

BOROUGH OF ALLENHURST

ORDINANCE NO.: 2020-04

AN ORDINANCE AMENDING AND SUPPLEMENTING THE BOROUGH CODE OF THE OF ALLENHURST, CHAPTER IX ENTITLED BUILDING AND HOUSING ADDING SECTION 9.7 ENTITLED VACANT / ABANDONED PROPERTY ESTABLISHING RULES AND REGULATIONS RELATING TO VACANT OR ABANDONED PROPERTY.

Offered By: Mayor McLaughlin

Seconded By: Comm. McLoughlin

WHEREAS, pursuant to the New Jersey Abandoned Property and Rehabilitation Act, N.J.S.A. 55:19-78 et seq., (the Act), the Borough of Allenhurst has the power to establish a Vacant/Abandoned Property List and establish specific municipal powers to enforce said List; and

WHEREAS, the Borough contains structures which are vacant and/or abandoned in whole or large part; and

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

WHEREAS, the Borough Council of the Borough of Allenhurst has determined that it is in the best interests of the community to establish minimum standards of accountability on the owners or other responsible parties; to require registration of vacant and abandoned structures in order to protect the health, safety and general welfare of the residents of the Borough by revising certain portions of its existing Building and Housing Regulations to address the needs of the community;

NOW THEREFORE, BE IT ORDAINED by the Borough of Allenhurst, County of Monmouth, State of New Jersey, that the Borough Code of the Borough of Allenhurst be and is hereby amended to add section 9.7 to Chapter IX entitled BUILDING AND HOUSING as follows:

9-7 VACANT/ABANDONED PROPERTIES; REGISTRATION.

9-7.1 Abandoned Property List

a. The Borough's Code Enforcement Official is hereby directed to identify abandoned properties within the municipality, place said properties on an abandoned property list established pursuant to N.J.S.A. 55:19-55, and provide such notices and carry out such other tasks as are required to effectuate an abandoned property list as provided by law.

b. The abandoned property list established herein shall apply to the Borough as a whole and in its entirety.

c. The Code Enforcement Official is hereby designated as the public officer for purpose of carrying out the responsibilities and powers provided by law.

d. The Code Enforcement Official shall exercise the authority granted to the Borough pursuant to N.J.S.A. 55:19-90 to designate qualified rehabilitation entities to act as the designee of the Borough as provided by law.

e. The Code Enforcement Official shall provide a report to the Borough's Governing Body every six (6) months with respect to the number and location of properties on the abandoned property list, the status of those properties, and any actions taken by the Borough or by any qualified rehabilitation entity designated pursuant to the authority granted to the Code Enforcement Official with respect to any property on the list or any other abandoned property within the Borough of Allentown.

f. This section shall be in full force and take effect twenty (20) days after final passage and publication, as required by law.

9-7.2 Definitions. For purposes of this section, the following meanings apply:

Abandoned Property shall mean, pursuant to N.J.S.A. 55:19-81, as follows: Any property that has not been legally occupied for a period of six (6) 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 (6) 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 of the date of the determination by the public office 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 nonresidential space may be considered abandoned pursuant to P.L. 2003, c. 210 (C.55:19-78 et al.) so long as two-thirds 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 (6) months at the time of the determination of abandonment by the public officer and the property meets the criteria of either paragraph a. or paragraph d. of this section. Owner shall include the title holder, any agent of the title holder having authority to act with respect to a vacant/abandoned property, any foreclosing entity subject to the provisions of C.46:10B-51 (P.L. 2008, c. 127, Sec. 17 as amended by P.L. 2009, c. 296 as amended by P.L. 2014, c. 35), or any other entity determined by the Borough of Allenhurst to have authority to act with respect to the property.

Vacant Property shall mean 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 section.

9-7.3 Registration Requirements.

The owner of any vacant property as defined herein shall, within sixty (60) calendar days after the building becomes vacant property or within thirty (30) calendar days after assuming ownership of a vacant property, whichever is later; or within ten (10) calendar days of receipt of notice by the municipality, file a registration statement for such vacant property with the Housing 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. The following shall apply:

- 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 email address (if applicable) of a person twenty-one (21) years or older, designated by the owner or owners as 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 email (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 (2) 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 which shall be pro-rated through December 31st. 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 subsection 9-7.5 of this section, for each vacant property 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 ten (10) months prior to that date.
- e. The owner shall notify the Housing Inspector within thirty (30) calendar days of any change in the registration information by filing an amended registration statement on a form provided by the Borough 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 building.

