Township of West Milford

Passaic County, New Jersey

~ Ordinance 2017 - 013 ~

AN ORDINANCE OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC, STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING CHAPTER §285, "PROPERTY MAINTENANCE" SECTION §285-12 "VACANT, ABANDONED, AND FORECLOSED PROPERTIES" OF THE REVISED GENERAL ORDINANCES

BE IT ORDAINED by the Township Council of the Township of West Milford, County of Passaic, State of New Jersey as follows:

SECTION 1. Chapter 285, "Property Maintenance", be and is hereby amended to read as follows:

§285-12 Vacant, Abandoned and Foreclosed Properties

§285-12-1. Definitions.
The following words and terms shall have the meanings herein indicated for the purposes of this article:

ENFORCEMENT OFFICER - The Township Enforcement Officer shall be defined as the Zoning Officer, Construction Official, Township Engineer or any other Township officials so designated by the Township Council to enforce the provisions of this chapter. Nothing herein shall preclude any Township employee engaged in the enforcement of laws and ordinances from enforcing the provisions hereof. The Construction Official shall be responsible for enforcement of violations of the New Jersey Uniform Construction Code.

EXTERIOR OF THE PREMISES - Those portions of a residential structure or accessory structure on residential property which are exposed to public view and the surrounding open space.

NUISANCES AND HAZARDS - The following shall be considered nuisances and hazards for the purposes of this Article: (1) any residential structure or accessory structure that is in disrepair by reason of deteriorating conditions or storm damage; (2) out of service swimming pools in disrepair by reason of deteriorating conditions or storm damage; (3) dead, rotting or diseased trees; (4) loose and overhanging tree limbs; (5) accumulated junk, litter or debris; (6) accumulated hazardous, noxious, or unhealthy substances or materials; and (7) overgrown or neglected lawns, bushes, trees, shrubbery and landscaping

RESPONSIBLE PARTY - The title owner of a vacant and abandoned property or a creditor responsible for the maintenance of a property pursuant to N.J.S.A 46:10B-51.

STREET ADDRESS - This means an address at which a natural person who is the responsible party or an authorized agent actually resides or actively uses for business purposes, and shall include a street name or rural delivery route.

§285-12-2. Vacant, abandoned and Foreclosed Residential Property
Any improved residential property which is not physically occupied by a title owner, title owner's family member, title owner's relative or a tenant of the title owner, or has been foreclosed upon, and at which at least three of the following conditions exist at the property:

1) Overgrown or neglected vegetation;
2) The accumulation of newspapers, circulars, flyers, or mail on the property;
3) Disconnected gas, electric or water utility services to the property;
4) The accumulation of hazardous , noxious, or unhealthy substances or materials on the property;

5) The accumulation of junk (including junk vehicles), litter, trash, or debris on the property
6) The absence of window treatments such as blinds, curtains, or shutters;
7) The absence of furnishings and personal items;
8) Statements of neighbors, delivery persons, or governmental employees indicating that the property is vacant and abandoned;
9) Windows or entrances to the property that are boarded up or closed off, or multiple window panes that are damaged, broken, and unrepaired;
10) Doors to the property that are smashed through, broken off, unhinged, or continuously unlocked;
11) 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 physical destruction or deterioration of the property;
12) 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
13) The mortgagee or authorized party has secured or winterized the property due to the property being deemed vacant and unprotected or in danger of freezing;
14) A written statement issued by mortgagee expressing the clear intent of all mortgagors to abandon the property; or
15) Any other reasonable indicia of abandonment

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 seq.*) so long as two-thirds (2/3) 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 (6) months at the time of the determination of abandonment by the Enforcement Officer and the property meets the criteria set forth in this Article.

§285-12-3. Yard

An open space extending between the closest point of any building and a lot line or street line, excluding those portions of the yard that are critical areas.

§285-12-4. Registration of Vacant, Abandoned, and Foreclosed Properties

A. Registration. The responsible party for a vacant, abandoned, or foreclosed, residential property shall immediately file a certificate of registration with the Township Clerk after receipt of notice, that the property has been determined to be vacant, abandoned or foreclosed upon, or immediately after the responsible party assumes ownership of or responsibility for a property already determined to be vacant, abandoned, or foreclosed upon. A certificate of registration shall remain valid for one year from the date of issuance and shall be renewed on an annual basis if the property remains vacant and abandoned.

