

**THE TOWNSHIP OF EWING  
COUNTY OF MERCER, NEW JERSEY**

**ORDINANCE NO. 13-16**

1st Reading 4-9-13

Date to Mayor 4-24-13

2nd Reading &  
Public Hearing 4-23-13

Date Returned \_\_\_\_\_

Date Adopted:  
4-23-13

Date Resubmitted to Council \_\_\_\_\_

Approved as to Form of Legality

Effective Date:  
5-13-13

AN ORDINANCE AMENDING THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF EWING IN THE COUNTY OF MERCER, TO AMEND CHAPTER 161 DWELLINGS, UNFIT OF THE CODE OF THE TOWNSHIP OF EWING TO ADD A NEW SECTION ESTABLISHING PROVISIONS GOVERNING THE MAINTENANCE OF VACANT AND ABANDONED PROPERTIES AND LEVYING A REGISTRATION FEE ON OWNERS OF VACANT AND ABANDONED PROPERTIES

First Reading

MEMBER	AYE	NAY	ABS	NV	RES	SEC
Baxter	X				X	
Keyes-Maloney	X					
Schroth	X					
Wollert	X					X
Hyser	X					

Second Reading

MEMBER	AYE	NAY	ABS	NV	RES	SEC
Baxter	X					X
Keyes-Maloney	X					
Schroth	X				X	
Wollert				X		
Hyser	X					

By \_\_\_\_\_ Date \_\_\_\_\_ Accepted \_\_\_\_\_ Rejected \_\_\_\_\_  
Mayor

Reconsidered  
By Council \_\_\_\_\_ Override Vote YEA \_\_\_\_\_ NAY \_\_\_\_\_

\_\_\_\_\_  
President of the Council

\_\_\_\_\_  
Municipal Clerk

TOWNSHIP OF EWING  
ORDINANCE NO. **13-16**

AN ORDINANCE AMENDING THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF EWING IN THE COUNTY OF MERCER, TO AMEND CHAPTER 161 DWELLINGS, UNFIT OF THE CODE OF THE TOWNSHIP OF EWING TO ADD A NEW SECTION ESTABLISHING PROVISIONS GOVERNING THE MAINTENANCE OF VACANT AND ABANDONED PROPERTIES AND LEVYING A REGISTRATION FEE ON OWNERS OF VACANT AND ABANDONED PROPERTIES

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WHEREAS, the Township of Ewing contains several structures which are vacant in whole or large part; and

WHEREAS, in many cases the owners or other responsible parties of these structures are neglectful of them, are not maintaining or securing them to the adequate standard, or restoring them to productive use; and

WHEREAS, it has been established that vacant and abandoned structure 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 risk; and

WHEREAS, it is in the public interest for the Township of Ewing 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 of Ewing; and

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

NOW, THEREFORE, BE IT ORDAINED by the Township Council of the Township of Ewing, as follows:

**§161-10 Vacant Properties**

**Section 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 C.46:10B-51 (P.L. 2008, c. 127, Sec. 17), or any other entity determined by the Township of Ewing to have authority to act with respect to the property.

“Vacant Property” shall mean any building used or 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 any 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. Any 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.

“Evidence of Vacancy” means 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 (3) 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.

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.

“Abandoned property” as defined in accordance with the Abandoned Properties Rehabilitation Act, N.J.S.A. 55:19-78, et seq., shall mean the following:

Except as provided in section 6 of P.L.2003, c. 210 (C.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 upon 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 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 (C.55:19-82).

A property which contains both residential and non-residential space may be considered abandoned pursuant to P.L.2003, c. 210 (C.55:19-78 et al.) so long as two-thirds or more of the total net square footage of the building was previously legally occupied as residential space and 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 subsection a. or subsection d. of this section.

## **Section 2 General Requirements.**

- a. The owner of any vacant property as defined herein shall within thirty (30) days after the building becomes vacant property or within 30 days after assuming ownership of the vacant property, whichever is later, file a registration statement for each such vacant property with the Ewing Township Office of Code Enforcement on forms provided by the Office of Code Enforcement for such purposes. The registration shall remain valid until the end of the calendar year. The owner shall be required to renew the registration annually, no later than January 31<sup>st</sup> as long as the building remains vacant property and shall pay a registration or renewal fee in the amount prescribed in Section 4 of this ordinance for each vacant property registered.
- b. Any owner of any building that meets the definition of vacant property prior to April 23, 2013 shall file a registration statement for that property on or before June 15, 2013. The registration statement shall include the information required under Section 3 of this ordinance, as well as any additional information that the Office of Code Enforcement may reasonably require.

