

(March 17, 2015)

**BOROUGH OF WATCHUNG  
ORDINANCE NO. OR:15/05**

**AN ORDINANCE OF THE BOROUGH OF WATCHUNG AMENDING CHAPTER XIV, TITLED "PROPERTY MAINTENANCE" OF THE CODE OF THE BOROUGH TO ADD ARTICLE X, TITLED "VACANT PROPERTIES" ESTABLISHING REGISTRATION REQUIREMENTS, REGISTRATION FEES, INSPECTION AND MAINTENANCE REQUIREMENTS FOR VACANT OR ABANDONED STRUCTURES.**

**WHEREAS**, within the Borough of Watchung there are buildings or structures that are vacant; and

**WHEREAS**, in many cases the owners or other responsible parties of these buildings or structures are failing to maintain them or secure them to adequate standards, or restore them to productive use; and

**WHEREAS**, many of these structures are in violation of the Borough Property Maintenance Code and applicable law; and

**WHEREAS**, vacant structures cause harm to the health, safety and general welfare of the community; and

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

**WHEREAS**, it is in the public interest for the Borough to impose a fee in conjunction with the registration of vacant structures.

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Borough of Watchung, County of Somerset and State of New Jersey, that the Code of the Borough of Watchung is hereby amended to add a new Article X, titled "Vacant Properties", as follows:

## ARTICLE X

### VACANT PROPERTIES

#### §14-55 Definitions.

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

Abandoned Building or Structure shall mean any property that has not been legally occupied for a period of at least six (6) months and which meets any one of the following criteria may be deemed to be an abandoned building or structure upon a determination by the Code Official that:

- a. The building or structure is in need of rehabilitation in the reasonable judgment of the Code Official, and no rehabilitation has taken place during that six (6) month period;
- b. Construction was initiated on the building or structure 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 Code Official pursuant to this Article;
- c. At least one (1) installment of property tax remains unpaid and delinquent on that property on the date of the determination by the Code Official that the property has not been legally occupied for a period of at least six (6) months pursuant to this Article; or
- d. The building or structure has been determined to be a nuisance by the Code Official. A property which contains both residential and non-residential space may be considered abandoned as long as two-thirds 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 Code Official and the property meets the criteria of either Subsection a. or

Subsection d. of this definition for abandoned building or structure.

Code Official shall mean the official who is charged with the administration and enforcement of this Article, or any duly authorized representative.

Owner shall include the title holder, any agent of the title holder having authority to act regarding a vacant building or structure, any foreclosing entity that has filed a notice with the Borough Clerk.

Vacant Building or Structure shall mean any building or structure which is not legally occupied or at which all lawful business or construction operations or renovation work or occupancy have substantially ceased, and which is in such condition that it cannot legally be re-occupied without repair or rehabilitation, 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 a habitable condition, and where the building is being actively marketed by its owner for sale or rental, shall not be deemed vacant for purposes of this Article.

#### **§14-56 Registration Requirements.**

The owner of any vacant building or structure as defined in this Article shall:

1. Within thirty (30) calendar days after the building or structure becoming vacant shall file a registration statement for such vacant building or structure with the Clerk; or
2. Within thirty (30) calendar days after assuming ownership of a vacant building or structure, file a registration statement for such vacant building or structure with the Clerk; or
3. Within ten (10) calendar days of receipt of notice by the Borough, file a registration statement for such vacant building or structure with the Clerk on forms provided by the Borough for such purposes. Failure to receive notice from the Borough shall not constitute grounds for failing to register the building or structure.

- a. Each property having a separate block and lot number as designated on official records of the Borough shall be registered separately.
- b. The registration statement shall include the name, street address, telephone number, and e-mail address (if applicable) of a person twenty-one (21) years of age or older, designated by the owner or owners as the authorized agent for receiving notices of violations of the Maintenance Property Code and other applicable law 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 law, code or ordinance; and the name, street address, telephone number, and e-mail address (if applicable) of the firm and the actual name(s) of the firms individual principal(s) responsible for maintaining the property. The individual or a representative of the firm responsible for maintaining the property shall be available by telephone or in person on a twenty-four (24) hour per day, seven (7) day per week basis. The two 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 for each vacant building or structure registered.
- d. The owner shall notify the Borough Clerk 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.
- e. The registration statement shall be deemed prima facie proof of the statements therein contained in any administrative enforcement or court proceeding instituted by the Borough against the owner or owners of the building.

