

## ORDINANCE 2017-11

### ORDINANCE OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING CHAPTER 508: PROPERTY, VACANT AND ABANDONED

Councilman Taylor offered the following ordinance and moved its adoption:

**WHEREAS**, the Borough of Red Bank is desirous of maintaining and providing the residents of Red Bank with a safe, pleasant environment, and to that end, structures that are abandoned or vacant detract from this goal and create an attractive nuisance for a neighborhood; and

**WHEREAS**, in many cases the owners or other responsible parties of these structures are neglectful of them, do not maintain or secure them to a recognized adequate community standard or municipal maintenance code, or restore them to productive use; and

**WHEREAS**, 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 of Red Bank incurs disproportionate costs in order to address the problems of vacant and abandoned structures, including but not limited to code enforcement violations, excessive police calls, fire calls, property maintenance calls, and property inspections; and

**WHEREAS**, it is in the public interest for the Borough of Red Bank to establish minimum standards of accountability for 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 of Red Bank; and

**WHEREAS**, it is in the public interest for the Borough of Red Bank to impose a fee in conjunction with a registration ordinance, which is in addition to other fees or costs that are imposed or required by the Borough of Red Bank for any maintenance or other reason for vacant and abandoned structures, in light of the disproportionate costs imposed on the Borough by the presence of these structures within the Borough.

**NOW THEREFORE, BE IT ORDAINED** by the Governing Body of the Borough of Red Bank that Chapter 508 of the Revised General Ordinances of the Borough of Red Bank, Monmouth County is hereby replaced in its entirety as follows:

#### **Chapter 508**

#### **Maintenance of Vacant Properties, Structures Registration Requirements and Fees**

##### **508.1 Definitions**

##### **“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:

- (1) Except as provided in N.J.S.A. 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 Construction Official that:
  - (a) The property is in need of rehabilitation in the reasonable judgment of the Construction Official, 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 Construction Official pursuant to this section;
  - (c) At least one installment of property tax remains unpaid and delinquent on that property in accordance with N.J.S.A. 54:4-1 *et seq.* as of the date of a determination by the Construction Official pursuant to this section; or
  - (d) The property has been determined to be a nuisance by the Construction Official in accordance with N.J.S.A. 55:19-82.
- (2) A property which contains both residential and non-residential space may be considered abandoned pursuant to N.J.S.A. 55:19-78 *et seq.* 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 Construction Official and the property meets the criteria of either Subsection (1)(a) or Subsection (1)(d) of this Section 508.1.

**“Evidence of Vacancy”**

- (1) 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 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.
- (2) 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 section.

**“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, or any other entity determined by the Borough to act with respect to the property.

**“Vacant Property”**

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 Borough 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.

**508.2 General Requirements.**

- (1) The owner of any vacant property as defined herein shall, within 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 Borough on forms provided by the Borough for such purposes. The registration shall remain valid until the end of the calendar year. For initial registrations filed after April 1<sup>st</sup>, the Initial Registration fee prescribed in Section 508.4 of this Ordinance shall be prorated per month (fee divided by 12 months) through December 31<sup>st</sup> of the year in which the initial registration is filed. The owner shall be required to renew the registration annually, no later than January 31, as long as the building remains vacant property and shall pay a

registration or renewal fee in the amount prescribed in Section 508.4 of this Ordinance for each vacant property registered.

- (2) Any owner of any building that meets the definition of "vacant property" prior to adoption date, shall file a registration statement for that property on or before adoption date plus 60 days. The registration statement shall include the information required under Section 508.3 of this section, as well as any additional information that the Construction Official may reasonably require.
- (3) The owner shall notify the Borough within 30 days of any change in the registration information by filing an amended registration statement on a form provided by the Borough for such purpose.
- (4) 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 Borough against the owner or owners of the building.

### **508.3 Registration Statement Requirements; Property Inspection.**

- (1) After filing a registration statement or a renewal of a registration statement, the owner of any vacant property shall provide access to the Borough Construction 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, then the fee for such inspection shall be the same as that for a Continued Certificate of Occupancy inspection as provided in the applicable provisions of the Code of the Borough.
- (2) The registration statement shall include the name, street address, and telephone number of a natural person 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.
- (3) An owner who is a natural person and who meets the requirements of this section as to availability of a contact number on a twenty-four-hour emergency basis may designate himself or herself as agent.
- (4) 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 Borough 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 section.

### **508.4 Fee Schedule.**

For each single-family property, the initial registration fee shall be seventy-five dollars (\$75.00). The fee for the first renewal registration of a single-family property shall be one-hundred-fifty dollars (\$150.00) dollars. The fee for the second, third, and fourth renewal registrations of a single-family property shall be three-hundred dollars (\$300.00). The fee for the fifth renewal registration and any subsequent renewal registration of a single-family property beyond the fifth renewal registration shall be six-hundred dollars (\$600.00).

For all properties other than single-family properties, the initial registration fee for each property shall be five-hundred dollars (\$500.00). The fee for the first renewal shall be one-thousand (\$1,000.00) dollars, and the fee for the second renewal shall be two-thousand dollars (\$2,000.00). The fee for any subsequent renewal beyond the second renewal shall be five-thousand dollars (\$5,000.00).

**Vacant Property Registration Fee Schedule**

***Single-Family Properties***

|                      |          |
|----------------------|----------|
| Initial Registration | \$75.00  |
| First Renewal        | \$150.00 |
| Second Renewal       | \$300.00 |
| Third Renewal        | \$300.00 |
| Fourth Renewal       | \$300.00 |
| Subsequent Renewals  | \$600.00 |

***All Other Properties***

|                      |            |
|----------------------|------------|
| Initial Registration | \$500.00   |
| First Renewal        | \$1,000.00 |
| Second Renewal       | \$2,000.00 |
| Subsequent Renewals  | \$5,000.00 |

**508.5 Requirements for Owners of Vacant and Abandoned Property.**

The owner of any building that has become vacant property, and any person maintaining, operating or collecting rent for any such building that has become vacant, shall, immediately:

- (1) 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 508.3 of this section), 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 15 inches by 17 inches; and
- (2) Enclose and secure the building against unauthorized entry as provided in the applicable provisions of the Code of the Borough and maintain the sign required in Subsection 8.5(1) above until the building is again legally occupied or demolished or until repair or rehabilitation of the building is complete; and
- (3) 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 Borough; and
- (4) 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 Borough for the delivery of circulars and advertisements to the property; and
- (5) Make provision for the winterizing of the property by the cessation of water service to the property and the draining of water lines; other than buildings with a fire sprinkler system; and
- (6) Make provision for the cessation of electric or gas utility services to the property; other than buildings with a fire sprinkler system, and
- (7) Make provision for the regular maintenance of the exterior of the property.

**508.6 Administration**

- (1) The Borough may issue rules and regulations for the administration of the provisions of this Ordinance as it deems necessary.
- (2) Upon application by an Owner submitted to the Borough Clerk, the Governing Body of the Borough may, at its sole discretion, waive any and all fees set forth in Section 508.4 hereof in cases of hardship based upon the particular circumstances of the Vacant Property and/or the financial circumstances of the Owner.

**508.7 Violations and Penalties**

- (1) 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 in addition to the payment of the prescribed licensing fee subject to a fine of not less than \$200.00 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 and all such legal fees associated with any reasonable cost recoverable from the owner as well.

- (2) For purposes of this section, 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 508.2 through and including Section 508.5 this Ordinance, or such other matters as may be established by the rules and regulations of the Borough shall be deemed to be violations of this Ordinance.
- (3) Nothing in this Ordinance is intended to nor shall be read to conflict or prevent the Borough from taking action against owners of building or structures found to be unfit for human habitation or are unsafe structures as provided in applicable provisions 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 Ordinance.
- (4) This Ordinance shall take effect immediately upon final passage and publication and in accordance with the laws of the State of New Jersey.

Seconded by Councilman Whelan and adopted on roll call by the following vote:

|                            | Yes   | No  | Abstain | Absent |
|----------------------------|-------|-----|---------|--------|
| Councilman Yngstrom        | ( x ) | ( ) | ( )     | ( )    |
| Councilman Zipprich        | ( x ) | ( ) | ( )     | ( )    |
| Councilwoman Horgan        | ( x ) | ( ) | ( )     | ( )    |
| Councilwoman Schwabenbauer | ( x ) | ( ) | ( )     | ( )    |
| Councilman Taylor          | ( x ) | ( ) | ( )     | ( )    |
| Councilman Whelan          | ( x ) | ( ) | ( )     | ( )    |

First Reading/Introduction: April 12, 2017  
Second Reading/Public Hearing: April 26, 2017  
Adoption: April 26, 2017

\_\_\_\_\_  
Pamela Borghi, Municipal Clerk

\_\_\_\_\_  
Pasquale Menna, Mayor

BOROUGH OF RED BANK  
90 Monmouth Street  
Red Bank, New Jersey 07701  
(732) 530-2740