B. Form of Certificate of Registration. The certificate of registration shall be filed on forms prescribed by the Township Clerk and shall contain:
1) The name, street address, and telephone number of a person who resides or maintains an office within the municipality and who is either the responsible party or an authorized agent designated by the responsible party to receive notices and complaints of property maintenance and code violations on behalf of the responsible party;
2) The name, street address, and telephone number of the person responsible for maintaining the property, if different; and
3) A certificate from a licensed insurance provider evidencing the liability insurance coverage on the vacant and abandoned property.

C. Certificate of Registration Amendments. A responsible party for a vacant abandoned, or foreclosed residential property shall file an amended certificate of registration within 30 days after any change in the information required to be included thereon.

D. Certificate of Registration Fees. The following fees for a certificate of registration shall be paid by the responsible party:

1) $250.00 for the initial registration fee
2) $500.00 for the 2nd year
3) $750.00 for the 3rd year
4) $1,000.00 for the 4th year, adding an additional $250.00 each subsequent year

§285-12-5. Security; Notification; Liability Insurance

A. Within 45 days after the property has been determined to be vacant and abandoned and until the property is reoccupied, the responsible party for a vacant, abandoned, or foreclosed residential property shall:
1) Enclose and secure the property against unauthorized entry;
2) Post a sign affixed to the inside and outside of the property, visible to the public, indicating the name, address, and telephone number of the responsible party, and authorized agent designated by the responsible party for the purpose of maintaining the property if different from the responsible party or authorized agent; and
3) Acquire and otherwise maintain liability insurance by procuring a vacancy policy, covering any damage to any person or any property caused by any physical condition of the property.

§285-12-6. Maintenance Standards for Vacant, Abandoned, and Foreclosed Properties

A. Vacant, abandoned, and foreclosed properties shall be maintained in accordance with the following standards:
1) The property shall be kept free of all nuisances and hazards, litter, and debris.
2) The property shall be kept free of accumulations of water, vegetation or other matter which might serve as a source of food or as a harboring or breeding place for infestation.
3) Grass in the yard area shall be cut and maintained so as to prevent the grass from growing to seed or exceeding fourteen inches (14") in height.
4) The exterior of every structure or accessory structure or other improvement on the premises shall be kept in good repair and all exposed surfaces subject to deterioration shall be covered by a protective coating appropriate for the particular material as needed.
5) The exterior of the buildings shall be free of loose material that may create a hazard by falling on persons utilizing the premises
6) All exterior walls, roofs, windows, window frames, doors, door frames, sky lights, foundations, and other parts of the structure shall be maintained to keep water from entering the structure and to prevent excessive drafts or heat loss during cold or inclement weather and to provide a barrier against infestation. Damaged or badly worn materials shall be repaired or replaced and places showing signs of rot, leakage or deterioration or corrosion shall be treated or restored to prevent weathering or seepage.
7) Leaders and drain pipes shall be securely fastened to the building and maintained in good condition

§285-12-7. Notice of Vacancy, Abandonment, and Foreclosure

Upon determination of the enforcement officer that a residential property is vacant, abandoned, or foreclosed, the enforcement officer shall notify the responsible party by personal service or registered mail, and posting of notice in a noticeable place on the property of the determination and the requirements of this Article,

§285-12-8. Notice of Violation

The enforcement officer upon determination of any violation of the provisions of this Article, or any other applicable ordinances, statutes or regulations, shall attempt to notify the responsible party by personal service or registered mail and posting of notice in a noticeable place on the property of the determination and the requirements of this Article. The notice shall advise the responsible party of the violation and the obligation to remedy the same within 10 days from the date of the notice. If the violation is not remedied to the satisfaction of the enforcement officer within said 10 days, the enforcement officer may issue a summons to the responsible party and request the governing body to adopt a resolution authorizing the municipality to abate the violation and place the property in compliance with the provisions of this Article

and any other applicable ordinances, statutes or regulations at the responsible party's sole cost and expense and impose a lien on the property for all costs and fees associated herewith.