9-7.4 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 times as may be mutually agreed upon between the owner and the Borough.

9-7.5 Responsible Owner or Agent.

- a. An owner who meets the requirements of this section 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 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 who fails to register vacant/abandoned property under the provisions of this section 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 and/or property.

9-7.6 Fee Schedule.

The initial registration fee for each building shall be five hundred (\$500.00) dollars. The fee for the first renewal is one thousand (\$1,000.00) dollars, and the fee for the second renewal is two thousand (\$2,000.00) dollars. The fee for any subsequent renewal beyond the second renewal is three thousand (\$3,000.00) dollars as set forth in the below fee schedule.

Vacant Property Registration Fee Schedule

Initial Registration	\$ 500.00
First Renewal	\$1,000.00
Second Renewal	\$2,000.00
Subsequent Renewal	\$3,000.00

9-7.7 Requirements of Owners of Vacant/Abandoned Properties.

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

- a. 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
- b. 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. The sign shall be professionally made and printed (no hand written signs will be permitted); and

c. Ensure that the exterior grounds of the structure, including yards, fences, sidewalks, walkways, right-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

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 of any vacant property shall acquire or otherwise maintain liability insurance, in an amount of not less than \$300,000.00 for buildings designed primarily for one to four unit residential use and not less than \$1,000,000.00 for any other building, including, but not limited to, buildings designed for multifamily, manufacturing, storage or commercial uses, covering any damage to any person or any property caused by any physical condition of or in the building. Any insurance policy acquired or renewed after the building has become vacant shall provide for written notice to the Municipal Officer within thirty (30) days of any lapse, cancellation or change in coverage. The owner shall attach evidence of the insurance to the owner's registration statement. Any registration statement submitted that does not include such evidence shall not be deemed to be a valid registration.

9-7.8 Violations.

a. Any person who violates any provision of this section or the rules and regulations issued hereunder shall be fined not less than \$100.00 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 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 sixty (60) calendar days after the building becomes vacant property or within thirty (30) calendar days after assuming ownership of a vacant property, whichever is later; or within ten (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 contained herein shall be deemed to be violations of this section.

c. An out-of-state creditor subject to this section found to be in violation of the requirement to appoint an in-State representative or agent shall be subject to a fine of \$2,500.00 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 (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.

d. A creditor subject to this section found to be in violation of the requirement to correct a care, maintenance, security, or upkeep violation cited in a notice issued pursuant to the section shall be subject to a fine of \$1,500.00 for each day of the violation. Any fines imposed pursuant to this paragraph shall commence thirty-one (31) days following 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.

e. Nothing in this section is intended to nor shall be read to conflict or prevent the Borough from taking action against owners of buildings or structures found to be unfit for human habitation or are unsafe structures as provided in applicable provision of the Borough Code, including but not limited to provisions of the State or Borough Building or Property Maintenance Codes. 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 section.

And it is further,

ORDAINED that except as herein above provided, the remainder of Chapter IX, BUILDING AND HOUSING, shall remain unaltered and in full force and effect; and it is further

ORDAINED that the provisions of this ordinance are declared to be severable, and if any section, subsection, sentence, clause or phrase hereof shall, for any reason, be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, subsections, clauses and phrases of this ordinance which shall stand notwithstanding the invalidity of any part; and it is further

AND IT IS FURTHER ORDAINED that this Ordinance shall take effect twenty (20) days after the first publication thereof after final passage as provided by law.

VOTE: Comm. McLoughlin - AYE; Comm. Bolan - AYE Mayor McLaughlin - AYE.

APPROVED: February 25, 2020

ADOPTED: March 10, 2020

CERTIFICATION

I, Donna M. Campagna, Borough Clerk/Administrator, do hereby certify this to be a true and exact copy of an Ordinance adopted by the Board of Commissioners of the Borough of Allenhurst, County of Monmouth, State of New Jersey, at a meeting held on March 10, 2020.

Donna M. Campagna
Borough Clerk/Administrator