- c. The owner shall notify the Office of Code Enforcement within thirty (30) days of any change in the registration information by filing an amended registration statement on a form provided by the Office of Code Enforcement for such purpose.
- d. The registration statement shall be deemed prima facie proof of the statement therein contained in any administrative enforcement proceeding or court proceeding instituted by the Township of Ewing against the owner or owners of the building.

**Section 3. Registration Statement Requirements; Property Inspection.**

- a. After filing a registration statement or a renewal of a registration statement, the owner of any vacant property shall provide access to the Ewing Township Code Enforcement Official if requested, following reasonable notice, during the period covered by the initial registration or any subsequent renewal. If an inspection is required of the interior of the property due to complaints or other cause, the fee for such inspection shall be the same as that for a Certificate of Occupancy inspection as provided in the applicable provisions of the Code of the Township of Ewing.
- b. The registration statement shall include the name, street address, and telephone number of a natural person twenty-one (21) years of age 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. The designated agent must have a contact number that will be available 24 hours per day on an emergency basis. The statement shall also include the name of the person responsible for maintaining and securing the property, if different from the designated agent.
- c. An owner who is a natural person and who meets the requirements of this Ordinance as to availability of a contact number on a 24 hour emergency basis may designate him or herself as agent.
- d. 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 Ewing 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 ordinance.

**Section 4. Fee Schedule.**

The initial registration fee for each building shall be \$250.00. The fee for the first renewal is \$500.00. The fee for any subsequent renewal is \$1,000.00. After five years, the registration fee shall be \$5,000.00.

Vacant and Abandoned Property Registration Fee Schedule:

Initial registration	\$250.00
First Renewal	\$500.00
Any subsequent renewal up to five years	\$1,000.00
After five years	\$5,000.00

## **Section 5. 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 (if designated pursuant to Section 3 of this ordinance), 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 locations so as to be legible from the nearest public street or sidewalk, whichever is nearer, but shall be no smaller than 15" x 17"; and
- b. Enclose and secure the building against unauthorized entry as provided in the applicable provisions of the Code of the Township of Ewing and maintain the sign required in (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 as required by the applicable provisions of the Code of the Township of Ewing; 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 Ewing Township Clerk 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; and
- f. Make provision for the cessation of electric or gas utility services to the property; and
- g. Make provision for the regular maintenance of the exterior of the property.

## **Section 6. Administration.**

The Ewing Township Mayor and Council may issue rules and regulations for the administration of the provisions of this ordinance.

## **Section 7. Violations and Penalties.**

- a. Any owner who is not in full compliance with this ordinance or who otherwise violates any provision of this ordinance or of the rules and regulations issued hereunder shall be subject to a fine of not less than \$500.00 dollars and not more than \$1,000.00 for each offense. Every day that a violation continues shall constitute a separate and distinct offense. Fines assessed under this ordinance shall be recoverable from the owner and shall be a lien on the property.
- b. For purposes of this ordinance, failure to file a registration statement in time, failure to provide correct information on the registration statement, failure to comply with the provisions of Section 5 of this ordinance, or such other matters as may be established by the rules and regulations of the Council of the Township of Ewing shall be deemed to be violation of this ordinance.

**Section 8. Compliance with Other Provisions.**

Nothing in this ordinance is intended to nor shall be read to conflict or prevent the Township of Ewing from taking action against buildings found to be unfit for human habitation or unsafe structures as provided in applicable provisions of the code of the Township of Ewing 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 its obligations under this Ordinance.

II. BE IT FURTHER ORDAINED, that if any section, paragraph, subsection, clause or provision of this ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provisions so adjudicated, and the remainder of the ordinance shall be deemed valid and effective, and

III. BE IT FURTHER ORDAINED, that this ordinance shall take effect twenty (20) days after final passage by Council and approval by the Mayor.

**STATEMENT**

This Ordinance amends the Revised General Municipal Ordinances of the Township of Ewing to amend Chapter 161 Dwellings, Unfit of the Code of the Township of Ewing to add a new section establishing provisions governing the maintenance of vacant and abandoned properties and levying a registration fee on owners of vacant and abandoned properties.