

ORDINANCE NO. 2022-3333

TOWNSHIP OF MIDDLETOWN
COUNTY OF MONMOUTH

Ordinance Establishing Registration and Maintenance Requirements for Vacant and Abandoned Properties Within the Township of Middletown

WHEREAS, many vacant and abandoned properties are situated within the Township of Middletown (the "Township"), which have had a detrimental effect on the neighborhoods in which they are located; and

WHEREAS, the Township wishes to establish registration and maintenance requirements for owners of vacant and abandoned properties pursuant to the Abandoned Properties Rehabilitation Act, N.J.S.A. 55:19-78 et seq.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Middletown in the County of Monmouth, State of New Jersey that the Code of the Township of Middletown be and is hereby amended and supplemented, as follows:

SECTION 1. Purpose.

The purpose of this ordinance is to mitigate blight and dangerous conditions created by vacant and abandoned properties throughout the Township and to address the same pursuant to the provisions of the Abandoned Properties Rehabilitation Act, N.J.S.A. 55:19-78 et seq. and associated police powers of the Township.

SECTION 2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ABANDONED PROPERTY - Pursuant to N.J.S.A. 55:19-81, an abandoned property is defined as any property that has not been legally occupied for a period of six months and which meets any one of the following criteria.

- A. The property is in need of rehabilitation in the reasonable judgment of the Township, and no rehabilitation has taken place during that six-month period.
- 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 Township pursuant to this section.
- C. At least one installment of property tax remains unpaid and delinquent on that property in accordance with Title 54 of the Revised Statutes of the date of the determination by the Township pursuant to this section.
- D. Any building or structure which is not legally occupied or at which all lawful business or construction operations or renovation work or residential occupancy has substantially ceased, and which is in such condition that it cannot legally be reoccupied without repair or rehabilitation, and/or the property has been determined to be a nuisance by the Township in accordance with N.J.S.A. 55:19-82.
 - i. A property which contains both residential and nonresidential space may be considered abandoned pursuant to N.J.S.A. 55:19-78, 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 Township and the property meets the criteria of either Subsection A or D of this definition.

CREDITOR - Any person or entity including but not limited to service companies, lenders in a mortgage agreement and any agent, servant or employee of the mortgagee, or any successor in interest and/or assignee of the mortgagee's rights, interests or obligations under a mortgage or mortgage note on a property located within the Township which has taken any one of the following actions with regard to an abandoned property or vacant property:

- A. Taken physical possession of the property;
- B. Delivering a notice of intent to foreclosure on the property;
- C. Filed a foreclosure action in the Superior Court of New Jersey; or
- D. Filed a lis pendens on the property.

OWNER - Shall mean and include the title holder, any agent of the title holder having authority to act with respect to a vacant property, any foreclosing entity subject to the provisions N.J.S.A. 46:10B-51, or any other entity determined by the Township to have authority to act with respect to the property.

VACANT PROPERTY - Shall mean any building used or to be used as a residence 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, including but not limited to any property meeting the definition of abandoned property in N.J.S.A. 55:19-80 et seq.; 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 section.

SECTION 3. Registration Requirements.

Effective April 1, 2022, the owner or creditor 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 by the Township, file a registration statement for such vacant property with the Township on forms provided by the Township 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 of a person 21 years or older, designated by the owner or 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 owner or creditor in connection with the enforcement of any applicable Township Code; and the name, street address, telephone number, and email address 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 owner or creditor shall be required to renew the registration by January 1 each year as long as the property remains a vacant property and shall pay a registration or renewal fee in the amount required herein, for each vacant property registered.
- D. The owner or creditor shall notify the Township Clerk within 30 calendar days of any change in the registration information by filing an amended registration statement on a form provided by the Township Clerk for such purpose.
- 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 Township against the owner or creditor of the building.

Section 3. Access to Vacant or Abandoned Properties.

The owner or creditor of any vacant or abandoned property registered under this section 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 owner or creditor or the designated agent. Such inspections shall be carried out on weekdays during the hours of 9:00 a.m. and 4:00 p.m., or such other time as may be mutually agreed upon between the owner or creditor and the Township.

Section 4. Responsible Owner, Creditor or Agent.

- A. An owner or creditor who meets the requirements of this section with respect to the location of their residence or workplace in the State of New Jersey may designate themselves 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 or creditor 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 or creditor 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 or creditor notifies the Township of Middletown in writing of a change of authorized agent or until the owner or creditor files a new annual registration statement.
- C. Any owner or creditor who fails to register vacant property under the provisions of this section 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 or creditor of the property on record within the Township of Middletown 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.

Section 5. Fee Schedule.

- a. The fee schedule for a property determined to be vacant or abandoned is as follows:

Initial Registration	\$500
First Renewal	\$1,500

Second Renewal	\$3,000
Subsequent Renewals	\$5,000

- b. The initial registration in the amount of \$500 received after October 1 shall be valid through December 31 of the next calendar year.
- c. Registrations more than 30 days late shall be subject to a \$500 late registration fee added to the applicable fee set forth in this section.

Section 6. Requirement of Owners or Creditors of Vacant or Abandoned Property.

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

- A. Enclose and secure the building against unauthorized entry as provided in the applicable provisions of the Township Code, or as set forth in the rules and regulations supplementing those codes;
- B. 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 the 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 inches by ten inches;
- C. 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;
- D. 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; and
- E. 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 rehabilitation of the building is complete.
- F. Provide proof of property and casualty liability insurance policy in a minimum amount of \$1 million on any vacant or abandoned property.

Section 7. Violations.

- A. Any person or entity that violates any provision of this section or of the rules and regulations issued hereunder shall be fined pursuant to § 1-4 of the Township Code. Fines assessed under this section shall be recoverable from the owner or creditor and shall be a lien on the property.
- B. 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 chapter.

SECTION 8. Repealer.

All ordinances or parts of ordinances which are inconsistent with the provisions of this ordinance are, to the extent of such inconsistency, hereby repealed.

SECTION 9. Severability.

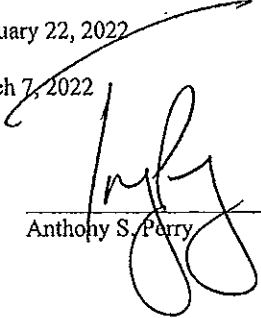
Should any section, clause, sentence, phrase or provision of this ordinance be declared unconstitutional or otherwise invalid by a court of competent jurisdiction, such decision shall not affect the remaining portions of this ordinance.

SECTION 10. Effective Date.

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

PASSED ON FIRST READING: February 22, 2022

PASSED AND APPROVED: March 7, 2022



Anthony S. Perry

ATTEST:



Heidi R. Brunt, Township Clerk