

Ordinance

No. 21-2022

AMENDING CHAPTER 258 OF THE CODE OF THE BOROUGH OF WESTVILLE (PROPERTY MAINTENANCE)

BE IT ORDAINED by the Mayor and Council of the Borough of Westville, in the County of Gloucester, and State of New Jersey, that the Westville Code is hereby amended as follows:

WHEREAS, the Borough of Westville contains structures 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, 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, the Borough incurs disproportionate costs in order to deal with the problems of vacant and abandoned structures, 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 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 registration of vacant and abandoned structures in light of the disproportionate costs imposed on the Borough by the presence of these structures; and

WHEREAS, pursuant to N.J.S.A. 40:48-2, the Council is authorized to enact and amend ordinances as deemed necessary for the preservation of the public health, safety and welfare and as may be necessary to carry into effect the powers and duties conferred and imposed upon the Borough by law; and

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WHEREAS, pursuant to P.L. 2021, c. 444, the Council is authorized to adopt or amend ordinances creating a property registration program for the purpose of identifying and monitoring residential and commercial properties within the Borough for which a summons and compliant in an action to foreclosure on a mortgage has been filed, regulate the care, maintenance, security and upkeep of such properties, and impose a registration fee on the creditor of such properties.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Borough Council of the Borough of Westville, that the Westville Code Chapter 258 is hereby amended by creating a new Section to be entitled "Abandoned Property - Registration Requirements" and to read as follows:

Section 1. Definitions

Foreclosure or Foreclosure Action - shall mean the legal process by which a Mortgagee, or other lien holder, terminates or attempts to terminate a property Owner's equitable right of redemption to obtain legal and equitable title to the Real Property pledged as security for a debt or the Real Property subject to the lien. This definition shall include, but is not limited to, a complaint and summons filed with respect to foreclosure on a mortgage, a lis pendens filed against it by the lender holding a mortgage on the property, a deed-in-lieu of foreclosure, sale to the mortgagee or lien holder, certificate of title and all other processes, activities and actions, by whatever name, associated with the described process. The legal process is not concluded until the property obtained by the Mortgagee, lien holder, or their designee, by certificate of title, or any other means, is sold to a non-related bona fide purchaser in an arm's length transaction to satisfy the debt or lien.

Mortgagee - shall mean the creditor, including, but not limited to, trustees, mortgage servicing companies, lenders in a mortgage agreement, an agent, servant, or employee of the creditor, any successor in interest, or any assignee of the creditor's rights, interests, or obligations under a mortgage agreement for the property, excluding governmental entities as assignee or owner.

Owner - Shall include the title holder, any agent of the title holder having authority to act with respect to a vacant/abandoned property.

Real Property - shall mean any residential or commercial land and/or buildings, leasehold improvements and anything affixed to the land, or portion thereof identified by a property parcel identification number, located in the Borough's limits.

Vacant Property - Any building used or to be used as a residence, commercial or industrial structure which is not legally occupied or at which substantially all lawful construction operations or occupancy has 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. 55:19-54, 55:19-78, 55:19-79, 55:19-80 and 55:19-81; 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 habitable condition, and where the building is being actively marketed by its owner for sale or rental, shall not be deemed a vacant property for purposes of this Ordinance.

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Abandoned Property - Pursuant to N.J.S.A. 55:19-81 is defined as follows:

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 public officer that:

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;

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;

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 of the date of the determination by the public officer pursuant to this section; or

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). A property which contains both residential and nonresidential space may be considered abandoned pursuant to P.L. 2003, c. 210 (N.J.S.A. 55:19-78 et al.) so long as 2/3 or more of the total net square footage of the building was previously legally occupied as residential or commercial space and none of the residential or commercial 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 subsection a. or subsection d. of this section.

Section 2. Registration requirements.

Effective August 1, 2022, any owner of a vacant property that is not subject to foreclosure or the mortgagee of any foreclosure property as defined herein shall, within 30 calendar days after the building becomes vacant property or foreclosure property or within 30 calendar days after assuming ownership of the vacant property, whichever is later, or within 10 calendar days of receipt of notice by the municipality for a vacant property, file a registration statement for such vacant property with the Property Maintenance Inspector 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.
- b) The registration statement shall include the name, street address, telephone number, and e-mail 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 proceedings on behalf of such owner or owners in connection with the enforcement of any applicable code; and the name, street address, telephone number, and e-mail (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 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.
- c) The Vacant registration shall remain valid for one year from the date of registration. The owner shall be required to renew the registration annually as long as the building remains a vacant and/or abandoned property and shall pay a registration or renewal fee in the amount prescribed in Section 5 of this Ordinance, for each vacant property registered. The owner shall be required to renew the registration annually as long as the building remains a vacant property and shall pay a registration or renewal fee in the amount prescribed in Section 5 of this Ordinance, for each vacant property registered.

