

ORDINANCE 2023-08

BOROUGH OF DUNELLEN

Adopted April 3, 2023

BE IT ORDAINED by the Borough Council of the Borough of Dunellen, County of Middlesex, State of New Jersey, that new Dunellen Municipal Code Chapter 270, Vacant and Abandoned Properties and Storefronts, is hereby enacted.

WHEREAS, the Mayor and Council of the Borough of Dunellen finds that vacant and abandoned properties can lead to neighborhood decline and become attractive nuisances causing the Borough to incur significant costs in the form of staff time for code enforcement actions seeking to maintain and ensure the acceptable conditions of these properties; and

WHEREAS, the Borough of Dunellen (the "Borough") contains buildings and storefronts which are vacant; and

WHEREAS, in many cases, the owners or responsible parties of these structures and storefronts are neglectful of them, 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 and storefronts 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, the Borough incurs disproportionate costs in order to deal with the problems of vacant and abandoned buildings and storefronts, including but not limited to, excessive police calls, fire calls and property inspections; and

WHEREAS, it is in the public interest for the Borough to establish minimum standards of accountability on the owners or other responsible parties of vacant and abandoned structures and storefronts in order to protect the health, safety and general welfare of the residents of the Borough; and

WHEREAS, it is in the public interest for the Borough to impose a fee in conjunction with the registration of vacant and abandoned structures and storefronts in light of the disproportionate costs imposed on the Borough by the presence of these structures; and

WHEREAS, it is necessary for the Borough to take adequate steps to monitor such properties and protect Borough residents.

NOW THEREFORE BE IT ORDAINED by the Borough Council of the Borough of Dunellen that it hereby creates Chapter 270 of the Code entitled, "Vacant and Abandoned Properties and Storefronts" to read as follows:

CHAPTER 270

VACANT AND ABANDONED PROPERTIES AND STOREFRONTS.

270-1. DEFINITIONS.

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 N.J.S.A. 46:10B-51 (P.L. 2008, c. 127, sec. 17 as amended by P.L. 2009, c. 296), or any other entity determined by the Borough of Dunellen to have authority to act with respect to the property.

PROPERTY — any portion of improved or unimproved real estate located within the Borough of Dunellen which includes the buildings or structures or portions thereof located on it regardless of condition.

VACANT PROPERTY — shall mean any building or structure which is not at present legally occupied or at which all lawful business or construction operations or residential or other occupancy have substantially ceased for a period of six (6) months, including but not limited to, any property meeting the definition of vacant property in N.J.S.A. 55:19-80 *et seq.*

VACANT STOREFRONT — any area within a building or structure that may be individually leased or rented for any purpose other than residential use which is not present legally occupied or at which all lawful business or construction operations or other occupancy have substantially ceased for a period of six (6) months.

270-2. REGISTRATION REQUIREMENTS.

The owner of any vacant property or vacant storefront as defined herein shall, within 30 calendar days after the building becomes vacant property or storefront or within 30 calendar days after assuming ownership of the vacant property or vacant storefront, whichever is later; or within 10 calendar days of receipt of notice by the municipality, file a registration statement for such vacant property or storefront with the Construction Officer on forms provided by the Borough 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 and only one statement is required for a property that meets both the definition of Vacant Property and Vacant Storefront.

- B. The registration statement shall include the name, street address, telephone number, and email address (if applicable) of a person 21 years 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; and 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.

- C. The registration shall remain valid for one year from the date of registration except for the initial registration time which shall be pro-rated through December 31. The owner shall be required to renew the registration annually as long as the building remains a vacant property or portion thereof remains a vacant storefront and shall pay a registration or renewal fee in the amount prescribed in Section 5 of this ordinance, for each vacant property registered or vacant storefront. The owner shall be required to renew the registration annually as long as the building remains a vacant property or vacant storefront and shall pay a registration or renewal fee in the amount prescribed in Section 5 of this ordinance, for each vacant property or vacant storefront registered.

- D. 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.

- E. The owner shall notify the Clerk within 30 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.

- F. 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 Borough against the owner or owners of the property.

270-3. ACCESS TO VACANT PROPERTIES AND STOREFRONTS.

The owner of any vacant property or vacant storefront registered under this Article shall provide access to the Borough 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 of 9:00 a.m. and 4:00 p.m., or such other time as may be mutually agreed upon between the owner and the Borough.

