

**SANDYSTON TOWNSHIP
SUSSEX COUNTY, NEW JERSEY**

ORDINANCE #2018-03

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

WHEREAS, mortgage foreclosures often result in the abandonment and neglect of residential properties; and

WHEREAS, in situations where properties are not in mortgage foreclosure, the abandoned properties create a range of problems; and

WHEREAS, P.L. 2003, c. 210, authorizes municipalities to adopt ordinances for the purpose of regulating the care, maintenance, security and upkeep of the exterior of vacant and abandoned residential properties; and

WHEREAS, P.L. 2014, c. 35, authorizes municipalities to adopt ordinances for the purpose of regulating the care, maintenance, security and upkeep of the exterior of vacant and abandoned residential properties for which a creditor has filed an action to foreclose; and

WHEREAS, it is in the public interest for the Township of Sandyston to establish a mechanism to identify and track vacant and abandoned residential properties in the Township including those properties which are in foreclosure, to establish standards for the maintenance of those properties and to enforce those standards of maintenance.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Sandyston, County of Sussex and State of New Jersey as follows:

Section 1. The Revised General Ordinances of the Township of Sandyston are hereby amended by the addition of a new chapter entitled Vacant and Abandoned Properties, to read as follows:

Registration and Maintenance of Vacant and Abandoned Residential Properties and Vacant and Abandoned Residential Properties in Foreclosure

1. Definitions

"Creditor" means a State chartered bank, savings bank, savings and loan association or credit union, any person or entity required to be licensed under the provisions of the "New Jersey Residential Mortgage Act," P.L. 2009, c.53 (C.17:11C-51 et seq.), any foreclosing entity subject to the provisions of C.46:10B-51 (P.L. 2008, c. 127, Sec. 17, as amended from time to time) and any entity acting on behalf of the creditor named in the debt obligation including, but not limited to, servicers.

"Vacant and Abandoned" residential property means, consistent with section 1 of P.L. 2012, c.70 (C.2A:50-73), residential real estate, where a notice of violation has been issued pursuant to Section 6(a) of this Section and subsection b. of section 1 of P.L.2014, c.35 (C.40:48-2.12s), or property which any condition 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 (3) or more months.

Residential property shall further be deemed Vacant and Abandoned where a mortgaged property is not occupied by a mortgagor or tenant.

“Evidence of Vacancy” Such evidence would include, but is not limited to, evidence of the existence of two (2) or more of the following conditions at the property:

- (a) over grown or neglected vegetation;
- (b) the accumulation of newspapers, circulars, flyers or mail on the property;
- (c) disconnected gas, electric, or water utility services to the property;
- (d) the accumulation of hazardous, noxious, or unhealthy substances or materials on the property;
- (e) the accumulation of junk, litter, trash or debris on the property;
- (f) the absence of window treatments such as blinds, curtains or shutters;
- (g) the absence of furnishings and personal items;
- (h) statements of neighbors, association management, delivery persons, or government employees indicating that the residence is vacant and abandoned; infestation by insects, vermin, rats or other pests;
- (i) windows or entrances to the property that are boarded up or closed off or multiple window panes that are damaged, broken and unrepaired;
- (j) doors to the property that are smashed through, broken off, unhinged, or continuously unlocked;
- (k) a risk to the health, safety or welfare of the public, or any adjoining or adjacent property owners, exists due to acts of vandalism, loitering, criminal conduct, or the physical destruction or deterioration of the property;
- (l) an uncorrected violation of a municipal building, housing, or similar code during the preceding year, or an order by municipal authorities declaring the property to be unfit for occupancy and to remain vacant and unoccupied;
- (m) the mortgagee or other authorized party has secured or winterized the property due to the property being deemed vacant and unprotected or in danger of freezing;
- (n) a written statement issued by any mortgagor expressing the clear intent of all mortgagors to abandon the property;
- (o) any other reasonable indicia of abandonment.

“Owner” means the titleholder, any agent of the titleholder having authority to act with respect to the vacant property, any foreclosing entity subject to the provisions of N.J.S.A. 46:10B-51 (P.L. 2008, c.127. 17) or any other entity determined by the Township of Sandyston to act with respect to the property.

