

GREEN TOWNSHIP ORDINANCE

ORDINANCE #2016-04

AN ORDINANCE AMENDING THE CODE OF THE TOWNSHIP OF GREEN BY THE ADDITION OF A NEW CHAPTER TO BE ENTITLED "VACANT AND ABANDONED PROPERTIES" PROVIDING FOR REGISTRATION OF VACANT AND ABANDONED PROPERTIES, CREDITOR RESPONSIBILITIES AND MUNICIPAL POWERS TO REHABILITATE

BE IT ORDAINED, by the Township Committee of the Township of Green, Sussex County, New Jersey, that a new chapter of the Code of the Township of Green to be entitled "Vacant and Abandoned Properties" be adopted as follows:

ARTICLE I - Registration of Vacant Properties

SECTION 1 - DEFINITIONS

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

ABANDONED PROPERTY-

As defined in accordance with the Abandoned Properties Rehabilitation Act, N.J.S.A. 55:19-78 et seq., shall mean the following:

- (1) Except as provided in Section 6 of P.L. 2003, c. 210 (N.J.S.A. 55:19-83), any property that has not been legally occupied for a period of six months and which meets any one of the following additional criteria may be deemed to be abandoned property upon a determination by the Construction Official that:
 - (a) The property is in need of rehabilitation in the reasonable judgment of the Construction Official, 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 Construction Official 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 (see N.J.S.A. 54:4-1 et seq.) as of the date of a determination by the Construction Official pursuant to this section; or
 - (d) The property has been determined to be a nuisance by the Construction Official in accordance with Section 5 of P.L. 2003, c. 210 (N.J.S.A. 55:19-82).

- (2) A property which contains both residential and non-residential space may be considered abandoned pursuant to P.L. 2003, c. 210 (N.J.S.A. 55:19-78 et seq.) so long as two-thirds or more of the total 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 at the time of the determination of abandonment by the Construction Official and the property meets the criteria of either Subsection (1)(a) or Subsection (1)(d) of this Subsection 8.1.

ACTIVELY MARKETED VACANT PROPERTIES-

Owners of properties meeting the definition of "Vacant Property" that are being bonafidely actively marketed for sale shall file a Registration Statement with the Township in accordance with the terms and conditions of this Chapter, but shall be exempt from the payment of a registration fee. The owner of any such property in order to be exempt from the payment of a registration fee shall provide adequate proof to the Township of the bonafide active marketing of the property for sale by providing such evidence of such bonafide active marketing activities as shall be reasonably required by the Township, including but not limited to, copies of listing agreements and/or pending contracts of sale or other advertising or marketing efforts being made by the property owner directly to promote the sale of the property. Although exempt from the payment of any registration fee, in all other respects, the property owner of any vacant property that is being bonafidely actively marketed for sale shall be required to maintain the property while it is being bonafidely actively marketed in accordance with this Chapter and all other ordinances of the Township of Green.

EVIDENCE OF VACANCY-

- (1) Any condition that on its own or combined with other conditions present would lead a reasonable person to believe that the property is or has been vacant for three or more months. Such evidence would include, but is not limited to, evidence of the existence of two or more of the following conditions at a property: overgrown or dead vegetation; accumulation of newspapers, circulars, flyers or mail; past-due utility notices or disconnected utilities; accumulation of trash, junk or debris; the absence of window coverings such as curtains, blinds or shutters; the absence of furnishings or personal items consistent with residential habitation; statements by neighbors, delivery agents, or government employees that the property is vacant or abandoned; infestation by insects, vermin, rats or other pests; windows or entrances that are boarded up or closed off; multiple window panes that are damaged, broken or unrepaired; doors that are smashed, broken, unhinged or continuously unlocked; or any uncorrected violation of a municipal building, housing or similar code during the preceding year.

- (2) Property determined to be "abandoned property" in accordance with the meaning of such term in the Abandoned Properties Rehabilitation Act, N.J.S.A. 55:19-78 et seq., shall also be deemed to be vacant property for the purposes of this section.

