

FAILS
TOWNSHIP OF HILLSIDE
ORDINANCE O-22-33

ORDINANCE AMENDING THE TOWNSHIP OF HILLSIDE CODE AT CHAPTER 122
“VACANT PROPERTY REGISTRATION AND MAINTENANCE”

WHEREAS, State Bill A2877 was passed on January 18, 2022.

WHEREAS, State Bill A2877 is an act concerning vacant and abandoned property and registration ordinances to address the risk of blight, revising various parts of the statutory law, and supplementing Title 40 of the Revised Statutes.

WHEREAS, State Bill A2877 requires municipalities that have existing ordinances that addresses property registration programs to amend their ordinance to the extent necessary to make them consistent with State Bill A2877.

NOW THEREFORE, BE IT ORDAINED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF HILLSIDE, UNION COUNTY, NEW JERSEY as follows:

SECTION 1: The said ordinance is modified to establish abandoned property and creditors.

CHAPTER 122

“VACANT & ABANDONED PROPERTY REGISTRATION AND MAINTENANCE

§ 122-1. Definitions.

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

CREDITOR — A State chartered bank, savings bank, savings and loan association or credit union, any person required to be licensed under the provision of the “New Jersey Residential Mortgage Lending Act,” section 1 through 39 of P.L.2009, c.53 (C.17:11 C-51 through C.17:11C-89), and any entity acting on behalf of the creditors.

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 that has filed a notice with the Municipal Clerk pursuant to the provisions of N.J.S.A. 46:10B-51 (P.L.2008, e.127, Sec.17, as amended by P.L.2009, e.296)}, or any other entity determined by the Township of Hillside to have authority to act with respect to the property.

PUBLIC OFFICER — The Construction Code Official, or his designee as approved by resolution of the Township Council, is hereby designated as the Public Officer of the municipality and shall exercise the powers prescribed by this chapter.

VACANT AND ABANDONED PROPERTY — Any residential or commercial building {or structure} which is not legally occupied by a mortgagor or tenant, which is in such condition that it cannot be legally reoccupied, and at which at least two of the following conditions exist:

(UNDERSCORES ARE ADDITIONS, {BRACED STRIKEOUTS} ARE DELETIONS)

~~{or at which all lawful business or construction operations or renovation work or residential occupancy have substantially 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;}~~

- A. Overgrown 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, delivery persons, or government employees indicating that the property is vacant and abandoned;
- 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 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 a mortgagor expressing the clear intent of all mortgagors to abandon the property; or
- O. Any other reasonable indicia of abandonment.

~~{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 a habitable condition, and where the building is being actively marketed by its owner for sale or rental, shall not be deemed a vacant and abandoned property for purposes of this chapter.

§ 122-2. Registration requirements.

(UNDERSCORES ARE ADDITIONS, {BRACED STRIKEOUTS} ARE DELETIONS)

A. ~~{Effective July 1, 2013,}~~ The owner of any vacant and abandoned property as defined herein shall within ~~{30}~~ 90 calendar days after the building becomes vacant and abandoned property or within 30 calendar days after assuming ownership of the vacant and abandoned property, whichever is later; or within 10 calendar days of receipt of notice by the municipality, file a registration statement for such vacant and abandoned property with the Code Enforcement Office 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 vacant and abandoned property.

B. 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, shall within 90 calendar days after the building becomes vacant and abandoned or within 30 calendar days after assuming ownership of the vacant and abandoned property, whichever is later; within 10 calendar days of receipt of notice by the municipality, file a registration statement for such vacant and abandoned property with the Code Enforcement Office 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 vacant and abandoned property.

C. ~~{A.}~~ Each property having a separate block and lot number as designated in official records of the municipality shall be registered separately.

D. ~~{B.}~~ The registration statement shall include the name, street address, telephone number, and e-mail address (if applicable) of a person 21 years of age or older, designated by the owner or ~~{owners}~~ 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 ~~{owners}~~ creditor in connection with the enforcement of any applicable code; and the name, street address, telephone number, and e-mail 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 a representative of the firm responsible for maintaining the 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. Both entities shown on the statement must maintain offices in the State of New Jersey or reside within the State of New Jersey.

E. ~~{C.}~~ The registration shall remain valid for one year from the date of registration ~~{except for the initial registration time which shall be prorated through December 31, 2013}~~. The owner or creditor shall be required to renew the registration annually as long as the building remains a vacant and abandoned property and shall pay a registration or renewal fee in the amount prescribed in § ~~{122-8}~~ 122-9 for each vacant property registered.

F. ~~{D.}~~ The annual renewal shall be completed by January 30 each year. The initial registration fee shall be prorated.

G. ~~{E.}~~ The owner or creditor shall notify the Code Enforcement Office within 30 calendar days of any change in the registration information by filing an amended registration statement on a form provided by the Township for such purpose.

H. ~~{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 Township against the owner or ~~{owners}~~ creditor of the building.

I. ~~{G.}~~ The owner or creditor shall maintain insurance in accordance with § ~~{122-6E}~~ 122-7E.

J. ~~{H.}~~ The registration statement may include any additional information that the Public Officer may reasonably require.

§ 122-3. Restoration.

Any owner or creditor of vacant and abandoned property who plans to restore the property to productive use and occupancy during the twelve-month period following the date of the initial registration of the property shall file a sufficiently detailed statement of the their ~~{owner's}~~ plans for restoration of the property with the registration statement. Any owner or creditor who within the initial registration period completes restoration of the property whereby the property no longer is defined as a vacant and abandoned property may request a refund of the vacant and abandoned property registration fee from the Code Enforcement Office upon presentation of a certificate of occupancy who shall forward the request to the Public Officer for approval.

§ 122-4. Access.