270-4. RESPONSIBLE OWNER OR AGENT.

- A. An owner who meets the requirements of this Article with respect to the location of his or her residence or workplace in the State of New Jersey may designate him or herself 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 consents to receive any and all notices of code violations concerning the registered vacant property or storefront and all process in any court proceeding or administrative enforcement proceeding brought to enforce code provisions concerning the registered property 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 purposes of this section until the owner notifies the Borough of Dunellen in writing of a change of authorized agent or until the owner files a new annual registration statement.
- C. Any owner who fails to register a vacant property or vacant storefront under the provisions of this Article 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 of the property on record within the Borough of Dunellen 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.

270-5. FEE SCHEDULE.

The initial registration fee and all subsequent annual renewal fees shall be five-hundred dollars (\$500.00) each. In the event that a property meets the definition of both a Vacant Property and Vacant Storefront, and they contain the same block and lot number as designated in official records of the municipality, there shall be only one registration fee applied.

270-6. REQUIREMENTS OF OWNERS OF A VACANT PROPERTY AND/OR STOREFRONTS.

- A. The owner of any building or storefront that has become vacant and any person maintaining or operating or collecting rent for any such building that has become vacant shall, within thirty (30) days thereof:
 - (1) Enclose and secure the building and/or storefront against unauthorized entry as provided in the applicable provisions of the Borough Code, or as set forth in the rules and regulations supplementing those codes; and
 - (2) Post a sign affixed to the building and/or storefront 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 this Article), 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 (8) inches by ten (10) inches; and

- (3) Secure the building and/or storefront from unauthorized entry and maintain the sign until the building is again legally occupied or demolished or until repair or rehabilitation of the building and/r storefront is complete; and
- (4) Ensure that the exterior grounds of the structure or storefront, including yards, fences, sidewalks, walkways, rights-of-ways, 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
- (5) 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; and
- (6) Continue to maintain the property consistent with the requirements of the Borough

Code, including but not limited to Chapter 217, entitled "Property Maintenance."

- B. All areas of vacant storefronts visible by the public from the public street or sidewalk must be maintained in broom-clean condition and free of litter and debris.

270-7. WAIVER OF FEES.

A waiver of the registration fee set forth herein may be granted, upon application, by the Borough Administrator for the current year if the following conditions are met:

- A. All local municipal fees are paid in full; and
- B. A consistent good faith effort is shown to market, rent, sell, or lease the vacant property or storefront. Good faith efforts include but are not limited to contracts with a real estate licensee, newspaper, electronic advertisements or other methods provided that the effort is actually likely to generate interest in the property and the owner is actually willing to rent, sell or lease and the pricing is consistent with other similar properties or portions thereof as attested by a real estate licensee as licensed by the NJ Real Estate Commission. The mere placement of a "for sale" or "for rent or lease" sign on or in the building in and of itself does not meet the requirements of this subsection; and
- C. The Vacant Property or Storefront is in compliance with all Borough of Dunellen codes and ordinances.

270-8. VIOLATIONS.

- A. Any person who violates any provision of this Article or of the rules and regulations issued hereunder shall be fined not less than \$100.00 and not more than \$2,000.00 for each offense. Every day that a violation continues shall constitute a separate and distinct offense. Fines assessed under this chapter shall be recoverable from the owner 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 or portion thereof becomes vacant property or vacant storefront or within 30 calendar days after assuming ownership of a vacant property or storefront, 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 ordinance.

- C. The Construction Officer of the Borough Dunellen shall be the enforcement agent of the within Ordinance. Violations of the within Sections of the Code shall be heard in Municipal Court.

270-9. SEVERABILITY.

Should any section, paragraph, sentence, clause or phrase of this ordinance be declared unconstitutional or invalid for any reason, the remaining portions of this ordinance shall not be affected thereby and shall remain in full force and effect, and to that end the provisions of this ordinance are hereby declared to be severable.

BE IT FURTHER ORDAINED by the Council of the Borough of Dunellen that all ordinances or parts of ordinances inconsistent with this amending ordinance are hereby repealed to the extent of their inconsistencies only.

BE IT FURTHER ORDAINED by the Council of the Borough of Dunellen that this ordinance and requirement thereof shall take effect after passage and publication as required by law.