OWNER-

Shall 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 of C.46:10B-51 (P.L. 2008, c. 127, § 17), or any other entity determined by the Township of Green to act with respect to the property. The term "Owner" shall not include any duly licensed real estate agent engaged solely in the sale of the property on behalf of the Owner.

PROPERTIES UNDER REPAIR OR RENOVATION-

Owners of properties meeting the definition of "vacant property" that are in the process of being repaired or renovated shall file a Registration Statement with the Township in accordance with the terms and conditions of this chapter, but shall be exempt from the payment of a registration fee. The owner of any such property in order to be exempt from the payment of a registration fee shall have obtained all necessary permits and approvals from the Township to repair or renovate the property and shall demonstrate proof to the Township of diligent continuous efforts by the owner to promptly complete the repair or renovation of any such property.

SEASONAL RESIDENCES-

Seasonal residences shall be those residences in the Township of Green which may only be lawfully occupied on a limited single basis and not on a year round basis. For seasonal properties, the properties shall not be considered abandoned or vacant for purposes of this ordinance unless said residence is abandoned or vacant during the period of time when it may be lawfully seasonably occupied.

SEASONALLY OCCUPIED PROPERTIES-

Seasonally occupied properties shall be those properties in the Township which are occupied on a limited, part-time or seasonal basis and not on a year-round basis by the owner. Owners of seasonably occupied residences shall be required to file a registration statement with the Township, but shall be exempt from payment of any registration fee and the posting of a placard on the property as otherwise required by Section 5 hereof.

VACANT PROPERTY-

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 for a period of at least three months, and any commercial property that has not been legally occupied or at which substantially all lawful construction operations have ceased for a period of at least three months, and which exhibits evidence of vacancy such that a reasonable person would believe that the property is vacant. Any property that contains all building systems in working order, is being maintained on a regular basis, has not been cited by the Township for any violation of municipal ordinance within such time and is being actively marketed by its owner for sale or rental shall not be deemed vacant.

SECTION 2 - GENERAL REQUIREMENTS.

- (1) The owner of any vacant property as defined herein shall, within 30 days after the building becomes vacant property or within 30 days after assuming ownership of the vacant property, whichever is later, file a registration statement for each such vacant property with the Township of Green on forms provided by the Township of Green for such purposes. The registration shall remain valid until the end of the calendar year. The owner shall be required to renew the registration annually, no later than January 31, as long as the building remains vacant property and shall pay a registration or renewal fee in the amount prescribed in Subsection 4 of this section for each vacant property registered. The initial and renewal fees shall be prorated and or credited accordingly upon legal occupancy.
- (2) Any owner of any building that meets the definition of "vacant property" prior to (adoption date) shall file a registration statement for that property on or before (adoption date plus 60 days). The registration statement shall include the information required under Subsection 3 of this section, as well as any additional information that the Construction Official may reasonably require.
- (3) The owner shall notify the Township of Green within 30 days of any change in the registration information by filing an amended registration statement on a form provided by the Township of Green for such purpose.
- (4) The registration statement shall be deemed prima facie proof of the statement therein contained in any administrative enforcement proceeding or court proceeding instituted by the Township of Green against the owner or owners of the building.

SECTION 3 - REGISTRATION STATEMENT REQUIREMENTS; PROPERTY INSPECTION

- (1) After filing a registration statement or a renewal of a registration statement, the owner of any vacant property shall provide access to the Township of Green Construction Official if requested, following reasonable notice, during the period covered by the initial registration or any subsequent renewal. If an inspection is required of the interior of the property due to complaints or other cause, the fee for such inspection shall be the same as that for a Continued Certificate of Occupancy inspection as provided in the applicable provisions of the Code of the Township of Green.
- (2) The registration statement shall include the name, street address, and telephone number of a natural person 21 years of age 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 proceeding, on behalf of such owner or owners in connection with the enforcement of any applicable code. The designated agent must have a contact number that will be available 24 hours per day on an emergency basis. The statement shall also include the name of the person responsible for maintaining and securing the property, if different from the designated agent.
- (3) An owner who is a natural person and who meets the requirements of this section as to availability of a contact number on a twenty-four-hour emergency basis may designate himself or herself as agent.
- (4) 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 purpose of this section until the owner notifies the Township of Green of a change of the authorized agent or until the owner files a new annual registration statement. The designation of an authorized agent in no way releases the owner from any requirement of this section.