The owner or creditor of any vacant and abandoned property registered under this chapter 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 property owner, 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.

§ 122-5. Responsible owner or agent

A. An owner who meets the requirements of this chapter with respect to the location of his or her residence or workplace in the State of New Jersey may designate himself 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 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 purposes of this section until the owner notifies the Township of Hillside 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 and abandoned property under the provisions of this chapter 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 with the Township of Hillside 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.

§ 122-6. Responsible creditor

A. 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 article.

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 § 183-53A. Notice of said representative or agent shall be provided to the Municipal Clerk pursuant to § 122-2D and pursuant to Paragraph (1) of Subsection a of Section 17 of P.L.2008, c.127 (N.J.S.A. 46:10B-51).

C. The Public Officer designated in this article shall be authorized to issue a notice to a creditor that has filed a summons and complaint in an action to foreclose on a residential property within the Township, if the Public Officer determines that the creditor has violated this article 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 § 122-6B and Paragraph (1) of Subsection a of Section 17 of P.L.2008, c. 127 (N.J.S.A. 46:10B-51). The creditor is 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.

§ 122-7. {122-6.} Owner and Creditor requirements.

In additional to any and all other provisions of the Township Code pertaining to the maintenance of land and structures, the owner or creditor of any structure that has become vacant and abandoned property and any person responsible for maintaining any such building that has become vacant shall, within ~~{30}~~ 45 calendar days of the structure becoming vacant and abandoned or within 30 calendar days of the owner taking title to the property, do the following:

A. Board and secure the structure and all unattached accessory structures, garages or similar structures as provided for in the applicable codes of the Township of Hillside or as set forth in rules and regulations promulgated by the Construction Code Official.

B. 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 overgrowth.

C. Post a sign, affixed and protected from the elements, to the structure indicating the name, address and telephone number of the owner and the owner's authorized agent, or creditor, for the purpose of service of process, and the name, address and telephone number of the entity responsible for maintenance of the property, which may be the same as the owner or authorized

agent. The sign shall include the words "No Trespassing" and "to report problems with this building, call..." shall be of sufficient size and shall be placed in a location where it is clearly visible from the nearest public street or sidewalk, whichever is nearer. The sign shall meet the requirements of the Township Code.

D. 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.

E. The owner or creditor of any vacant and abandoned property shall acquire and otherwise maintain liability insurance, in an amount of not less than \$300,000 for buildings designed primarily for residential use, and not less than \$1,000,000 for any other building, including, but not limited to, buildings designed for manufacturing, industrial, storage or commercial uses, covering any damage to any person or any property caused by any physical condition of or in the building or property subject to the provisions of this chapter. Said insurance shall provide a rider for payment of all demolition costs should the vacant building become abandoned and require the Township of Hillside to demolish the building. Any insurance policy acquired or renewed after the building has become vacant shall provide for written notice to the Township of Hillside Public Officer within 30 calendar days of any lapse, cancellation or change in coverage. The owner or creditor shall attach evidence of the insurance to the owner's or creditor's registration statement. Any registration statement submitted that does not include such evidence shall be deemed to be an invalid registration. Insurance must name the Township of Hillside as party or payee for demolition costs should the Township deem demolition is required.

§ 122-8. ~~{122-7.}~~ Rules and regulations issued by Public Officer.

The Public Officer may issue rules and regulations for the administration of the provisions of this chapter. Such administratively promulgated rules and regulations shall be in writing and shall be provided to the owners or creditors of properties registered under this chapter or their designated agents within 30 calendar days of their effective date.

§ 122-9. ~~{122-8}~~ Fees.

The registration and renewal fee for each building shall be as follows:

- A. Initial registration: \$250.
- B. First renewal: \$500.
- C. Any subsequent renewal: \$1,000.

§ 122-10. ~~{122-9}~~ Violations and penalties.

A. ~~{Any person}~~ An owner or an owner's agent who violates any provision of this chapter or of the rules and regulations issued hereunder shall be fined not less than \$100 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 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 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 Township, and failure to provide correct information on the registration statement, failure to comply with the provisions of section § 122-6 of this chapter, or such provisions contained herein shall be deemed to be violations of this chapter.

C. A creditor subject to this ordinance 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 article shall be subject to a fine of \$1,500 for each day of the violation. Any fines imposed pursuant to this subsection shall commence 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 11 days following receipt of the notice.

D. An out-of-state creditor subject to this article 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 article shall be subject to a fine of \$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 ten-day period set forth in Paragraph (1) of Subsection a of Section 17 of P.L.2008, c. 127 (N.J.S.A. 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.

E. A creditor subject to this article 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 § 122-2 shall be subject to a fine not exceeding \$2,000. Any fines imposed on a creditor under this subsection shall commence 11 days following receipt of notice from the Township pursuant to § 122-2B.

F. No less than 20% of any money collected by the Township pursuant to this article shall be utilized by the Township for municipal code enforcement purposes

SECTION 2: All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 3: This ordinance shall take effect upon final passage and publication in accordance with New Jersey law.

Craig M. Epps, Council President

(UNDERSCORES ARE ADDITIONS, {BRACED STRIKEOUTS} ARE DELETIONS)

ATTEST:

I, Shaun Walker, Acting Township Clerk of the Township of Hillside, County of Union, State of New Jersey, do hereby certify that this is a true copy of a resolution adopted by the Township Council at a meeting held on November 22, 2022.

 Shaun Walker, Acting Township Clerk

MOTION	SECOND	NAME	YEAS	NAYS	ABSTAIN	ABSENT	EXCUSED
		Bonanno	X				
X		DeAugustine		X			
	X	Freedman		X			
		Hyatt		X			
		Rios	X				
		Mobley, VP	X				
		Epps, CP		X			