§285-12-9. Appeals of Abandoned Property List Inclusion

A. An owner or lienholder may challenge the inclusion of his property on the abandoned property list by appealing that determination to the Building Standards Board within the thirty (30) days of the owner's receipt of notice or forty days from the date upon which the notice was sent. An owner whose identity was not known to the Construction Official shall have forty (40) days from the date upon which the notice was published or posted, whichever is later, to challenge the inclusion on the abandoned property list. For good cause shown, the Building Standards Board shall accept a late filing of an appeal. Within 30 (thirty) days of receipt of a request for an appeal of the findings contained in the notice, the Building Standards Board shall schedule a hearing for redetermination of the matter. Any property included on the list shall be presumed to be abandoned property unless the owner, through the submission of an affidavit or certification by the property owner averring that the property is not abandoned and stating reasons for such averment, can demonstrate that the property was erroneously included on the list. The affidavit or certification shall be accompanied by supporting documentation, such as but not limited to photographs, repair invoices, bills and construction contracts. The sole ground for appeal shall be that the property in question is not abandoned property as that term is defined in this ordinance. The Building Standards Board shall decide any timely filed appeal within (10) days of the hearing on the appeal and shall promptly, by certified mail, return receipt requested, and by regular mail, notify the proper owner of the decision and reasons thereof.

B. The property owner may challenge on adverse determination of an appeal with the Building Standards Board by instituting, in accordance with the New Jersey Court Rules, a summary proceeding in the Superior Court, Law Division, sitting in Passaic County, which action shall be tried de novo. Such action shall be instituted within (20) days of the date of decision mailed by the Building Standards Board. The sole ground for appeal shall be that the property in question is not abandoned property as that term is defined in this ordinance. The failure to institute an action of appeal on a timely basis shall constitute a jurisdictional bar to challenging the adverse determination, except that, for good cause shown, the court may extend the deadline for instituting the action.

C. The Construction Official shall promptly remove any property from the abandoned property list that has been determined not to be abandoned on appeal.

D. The abandoned property list shall become effective and the Township of West Milford shall have the right to pursue any legal remedy with respect to properties on the abandoned property list at such time as any one property has been placed on the list in accordance with the provisions of this section, upon the expiration of the period for appeal with respect to the property or upon the denial of an appeal brought by the property owner.

§285-12-10. Abatement by Municipality: Costs and Lien

Upon adoption of a resolution by the governing body, the municipality may abate any nuisance, hazard or violation and place the property in compliance with the provisions of this Article and any other applicable ordinances, statutes, or regulations. The enforcement officer shall certify the costs thereof to the governing body. The governing body shall review the certificate of costs and if found acceptable, authorize a lien be placed against the property. The amount of the lien shall be added to the taxes to be assessed and levied upon the property. The amount of the lien shall also bear interest at the same rates as taxes and be collected in the same manner as any other taxes assessed and levied upon the property.

§285-12-11. Violations and Penalties

Any person or entity that violates any provision of this article shall, upon conviction thereof, be punished by a fine not less than $500 or more than $1,000. Each day that a violation continues shall constitute an additional, separate and distinct offense. Any penalty imposed pursuant to this section shall be recoverable by a summary proceeding under the "Penalty Enforcement Law of 1999, "P.L.1999, c.274

(C.2A:58-10 et seq.). The Superior Court, Law Division, or the municipal court shall have jurisdiction to enforce such penalty.

§285-12-12. Severability
If any provisions of this Ordinance shall be determined to be invalid or unenforceable, such adjudication shall not affect the validity of the remaining provisions of this Ordinance.

SECTION 2. If any section, subsection, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid by any court or competent jurisdiction, such decision shall not affect the remaining portion of this ordinance.
SECTION 3. This Ordinance may be renumbered for purposes of codification.
SECTION 4. This Ordinance shall take effect immediately upon final passage, approval and publication as required by law.

Introduced: September 20, 2017
Adopted: October 18, 2017
Effective Date: November 7, 2017

TOWNSHIP OF WEST MILFORD
COUNTY OF PASSAIC
STATE OF NEW JERSEY

ATTEST

Antoinette Battaglia, Township Clerk

By: Bettina Bieri
Bettina Bieri, Mayor