SECTION 4 - FEE SCHEDULE

The initial registration fee for each building shall be \$250. The fee for the first renewal is \$500. The fee for any subsequent renewal is \$1,000. After five years, the registration fee shall be \$5,000. Initial fee shall be prorated according to the month of registration and renewal fees shall be credited when a property becomes legally occupied during a renewal period.

Vacant and Abandoned Property Registration Fee Schedule

Registration	Fee
Initial registration	\$250
First renewal	\$500
Any subsequent renewal up to five years	\$1,000
After five years	\$5,000

SECTION 5 - REQUIREMENTS FOR OWNERS OF VACANT AND ABANDONED PROPERTY.

The owner of any building that has become vacant or abandoned property, and any person maintaining, operating or collecting rent for any such building that has become vacant, shall, immediately:

(1) Post a sign affixed to the inside of the building indicating the name, address and telephone number of the owner, the owner's authorized agent for the purpose of service of process (if designated pursuant to Subsection 3 of this section), 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 15 inches by 17 inches; and

(2) Enclose and secure the building against unauthorized entry as provided in the applicable provisions of the Code of the Township of Green and maintain the sign required in Subsection 5 above until the building is again legally occupied or demolished or until repair or rehabilitation of the building is complete; and

(3) Make provision for the maintenance of the lawn and yard, including regular grass cutting and leaf and brush removal and shall also comply with all applicable provisions of the Code of the Township of Green; and;

(4) Make provision for the cessation of the delivery of mail, newspapers and circulars to the property, including having the property listed on the exclusion list maintained by the Township of Green for the delivery of circulars and advertisements to the property; and

(5) Make provision for the winterizing of the property by the cessation of water service to the property and the draining of water lines; other than buildings with a fire sprinkler system, and

(6) Make provision for the cessation of electric or gas utility services to the property; other than buildings with a fire sprinkler system, and

(7) Make provision for the regular maintenance of the exterior of the property.

SECTION 6 - ADMINISTRATION

The Township of Green Mayor and Committee shall issue rules and regulations for the administration of the provisions of this section.

SECTION 7 - VIOLATIONS AND PENALTIES

(1) Any person, persons, firm, corporation or other entity violating any of the provisions of this Chapter shall, upon conviction thereof, be liable to the penalties set forth in Chapter I, Section 1-5 General Penalty. Each and every day that the violation continues shall constitute a separate offense.

(2) For purposes of this section, failure to file a registration statement in time, failure to provide correct information on the registration statement, failure to comply with the provisions of Subsection 5 of this section, or such other matters as may be established by the rules and regulations of the Township of Green shall be deemed to be a violation of this section.

SECTION 8 - COMPLIANCE WITH OTHER PROVISIONS

Nothing in this section is intended to nor shall be read to conflict or prevent the Township of Green from taking action against buildings found to be unfit for human habitation or unsafe structures as provided in applicable provisions of the Code of the Township of Green and/or the Uniform Construction Code. Further, any action taken under any such code provision other than the demolition of a structure shall not relieve an owner from its obligations under this section.

SECTION 9 - REQUEST FOR EXEMPTION

Any owner having received notice from the Township that their property has been determined to be either vacant or abandoned may make a request in writing to the Township for an exemption from any of the provisions of this chapter by demonstrating to the Township such special circumstances peculiar to the property that warrants either a temporary or permanent exemption from any of the provisions of this Chapter. In the event of a denial of any such exemption request, the owner shall have the right to file an appeal in accordance with the provisions of Section 10 hereof.

SECTION 10 - APPEALS

Any owner having received notice from the Township that their property has been determined to be either vacant or abandoned shall have the right to appeal any such determination by any Township official directly to the Governing Body of the Township of Green. Any such appeal shall be taken within forty-five (45) days of the date of the receipt of notice from the Township of such vacant or abandoned property

determination. The appeal shall be in writing and served on the Township Clerk with a copy to the Township Zoning Officer. Upon the filing of the appeal, all proceedings against the property shall be stayed pending the appeal process. The Governing Body shall schedule a hearing on the appeal as soon as practical at a regularly scheduled meeting of the Township Committee, at which time the property owner shall have the right to present relevant evidence to the Township Committee that the property is neither vacant or abandoned. Any such property owner shall have the right to be represented at any such hearing and shall have the right to call witnesses and present other relevant proof. The Mayor shall preside all such hearings, which shall to the extent applicable, be in accordance with the provisions of N.J.S.A. 40:55D-10.

ARTICLE II - RESPONSIBILITIES OF CREDITORS

SECTION 11 - RESPONSIBILITIES OF CREDITORS, VIOLATIONS AND FINES

- (1) Pursuant to the provisions of N.J.S.A. 40:48-2.12s, the creditor filing the summons and complaint in an action to foreclose shall be responsible for the care, maintenance, security, and upkeep of the exterior of the vacant and abandoned residential property. This obligation applies whether the determination that the property is vacant or abandoned is made by the public officer pursuant N.J.S.A. 2A:50-73, or otherwise.
- (2) If the creditor is located out-of-State, the creditor shall be responsible for appointing an in-State representative or agent to act for the foreclosing creditor.
- (3) An out-of-State creditor shall include the full name and contact information of the in-State representative or agent in the notice required to be provided to the municipal clerk pursuant to N.J.S.A. 46:10B-51(a)(1).
- (4) An out-of-State creditor found by the municipal court, or by any other court of competent jurisdiction, to be in violation of any provision of this Article shall be subject to a fine of \$2,500.00 for each day of the violation, commencing on the day after the ten (10) day period set forth in N.J.S.A. 46:10B-51(a)(1) for providing notice to the municipal clerk that a summons and complaint in an action to foreclose has been served.
- (5) A public officer appointed pursuant to N.J.S.A. 40:48-2.3 et seq., or any enforcement officer described in this chapter, shall be authorized to issue a notice to the creditor filing the summons and complaint in an action to foreclose, if the public officer or enforcement officer determines that the creditor has violated this chapter by failing to provide for the care, maintenance, security, and upkeep of the exterior of the property. The notice shall require the person or entity to correct the violation within thirty (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. The issuance of this notice shall constitute proof that a property is "vacant and abandoned" for purposes of N.J.S.A. 2A:50-73.

- (6) A creditor 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 Section 11 (5) shall be subject to a fine of \$1,500 for each day of the violation commencing thirty one (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 eleven (11) days following receipt of the notice.

ARTICLE III - MUNICIPAL POWERS TO REHABILITATE ABANDONED PROPERTIES

SECTION 12 - MUNICIPAL POWERS TO REHABILITATE ABANDONED PROPERTY

The Township of Green hereby grants to itself all such powers granted to municipalities by the State of New Jersey for the rehabilitation of abandoned property. Such powers are set forth, inter alia, in the "Abandoned Properties Rehabilitation Act" (N.J.S.A. 55:19-78 et seq.) and in applicable portions of the "New Jersey Urban Development Corporation Act" (N.J.S.A. 55- 19-1 through -77). These state statutory powers are collectively referred to herein as the "enabling statutes."

SECTION 13 - PUBLIC OFFICER

The Public Officer, as defined in N.J.S.A. 55:19-80, who is responsible for executing the provisions of this chapter for the rehabilitation of abandoned property, shall be designated by resolution of the Township Committee.