“Seasonal Residences” shall be those residences in the Township of Sandyston 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.

“Service” The Township may effectively service on the by serving notice on the tenant and/or positioning any notices on the property. All notices will be on file with the Municipal clerk for public review.

2. Registration of Vacant and Abandoned Properties

(a). A Creditor filing a summons and complaint in an action to foreclose on a Vacant and Abandoned property, or a Creditor who has previously filed a summons and complaint to foreclose on a residential property which subsequently becomes Vacant and Abandoned, or the Owner of a Vacant and Abandoned property, shall within thirty (30) calendar days after the building becomes Vacant and Abandoned or within thirty (30) calendar days after assuming ownership of the Vacant and Abandoned property, whichever is later; or within ten (10) calendar days of receipt of notice from the Township, and annually thereafter, file a registration statement for such Vacant and Abandoned property with the municipal clerk on forms provided by the Township for such purposes. Any failure to receive notice from the Township shall not constitute grounds for failing to register the Vacant and Abandoned property.

(b). Each Vacant and Abandoned property having a separate block and lot number as designated in the official tax maps of the Township shall be registered separately.

(c). The registration statement shall include the name, street address, telephone number, and email address (if applicable) of a person twenty one (21) years or older, designated by the Creditor or 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 Creditor in connection with the enforcement of any applicable code.

(d). 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 Owner of the Vacant or Abandoned property or the firm's individual principal(s) responsible for maintaining the Abandoned and Vacant property. The Owner or the individual or representative of the firm responsible for maintaining the Abandoned and Vacant property shall be available by telephone or in person on a twenty-four-hour per day, seven-day per week basis. The two entities may be the same or different persons. In the case of a Creditor, both entities shown on the statement must maintain offices in the State of New Jersey or reside within the State of New Jersey.

(e). The registration shall remain valid for one year from the date of registration except for the initial registration which shall be valid through December 31st of the year in which it was filed. The Owner of the property or the Creditor shall be required to renew the registration annually as long as the building remains Vacant and Abandoned and shall pay a registration or renewal fee in the amount prescribed in Section 3. of this Section for each Vacant and Abandoned property registered.

(f). 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 Sandyston 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.

(g). 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 ten (10) months prior to that date.

(h). The Owner of the property or the Creditor shall notify the municipal clerk within thirty (30) calendar days of any change in the registration information by filing an amended registration statement on a form provided by the municipal clerk for such purpose.

(i). 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 Creditor.

3. Fee Schedule

The initial registration fee for each Vacant and Abandoned property under the provisions of this Section shall be five hundred (\$500.00) dollars. The fee for the first annual renewal shall be one thousand five hundred (\$1,500.00) dollars and the fee for the second annual renewal shall be three thousand (\$3,000.00) dollars. The fee for any subsequent annual renewal beyond the second renewal shall be five thousand (\$5,000.00) dollars.

4. Requirements for Owners of Vacant and Abandoned Property.

The owner of any building that has become vacant and abandoned property, and any person maintaining, operating or collecting rent for any such building that has become vacant, 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 15 inches by 17 inches; and
- (b) Enclose and secure the building against unauthorized entry and maintain the sign required in Section 4(a) above until the building is again 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; and
- (d) Make provision for the cessation of the delivery of mail, newspapers and circulars to the property; and
- (e) Make provision for the winterizing of the property by draining the 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.
- (h) Post the property properly with "NO TRESSPASSING" signs of a nature sufficient to give notice to any person entering upon the property that it is against the law to enter the property without permission of the owner.

5. Responsibility for Vacant and Abandoned Properties

(a). The Owner of the property or a Creditor filing a summons and complaint in an action to foreclose on a residential property within the Township shall be immediately responsible for the care, maintenance, security and upkeep of the exterior of the property, after the property becomes Vacant and Abandoned as defined in this Section.

(b). Where a Creditor is located out-of-state, the Creditor shall be responsible for appointing an in-State representative or agent to act on the Creditor's behalf for the purpose of satisfying the requirements of Section 5 of this Section. Notice of said representative or agent shall be provided to the municipal clerk pursuant to Section 2 and pursuant to paragraph (1) of subsection a. of section 17 of P.L.2008, c.127 (C.46:10B-51).