VACANT PROPERTY REGISTRATION FORM

Registration Date: \_\_\_\_\_

Vacant Property Address: \_\_\_\_\_

Block # \_\_\_\_\_ Lot # \_\_\_\_\_

|  |  |
|--|--|
| Owner(s):  | Full Name: _____<br>Company Name: _____<br>Street Address: _____<br>City: _____ State: _____ ZIP: _____<br>Phone: _____ Cell: _____<br>E-Mail Address: _____ |
| Lienholder(s) or Others with Legal Interest in the Vacant Property:  | Full Name: _____<br>Company Name: _____<br>Street Address: _____<br>City: _____ State: _____ ZIP: _____<br>Phone: _____ Cell: _____<br>E-Mail Address: _____ |
| Name of Authorized Agent for Service, Maintenance Company, or Property Manager:<br><i>(Can be a Realtor, leasing agent, management company or other party with direct control or authority over the vacant property)</i> | Full Name: _____<br>Company Name: _____<br>Street Address: _____<br>City: _____ State: _____ ZIP: _____<br>Phone: _____ Cell: _____<br>E-Mail Address: _____ |

|  |
|--|
| Date Property Became Vacant: _____   |
| <b>Acknowledgement of Responsibility:</b> <i>The undersigned owner/agent hereby: (1) certifies that the information contained herein is complete and accurate; (2) assumes responsibility for securing the vacant property in conformity with the Borough’s Code Section 508.5 and all other applicable codes; and (3) acknowledges the responsibility to provide the Borough with notice, in writing, within 30 days of any changes to the information contained in this registration form.</i> |
| Owner/Agent (Print): _____<br><br>Signature: _____   |

BOROUGH OF RED BANK  
90 Monmouth Street  
Red Bank, New Jersey 07701  
(732) 530-2740

OWNER SELF-INSPECTION CHECKLIST

Vacant Property Address: \_\_\_\_\_

Block # \_\_\_\_\_ Lot # \_\_\_\_\_

**Owner/Responsible Party hereby attests that the following steps have been or will be taken.**

**For any boxes left unchecked, you must provide a date by which the item(s) will be completed.**

|   |                          |
|---|--------------------------|
| Property is actively listed for sale?<br><br>Listing Date: _____ Listing Agent and Phone #: _____   | <input type="checkbox"/> |
| Property sale pending?<br><br>Closing Date: _____   | <input type="checkbox"/> |
| Building is being renovated?<br><br>Completion Date: _____  | <input type="checkbox"/> |
| All required Permits have been obtained?<br><br>Permit Numbers: _____<br><br>If not, applications for all permits will be submitted by: _____ | <input type="checkbox"/> |
| Borough Inspection performed for Code Compliance?<br><br>Date of Inspection: _____ Compliance Date: _____                                     | <input type="checkbox"/> |
| Seller to make repairs prior to closing?<br>If not, buyer to assume responsibility for repairs?<br><br>Buyer Name/Address: _____              | <input type="checkbox"/> |
| Unsure as to which party will be responsible for repairs?<br><br>Date by which Vacant Property will be occupied: _____                        | <input type="checkbox"/> |

|   |                          |
|---|--------------------------|
| The building is secured against unauthorized entry by person or pests.  | <input type="checkbox"/> |
| The interior and exterior of the property has been cleaned of all trash, debris, junk, garbage, and any solid waste and/or personal possessions.  | <input type="checkbox"/> |
| All steps have been taken to stop all mail, newspapers, and circulars from being delivered to the property.   | <input type="checkbox"/> |
| The sewer has been capped to prevent the accumulation of methane gas in the property.   | <input type="checkbox"/> |
| Domestic water services have been terminated and the property has been winterized.  | <input type="checkbox"/> |
| Owner/responsible party hereby affirms that the property will be maintained in compliance with all property maintenance regulations of the Borough, including, but not limited to:<br><i>Nuisances</i><br><i>Exterior maintenance</i><br><i>Overgrown Grass, Weeds, and Brush</i> | <input type="checkbox"/> |

|  |  |
|--|--|
| <i>Animals</i><br><i>Abandoned Motor Vehicles</i><br><i>Abandoned Pools</i><br><i>Dead/Hazardous Trees</i><br><i>Garbage and refuse</i><br><i>Graffiti</i><br><i>Fence Maintenance</i> |  |
|--|--|

|                                  |
|----------------------------------|
| Owner/Agent (Print): _____       |
| Signature: _____ Date: _____     |
| Borough Review By (Print): _____ |
| Signature: _____ Date: _____     |