- f. The registration statement may include any additional information that the Clerk may reasonably require.

**§14-57. Restoration of Vacant Building or Structure.**

Any owner of a vacant building or structure who plans to restore the property to productive use and occupancy during the twelve (12) month period following the date of the initial registration shall file a sufficiently detailed statement of the owner's plans for restoration of the property with the registration statement along with a schedule. Any owner who within the initial registration period completes restoration of the property whereby the property no longer is defined as vacant may request a fifty (50%) percent refund of the registration fee from the Clerk upon presentation of a Certificate of Occupancy.

**§14-58. Access to Vacant Buildings or Structures.**

The owner of any vacant building or structure registered under this Article consents to and shall provide access to the Borough to conduct exterior and interior inspections of the building or structure to determine compliance with the Property Maintenance Code or other applicable law, upon reasonable notice to the property owner or the designated agent. Such inspections shall be conducted on weekdays during the hours of 9:00 a.m. and 4:00 p.m. or such other time as may be mutually agreed upon between the owner and the Borough.

**§14-59. Responsible Owner or Agent.**

- a. An owner who meets the requirements of this Article regarding the location of his or her residence or workplace in the State of New Jersey may designate himself or herself as agent or as the individual responsible for maintaining the property.
- b. By designating an authorized agent under the provisions of this Article the owner consents to receive any and all notices of Property Maintenance Code or other applicable law violations concerning the registered property and all process in any administrative enforcement or court proceeding brought to enforce this Article regarding the registered building or structure by service of the

notice or process on the authorized agent. Any owner who has designated an authorized agent under the provisions of this Article shall be deemed to consent to the continuation of the agent's designation for the purposes of this Article until the owner notifies the Borough Clerk in writing of a change of authorized agent or until the owner files a new annual registration statement.

**§14-60. Vacant Building or Structure Owner Requirements.**

The owner of any building or structure that has become vacant, and any person responsible for maintaining any such building or structure that has become vacant shall, within thirty (30) calendar days of the building or structure becoming vacant or within thirty (30) calendar days of the owner taking title to the property, do the following:

- a. Board and secure the building or structure and all unattached accessory structures, garages or similar structures as provided for by applicable law.
- b. Ensure that the exterior grounds of the building or 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, grass, weed overgrowth, and snow and ice.
- c. Post a sign affixed and protected from the elements, to the building or structure indicating the name, address and telephone number of the owner and the owner's authorized agent for the purpose of service of process, and the name, address and telephone number of the entity responsible for maintenance of the property, which may be the same as the owner or authorized agent. The sign shall include the words "No Trespassing" and "to report problems with this building, call...", shall be of sufficient size and shall be placed in a location where it is clearly visible from the nearest public street or sidewalk, whichever is nearer.

- d. Continue to maintain the building or 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 or structure is complete.

**§14-61. Fees.**

The registration for each building or structure shall be as follows:

- a. Initial registration: \$750.00.
- b. If not paid within six (6) months of notification by the Borough of Watchung the registration payment shall increase to \$1,500.00.

**§14-62. Violations.**

- a. Any person who violates any provision of this Article shall be fined not greater than \$1,250.00 for each offense. Every day that a violation continues shall constitute a separate and distinct offense.
- b. For purposes of this Article, failure to file a registration statement within thirty (30) calendar days after a building or structure becoming vacant or within thirty (30) calendar days after assuming ownership of a vacant building or structure, 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, failure to comply with the provisions of §14-56 and §14-60, or such provisions contained herein shall be deemed to be violations of this Ordinance.

Should any section, paragraph, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid for any reason, the remaining portions of this Ordinance shall not be affected thereby and shall remain in full force and effect,

and to that end the provisions of this Ordinance are hereby declared to be severable.

This Ordinance shall be in full force and effective from and after its adoption and any publication as required by law.

**ATTEST:**

**BOROUGH OF WATCHUNG**

By: Michelle DeRocco  
Michelle DeRocco, Clerk

By: Stephen K. Pote  
Stephen K. Pote, Mayor

Introduced by: JOREN  
Passed: March 19, 2015  
Published: March 26, 2015  
Adopted: April 2, 2015