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- d) The Foreclosure registration, as evidenced by a foreclosure filing, shall remain valid for one year from the date of registration. The mortgagee or their agent shall be required to renew the registration annually, as long as the property remains a foreclosure property, and shall pay a registration or renewal fee in the amount prescribed in Section 5 of this Ordinance, for each Foreclosure property registered.
- e) Registration fees and penalties outlined in this Article may be modified an amendment to this Article, passed and adopted by the Council.
- f) The annual renewal for vacant and foreclosure properties shall be completed by January 1st each year.
- g) The owner, mortgagee or the mortgagee's agent shall notify the Property Maintenance Inspector within 30 calendar days of any change in the registration information by filing an amended registration statement on a form provided by the Property Maintenance Inspector for such purpose.
- h) 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 building.
- i) Registration of property does not alleviate the Mortgagee and/or Owner from obtaining all required licenses, permits and inspections required by applicable code or State Statutes. Acquisition of required licenses, permits and inspections or registration of rental property does not alleviate the requirement for the property to be registered under this section. Mortgagee and/or Owner is expected to update the status of the property in the event of a Mortgagee managed rental.

Section 3. Access to vacant properties.

The owner of any vacant property registered under this section 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.

Section 4. Responsible owner or agent.

- a) An owner or mortgagee 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 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 or mortgagee 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 in writing of a change of authorized agent or until the owner files a new annual registration statement.
- c) Any owner or mortgagee who fails to register vacant/abandoned or foreclosure property 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 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.

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Section 5. Fee schedule.

a) Vacant Property Registration Fee Schedule:

The initial registration fee for each building shall be five-hundred (\$500.00) dollars. Fees for renewal for every subsequent year will be two thousand (\$2,000.00) dollars annually.

Vacant Property Registration Fee Schedule

Initial registration	\$ 500
Subsequent Years	\$2,000

b) Foreclosure Property Registration Fee Schedule:

The initial registration fee for each building shall be five-hundred (\$500.00) dollars. The fee for any subsequent renewals is five hundred (\$500.00) dollars.

Foreclosure Property Registration Fee Schedule

Initial registration	\$500
Subsequent renewals	\$500

i. If the Foreclosing or Foreclosed Property is not registered, or the registration fee is not paid within thirty (30) days of when the registration or renewal is required pursuant to this section, a late fee equivalent to ten percent (10%) of the Annual Registration fee shall be charged for every thirty-day period (30), or portion thereof, the property is not registered and shall be due and payable with the registration.

Section 6. Requirements of owners of vacant/abandoned properties.

The owner of any building that has become vacant/abandoned property, and any person maintaining or operating or collecting rent for any such building that has become vacant shall, within 30 days thereof:

(1) Enclose and secure the building 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 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 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 from unauthorized entry and maintain the sign until the building is again legally occupied or demolished or until repair or rehabilitation of the building is complete; and

(4) 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 gross 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.

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Sections 7. Violations.

- a) Any person or mortgagee who violates any provision of this section or 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 section 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 or foreclosure 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 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.

Section 8. Repealer

All Ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistencies.

Section 9. Severability:

Each section of this Ordinance is an independent section, and the holding of any section or part thereof to be unconstitutional, void or ineffective, shall not be deemed to affect the validity or constitutionality of any other sections or parts hereof.

Section 10. Amendments:

Registration fees and penalties outlined in this Article may be modified an amendment to this Article, passed and adopted by the Council.

Section 11. Effective date:

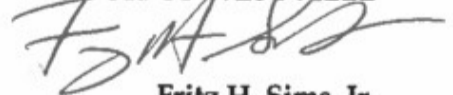
This Ordinance shall be in full force and effect from and after its adoption and any publication as may be required by law.

This Ordinance shall be in full force and effect from and after its adoption and any publication as may be required by law.

Introduced: September 21, 2022

Adopted: October 24, 2022

BOROUGH OF WESTVILLE



Fritz H. Sims, Jr.
MAYOR

ATTEST:



Kathleen Carroll
DEPUTY MUNICIPAL CLERK