6. Notice

(a). The enforcement officers designated in this Section shall be authorized to issue a notice to the Owner of the property, or a Creditor that has filed a summons and complaint in an action to foreclose on a residential property within the Township, if the enforcement officer determines that the Owner of the property, or Creditor that has filed a summons and complaint in an action to foreclose on a residential property within the Township has violated this

Section by failing to provide for the care, maintenance, security, and upkeep of the exterior of a Vacant and Abandoned property. Where a Creditor is an out-of-State Creditor, the notice shall be issued to the representative or agent that has been identified by the Creditor pursuant to Section 5 of this Section and paragraph (1) of subsection a. of section 17 of P.L.2008, c. 127 (C.46:10B-51).

(b). The notice referenced in Section 6(a) of this Section shall require the Owner or Creditor to correct the violation(s) 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.

(c). The issuance of a notice pursuant to Section 6(a) of this Section shall constitute proof that a residential property is Vacant and Abandoned for the purposes of this Section.

(d). Notice may be posted on said properties of said summons and or notice by posting to said door or front structure.

7. Enforcement Officers

The duty of administering and enforcing the provisions of this Section is conferred upon the municipal clerk, construction official, zoning officer, code enforcement official, and any other duly appointed representatives.

8. Violations and Penalties

(a). The Owner of a property, or a Creditor subject to this Section that is found by the municipal court of the Township, 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 Section shall be subject to a fine of up to \$1,500 for each day of the violation. Any fines imposed pursuant to this paragraph shall commence thirty-one (31) days following the 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.

(b). An out-of-state Creditor subject to this Section that is found by the municipal court of the Township, 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 this Section shall be subject to a fine of up to \$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 set forth in paragraph (1) of subsection a. of section 17 of P.L.2008, c. 127 (C.46:10B-51) for providing notice to the municipal clerk that a summons and complaint in an action to foreclose on a mortgage has been served.

(c). The Owner of a property, or a Creditor subject to this Section, that is found by the municipal court of the Township, or by any other court of competent jurisdiction, to be in violation of the requirement to register a Vacant and Abandoned property pursuant to Section 2. of this Section shall be subject to a fine not exceeding two thousand (\$2,000.00) dollars. Any fines imposed on a Creditor under Section 2 shall commence eleven (11) days following receipt of notice from the Township pursuant to Section 2 of this Section.

(d). No less than 20% percent of any money collected by the Township pursuant to this Section shall be utilized by the Township for municipal code enforcement purposes.

(e). Nothing in this Section is intended to nor shall be read to conflict or prevent the Township from taking action against buildings found to be unfit for human habitation or unsafe structures as provided in the applicable provisions of the Code of the Township 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 the Owner from its obligation under this Section.

(f). Municipal powers to rehabilitate abandon property. The Township 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 thru -77). These statutory powers are collectively referred to as the "Enabling Statutes".

Section 2. All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

Section 3. If any section, subsection, clause or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the remaining portions of this ordinance.

Section 4. This ordinance shall take effect twenty (20) days after final passage and publication according to law.

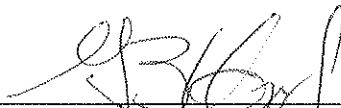
Roll Call Vote: Ayes: MacDonald, Hull, Harper (3); Nays (0); Absent (0); Abstain (0)

Introduced: March 13, 2018

Adopted: April 10, 2018

ATTEST:


Amanda F. Lobban, RMC


George B. Harper, Jr., Mayor

NOTICE OF ADOPTION

NOTICE is hereby given that the foregoing Ordinance was introduced and passed on the first reading at a meeting of the Sandyston Township Committee held on Tuesday, March 13, 2018 at 7:00 pm. The same will had benefit of second reading and public hearing at which time all interested persons present were given the opportunity to be heard during a regular meeting held Tuesday, April 10, 2018 at 7:00 pm.


Amanda F. Lobban, RMC
Municipal Clerk