

ORDINANCE NO. 2116

**AN ORDINANCE AMENDING THE CODE OF THE BOROUGH OF
SOUTH PLAINFIELD TO ADD CHAPTER 334 TITLED
“VACANT AND ABANDONED RESIDENTIAL PROPERTIES”.**

BE IT ORDAINED by the Mayor and Council of the Borough of South Plainfield, County of Middlesex, State of New Jersey that Code of the Borough be amended to add Chapter 334 titled “Vacant and Abandoned Residential Properties” as follows:

SECTION 334-1 – PURPOSE.

The purpose of this Article is to protect the public health, safety, morals and welfare by establishing minimum standards governing the maintenance, appearance and condition of vacant and abandoned properties by establishing standards governing facilities and conditions of said facilities and fixing penalties for the violation of this Article.

SECTION 334-2 – DEFINITIONS.

As used in this Article, the following terms shall have the meanings indicated:

Enforcement Officer: The Borough Enforcement Officer shall be the Property Maintenance Official who shall be responsible for the enforcement of provisions of this Article. Nothing herein shall preclude any Borough employee engaged in the enforcement of laws and ordinances from enforcing the provisions hereof.

Exterior of 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:

- A. Any residential structure or accessory structure in disrepair by reason of deteriorating conditions or storm damage;
- B. Out of service swimming pools in disrepair by reason of deteriorating conditions or storm damage;
- C. Dead, rotting or diseased trees;
- D. Loose or overhanging tree limbs;
- E. Accumulated junk, litter or debris;
- F. Accumulated hazardous, noxious, or unhealthy substances or materials;
- G. Overgrown or neglected lawns, bushes, trees, shrubbery and landscaping;
- H. Accumulation of newspapers, circulars, flyers or mail on the property; or
- I. Sidewalks in disrepair by reason of deteriorating conditions or damage.

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: An address at which a natural person who is the responsible person or an authorized agent actually resides or actively uses for business purposes, and shall include a

street name or rural delivery route.

Vacant and Abandoned Residential Property: Any improved residential property which is not typically occupied by a title owner, title owner's family member, title owner's relative or a tenant of the title owner, and at which at least two of the following conditions exist at the property:

- A. Overgrown or neglected vegetation;
- B. Accumulation of newspapers, circulars, flyers or mail on the property;
- C. Disconnected gas, electric or water utility services to the property;
- D. Accumulation of hazardous, noxious or unhealthy substances or materials on the property;
- E. Accumulation of junk, litter, trash or debris on the property;
- F. Absence of window treatments, such as blinds, curtains or shutters;
- G. Absence of furnishings and personal items;
- H. Statements of neighbors, delivery persons, or government employees indicating that the property is vacant and abandoned;
- I. Windows or entrances to the property that are boarded up or closed off or multiple window panes that are damaged, broken and unrepaired;
- J. Doors to the property that are smashed through, broken off, unhinged or continuously unlocked;
- K. 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;
- L. 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;
- M. The mortgagee or other authorized party has secured or winterized the property due to the property being deemed vacant and unprotected and in danger of freezing;
- N. A written statement written by mortgagee expressing their clear intent of all mortgagors to abandon the property; and
- O. Any other reasonable indicia of abandonment.

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 subject to conservation restrictions.

SECTION 334-3 – REGISTRATION OF VACANT AND ABANDONED RESIDENTIAL PROPERTIES.

A. Registration. The responsible party for a vacant and abandoned residential property shall file a Certificate of Registration with the Borough Clerk within 30 days after receipt of notice pursuant to Section 334-6, that the property has been determined to be vacant and abandoned, or within 30 days after the responsible party assumes ownership of responsibility for a property already determined to be vacant and abandoned, whichever is later. 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 Borough Clerk, and shall contain:

1. The name, street address and telephone number of the person who resides or maintains an office within the State 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 that liability insurance coverage on a vacant and abandoned residential property as required by Section 334-4.

C. Certificate of Registration Amendments. A responsible party for a vacant and abandoned 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. For the initial Registration Fee - \$350.00;

2. For annual renewals of the Registration Fee where there are no outstanding property maintenance or code violations at the time of renewal - \$350.00;

3. For annual renewal of the Registration Fee where there are outstanding property maintenance or code violations at the time of renewal - \$1,000.00.

SECTION 334-4 – SECURITY; NOTIFICATION; LIABILITY INSURANCE.

Within 30 days after the property has been determined to be vacant and abandoned and until the property is reoccupied, the responsible party for a vacant and abandoned residential property shall:

A. Enclose and secure the property against unauthorized entry;

B. Post a sign affixed to the outside of the property and visible to the public indicating the name, address and telephone number of the responsible party, and the authorized agent designated by the responsible party for the purposes of receiving service of process, and the person responsible for maintaining the property if different from the responsible party or authorized agent; and

C. 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.

SECTION 334-5 – MAINTENANCE STANDARDS FOR VACANT AND ABANDONED RESIDENTIAL PROPERTIES.

Vacant and abandoned residential properties shall be maintained in accordance with the following standards:

A. The property shall be kept free of all nuisances and hazards, litter and debris;

B. 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 of infestation;

C. Grass in the yard area shall be cut and maintained so as to prevent the grass from growing to seed or exceeding 12 inches in height;

D. The exterior of every structure or accessory structure or other improvement on the premises shall be kept in good repair and all exposed surfaces shall be protected against weathering or deterioration by a protective coating appropriate for the particular material involved as needed;

E. The exterior of the buildings shall be free of loose material that may create a hazard by falling on persons utilizing the premises;

F. 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;

G. Leaders and drain pipes shall be securely fastened to the building and maintained in good condition free of leaks and free of obstructions and shall direct stormwater into draining systems or away from the foundation walls of the structure.

SECTION 334-6 – NOTICE OF VACANCY AND ABANDONMENT.

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

SECTION 334-7 – NOTICE OF VIOLATION.

The enforcement officer upon determination of any violation of the provision of this Article, or any other applicable ordinances, statute or regulations, shall serve a notice of such violation on a responsible party by personal service, registered mail or posting of notice in a noticeable place on the property. The notice shall advised the responsible party of the violation and the obligation to remedy the same within ten days from the date of the notice. If the violation is not remedied to the satisfaction of the enforcement officer within said ten 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 therewith.

SECTION 334-8 – ABATEMENT BY MUNICIPALITY; COSTS AS 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 to 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 rate as taxes and be collected in the same manner as any other taxes assessed and levied upon the property.

SECTION 334-9 – VIOLATIONS AND PENALTIES.

Any person or entity that violates any provision of this Article shall, upon conviction thereof, be punished by a fine of not less than \$500.00 or more than \$2,000.00. 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 (N.J.S.A. 2A:58-10, et seq.). The Superior Court, Law Division, or the Municipal Court of the Borough shall have jurisdiction to enforce such penalty.