

ORDINANCE NO. 15-13

**AN ORDINANCE AMENDING CHAPTER XII, "BUILDING AND HOUSING",
TO ADD A NEW SECTION 12-12 ENTITLED "ABANDONED PROPERTIES"
TO THE ADMINISTRATIVE CODE OF THE CITY OF OCEAN CITY**

BE IT ORDAINED by the Mayor and Council of the City of Ocean City, County of Cape May, State of New Jersey, as follows:

WHEREAS, the City of Ocean City contains structures which are abandoned; and,

WHEREAS, in some cases, 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, the Administration finds that abandoned properties can lead to neighborhood decline and become attractive nuisances, causing the City to incur significant costs in the form of staff time for code enforcement actions seeking to maintain and ensure the acceptable condition of these properties, and,

WHEREAS, abandoned structures can 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 City incurs disproportionate costs in order to deal with the problems of abandoned structures including, but not limited to, excessive police calls, fire calls, and property inspections; and,

WHEREAS, it is necessary to take steps to monitor such properties and protect City residents; and,

WHEREAS, it is in the public interest for the City to establish minimum standards of accountability on the owners or other responsible parties abandoned structures in order to protect the health, safety and general welfare of the residents of the City.

Section 1.

A new section 12-12 is to be added to the Administrative Code of the City of Ocean City entitled "Abandoned Properties," providing as follows:

12-12.1 Definitions.

'Abandoned property' shall have the meaning of such term in the Abandoned Properties Rehabilitation Act, N.J.S.A. 55:19-78, *et seq.* An Abandoned Property shall also be deemed to be vacant property for the purposes of this ordinance.

'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 provision of C.46:10B-51 (P.L.2008, c. 127, sect. 17) or any other entity determined by the City of Ocean City.

'Public Officer' as defined in N.J.S.A. 55:19-80, who is responsible for executing the provisions of this chapter, shall be designated by the Mayor.

12-12.2 Municipal Powers to Rehabilitate Abandoned Property

The City of Ocean City hereby grants to itself all powers granted to municipalities by the State of New Jersey for the rehabilitation of abandoned property. Such powers are set forth, *inter alia*, in the "Abandoned Properties Rehabilitation Act" N.J.S.A. 55:19-78 *et seq.* and in applicable portions of the "New Jersey Urban Development Corporation Act" N.J.S.A. 55:19-1 *et seq.* These statutes are collectively referred to herein as "the enabling statutes."

12-12.3 Criteria for Designation as Abandoned Property

The Public Officer shall designate a property as an "abandoned property" if said property meets the criteria set forth in N.J.S.A. 55:19-81 (abandoned property criteria) and/or N.J.S.A. 55:19-82 (nuisance property criteria). The Public Officer's designation is limited by the provisions of N.J.S.A. 55:19-83.

12-12.4 Abandoned Property List

The Public Officer shall establish an abandoned property list pursuant to N.J.S.A. 55:19-55. An interested party (as that term is defined in N.J.S.A. 55:19-105a) may request that the Public Officer include a property on the abandoned property list, pursuant to N.J.S.A. 55:19-105.

12-12.5 Rights of Owners

The owner of a property on the abandoned property list has such rights designated to said owner by the enabling statutes. Such powers include but are not limited to:

- A. Challenging the inclusion of a property on the abandoned property list, pursuant to N.J.S.A. 55:19-55e;
- B. Seeking removal from said list, pursuant to N.J.S.A. 55:19-57 and 55:19-103;
- C. Petitioning for reinstatement of control and possession, pursuant to N.J.S.A. 55:19-92 and 55:19-93.

12-12.6 Municipal Powers and Rights

The City of Ocean City shall have such powers and rights regarding abandoned properties as set forth in the enabling statutes. Such powers include but are not limited to:

- A. Sale of tax lien, pursuant to N.J.S.A. 55:19-56;
- B. Special tax sales, pursuant to N.J.S.A. 55:19-101;
- C. