

**HAMPTON TOWNSHIP
ORDINANCE 2015-08**

**AN ORDINANCE OF THE TOWNSHIP OF HAMPTON , COUNTY OF SUSSEX,
STATE OF NEW JERSEY AMENDING THE CODE OF THE TOWNSHIP OF
HAMPTON BY ADDING CHAPTER 40 ENTITLED “VACANT AND ABANDONED
PROPERTIES”**

WHEREAS, there are structures in the Township 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 or 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, it is in the public interest for the Township 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 Township; and

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Hampton, Sussex County, New Jersey, that the Code of the Township of Hampton be amended by adding Chapter 40 entitled “**Vacant and Abandoned Properties**” to read as follows:

SECTION 1

§40-1 Definitions

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

Abandoned Property

Is defined in accordance with the Abandoned Properties Rehabilitation Act, N.J.S.A. 55:19-78, et seq., means 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 on a determination by the Public Officer that:

(A) The property is in need of rehabilitation in the reasonable judgment of the Public Officer, 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 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 (see N.J.S.A. 55:4-1 et seq.) as of the date of a 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 (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, none of the residential 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 subparagraph (1)(A) or (1)(D) of the definition of “Abandoned Property” set forth in Section 40-1(A).

Creditor

A creditor who files a Summons and Complaint in an action to foreclose.

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 ordinance.

Owner

The title holder, any agent of the title holder having authority to act with respect to a property, any foreclosing person or entity subject to the provisions of N.J.S.A. 46:10B-51 (P.L. 2008, c. 127, §17, as amended), and/or any other person or entity determined by the Township to act with respect to a property.

Vacant Property

A building that was or is used or whose purpose is 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/or 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. A 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.

Public Officer

The Township Code Enforcement Officer.

§ 40-2 Duties of 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 or abandoned, shall, immediately:

(a) 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, 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 140 inches by 17 inches; and

(b) Enclose and secure the building against unauthorized entry as provided in the applicable provisions of the Code of the Township and maintain the sign required by Section 40-2(a) hereof until the building is legally occupied or demolished or until repair or rehabilitation of the building is complete; and

(c) Make provision for the maintenance of the lawn and yard, including regular grass cutting as required by the applicable provisions of the Code of the Township ; and

(d) 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 for the delivery of circulars and advertisements to the property; and

(e) 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

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

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

§ 40-3 Owner's Violations and Penalties

(a) Any owner who is not in full compliance with this chapter shall be subject to a fine of not less than \$500 and not more than \$1,000 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.

(b) Nothing in this chapter is intended to nor shall be read to conflict or prevent the Township from taking action regarding buildings found to be unfit for human habitation or unsafe structures as provided in applicable provisions of the Code of the Township, New Jersey Statutes 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 his, her or its obligations under this chapter.

§ 40-4 Responsibilities of Creditors, Violations and Fines

(a) Pursuant to the provisions of N.J.S.A. 40:48-2.12s, a 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 and abandoned is made in accordance with this or any other section of the Code of the Township, with N.J.S.A. 2A:50-73, or with any other law.

(b) 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.

(c) 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).

(d) 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 section 4-4 hereof shall be subject to a fine of \$2,500 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.

(e) A public officer appointed pursuant to N.J.S.A. 40:48-2.3 et seq., or the public officer appointed per 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 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. 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.

(f) A creditor found by the municipal court, or by any other court of competent jurisdiction, to be in violation of the requirement to care for, maintain, secure or upkeep a property as cited in a notice issued pursuant to this Section 40-4(e) hereof shall be subject to a fine of \$1,500 for each day the violation continues 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.

(g) In accordance with N.J.S.A. 40:48-12.s (d), no less than twenty percent (20%) of any money collected from creditors under Section 40-4 hereof shall be utilized by the Township for municipal code enforcement purposes.

§ 40-5. Municipal Powers to Rehabilitate Abandoned Properties.

The Township shall have an option in its sole discretion and all such powers granted to municipalities by the State of New Jersey for the rehabilitation of abandoned property. Such powers and the procedure to exercise same 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 et seq.). These statutory powers are collectively referred to herein as the "enabling statutes."

§40-6. Public Officer.

The Public Officer, as defined in N.J.S.A. 40:19-80, who is responsible for executing the provisions of chapter and for the rehabilitation of abandoned property, shall be the Township Code Enforcement Officer.

§ 40-7 Designation of Abandoned Property.

The Public Officer shall designate a property as an "abandoned property" if said property meets the criteria set forth in Section 40-1 hereof (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.

§ 40-8. 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.

§ 40-9 Rights of Owner of Abandoned Property

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:

- (a) Challenging the inclusion of a property on the Abandoned Property List, pursuant to N.J.S.A. 55:19-55e;

- (b) Seeking removal from said list, pursuant to N.J.S.A. 55:19-57 and 55:19-103;
- (c) Petitioning for reinstatement of control and possession, pursuant to N.J.S.A. 55:19-92, et seq.

§ 40-10. Municipal Powers.

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

- (a) Sale of tax lien, pursuant to N.J.S.A.55:19-56;
- (b) Special tax sales, pursuant to N.J.S.A. 55:19-101;
- (c) Foreclosing the right to redemption, pursuant to N.J.S.A. 55:19-58;
- (d) Recourse directly against property owner, pursuant to N.J.S.A. 55:19-100;
- (e) Possession and control of property, pursuant to N.J.S.A. 55:19-84 to 55:19-92 et seq,
- (f) Rehabilitation and reuse of property, while in possession and control, pursuant to N.J.S.A. 55:19-90;
- (g) Borrowing money and making applications for rehabilitation of property, while in possession and control, pursuant to N.J.S.A. 55:19-91;
- (h) Sale of property, pursuant to N.J.S.A. 55:19-96;
- (i) Purchase of property, pursuant to N.J.S.A.55:19-96;
- (j) Recover rehabilitation costs by lien on property, pursuant to N.J.S.A.55:19-98;
- (k) Clearance, development, redevelopment or repair of property through power of eminent domain, pursuant to N.J.S.A. 55:19-56, 55:19-102.

§ 40-11. Rights of Public Utilities.

All Public Utilities including but not limited to electric and natural gas utilities retain such rights to abandoned properties as set forth in N.J.S.A. 55:19-106 & 107.

§ 40-12 Interpretation.

All references in this section 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 2. All ordinances or parts of ordinances of the Township inconsistent herewith are repealed to the extent of such inconsistency.

SECTION 3. 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 4. This ordinance shall take effect immediately upon final passage, and publication as required by law.

CERTIFICATION

I hereby certify that the above Ordinance was adopted by the Township Committee at their regular meeting held October 27, 2015, at the Hampton Township Municipal Building, Baleville, Sussex County, New Jersey.

Date: _____

Kathleen Armstrong, RMC
Township Clerk

**HAMPTON TOWNSHIP
NOTICE
ORDINANCE 2015-08**

TAKE NOTICE that the foregoing Ordinance #2015-08 was introduced and passed on First Reading at the regular meeting of the Hampton Township Committee held on September 29, 2015, and was ordered published according to law, and will be further considered at the regular meeting of the Hampton Township Committee to be held on October 27, 2015. All interested parties may appear and be heard. A copy of this Ordinance has been posted on the Bulletin Board upon which public notices are customarily posted in the Township Hall of the Township.

Kathleen Armstrong, RMC
Township Clerk

**HAMPTON TOWNSHIP
NOTICE**

NOTICE IS HEREBY GIVEN that the foregoing Ordinance #2015-08 was adopted at Final Reading at the regular meeting of the Township Committee of the Township of Hampton, County of Sussex held on Tuesday, October 27, 2015, at the Hampton Township Municipal Building, Baleville, N.J.

Kathleen Armstrong, RMC
Township Clerk