteen (18) years or older, designated by the Owner 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 Owner in connection with the enforcement of any applicable code; and the name, street address, telephone number and e-mail address (if applicable) of the firm and 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 (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.
- C. 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 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.
- D. The registration shall remain valid for one year from the date of registration except for the initial registration which shall be valid through December 31 of the year in which it was filed. The Owner shall be required to renew the registration annually as long as the building remains a vacant property and shall pay a registration or renewal fee in the amount prescribed in this ordinance for each vacant property registered.
- E. 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 10 months prior to that date.
- F. The Owner shall notify the Clerk within 15 calendar days of any change in the registration information by filing an amended registration statement on a form

provided by the Clerk for such purpose. The Owner shall have a continuing obligation to maintain true and accurate registration information with the Township.

- G. 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 Township against the Owner of the building.

Section Eleven. Fee Schedule

A. The initial registration fee for an abandoned property shall be \$500 and shall be prorated for registration statements received less than 10 months prior to the due date

B. Vacant property registration fee schedule.

1. Initial registration: \$500.00
2. First Renewal: \$1,000.00
3. Second subsequent renewal: \$2,500.00
4. Any subsequent renewal: \$5,000.00

Section Eleven. Access to Vacant Properties.

The Owner of any vacant property registered under this Article shall provide access to the Township 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 on weekdays during the hours between 7:30 am and 4:45 pm or at such other time as may be mutually agreed upon between the Owner and the Township.

Section Twelve. Requirements of Owners of Vacant Property.

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

- (1) Enclose and secure the building against unauthorized entry as provided in the applicable provisions of the Township of Mansfield Code, or as set forth in the rules and regulations supplementing those Codes; and
- (2) 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
- (3) Ensure that the exterior grounds of the structure, including yards, fences, sidewalks, walkways, rights-of-way, alleys, retaining walls, attached or unattached accessory structures and driveways, are well maintained and free from trash, debris, loose litter, and grass and weed growth, vehicles and accumulation of newspapers/flyers/notices; and

(4) Continue to maintain the structure in a secure and closed condition and 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 rehabilitation of the building is complete; and

(5) Pools and spas shall be kept in working order so that the water remains clear and free of pollutants and debris or drained and kept dry. In either case properties with pools and/or spas must comply with the minimum security fencing requirement of the Township.

Section Thirteen. Violations/Penalty.

(1) Any person who violates any provisions of this section of the rules and regulations issued hereunder shall be fined not less than \$100.00 and not more than \$1,250.00 for each offense. Every day that a violation continues shall constitute a separate and distinct offense. Fines assessed under this section shall be recoverable from the owner and shall be a lien on the property.

(2) For purposes of this section, failure to file a registration statement within thirty (30) calendar days after a building becomes vacant property or within thirty (30) calendar days after assuming ownership of a vacant property, whichever is later, or within ten (10) calendar days or 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 article.

(3) Any fine(s) or cost(s) associated with cleaning up the property that remains uncollected or unpaid shall, by Resolution of the Township Committee, become a lien upon the property, which lien shall hereafter form part of the taxes next to be assessed and levied upon said lands, the same to bear interest at the same rate as taxes to be collected and enforced by the same officers and in the same manner as taxes.

ARTICLE II. REPEALER, SEVERABILITY AND EFFECTIVE DATE.

- A. Repealer. Any and all Ordinances inconsistent with the terms of this Ordinance are hereby repealed to the extent of any such inconsistencies.
- B. Severability. In the event that any clause, section, paragraph or sentence of this Ordinance is deemed to be invalid or unenforceable for any reason, then the Township Committee hereby declares its intent that the balance of the Ordinance not affected by said invalidity shall remain in full force and effect to the extent that it allows the Township to meet the goals of the Ordinance.
- C. Effective Date. This Ordinance shall take effect upon proper passage in accordance with the law.

INTRODUCTION: JULY 18, 2018
FINAL ADOPTION: AUGUST 15, 2018

4831-1306-1997, v. 1