SECTION 14 - ABANDONED PROPERTY

The Public Officer shall designate a property as an "abandoned property" if said property meets the criteria set forth in N.J.S.A. 55:19-81 (abandoned property criteria) and/or N.J.S.A. 55:19-82 (nuisance property criteria). The Public Officer's designation is limited by the provisions of N.J.S.A. 55:19-83.

SECTION 15 - ABANDONED PROPERTY LIST

The Public Officer shall establish an Abandoned Property List pursuant to N.J.S.A. 55:19-55. An interested party (as that term is defined in N.J.S.A. 55:19-105a) may request that the Public Officer include a property on the Abandoned Property List, pursuant to N.J.S.A. 55:19-105.

SECTION 16 - RIGHTS OF OWNER OF ABANDONED PROPERTIES

The owner of a property on the Abandoned Property List has such rights designated to said owner by the enabling statutes. Such powers include but are not limited to:

- (1) Challenging the inclusion of a property on the Abandoned Property List, pursuant to N.J.S.A. 55:19-55e;
- (2) Seeking removal from said list, pursuant to N.J.S.A. 55:19-57 and 55:19-103;
- (3) Petitioning for reinstatement of control and possession, pursuant to N.J.S.A. 55:19-92 et seq.;

SECTION 17 - MUNICIPAL POWERS

Township of Green has such powers and rights regarding abandoned properties as set forth in the enabling statutes. Such powers include but are not limited to:

- (1) Sale of tax lien, pursuant to N.J.S.A. 55:19-56;
- (2) Special tax sales, pursuant to N.J.S.A. 55:19-101;
- (3) Foreclosing the right to redemption, pursuant to N.J.S.A. 55:19-58;
- (4) Recourse directly against property owner, pursuant to N.J.S.A. 55:19-100;
- (5) Possession and control of property, pursuant to N.J.S.A. 55:19-84 to 55:19-92 et seq.;
- (6) Rehabilitation and reuse of property, while in possession and control, pursuant to N.J.S.A. 55:19-90;
- (7) Borrowing money and making applications for rehabilitation of property, while in possession and control, pursuant to N.J.S.A. 55:19-91;
- (8) Sale of property, pursuant to N.J.S.A. 55:19-96;
- (9) Purchase of property, pursuant to N.J.S.A. 55:19-96;
- (10) Recover rehabilitation costs by lien on property, pursuant to N.J.S.A. 55:19-98;
- (11) Clearance, development, redevelopment or repair of property through power of eminent domain, pursuant to N.J.S.A. 55:19-56, 55:19-102.

SECTION 18 - RIGHTS OF UTILITIES

Electric and natural gas utilities are granted such rights to abandoned properties as are set forth in N.J.S.A. 55:19-106.

SECTION 19 - INTERPRETATION

All references in this chapter to state statutes include reference to all amendments thereto. References to particular sections of the enabling statutes are for ease of reference, but may not be exhaustive and are not meant to be exclusive of other applicable statutory provisions contained in the enabling statutes or elsewhere in the New Jersey statutes.

SECTION 20.

All ordinances or parts of ordinances of the Township of Green inconsistent herewith are repealed to the extent of such inconsistency.

SECTION 21.

If any section, subsection, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid by any court of competent jurisdiction, such decision shall not affect the remaining portion of this ordinance.


SECTION 22.

This law shall take effect immediately upon final passage, approval and publication as required by law.

ATTEST:

TOWNSHIP OF GREEN,
IN THE COUNTY OF SUSSEX


Linda Peralta, Clerk/Administrator


Margaret "Peg" Phillips, Mayor

Record of Vote – Adoption:

	AYE	NAY	ABSTAIN	ABSENT
Mr. Chirip	✓			
Mr. Conkling	1st ✓			
Mr. Kurzeja	2nd ✓			
Mr. Qarmout	✓			
Mrs. Phillips				✓

INTRODUCTION: March 14, 2016

ADVERTISED INTRODUCTION: March 18, 2016

PUBLIC HEARING: March 28, 2016

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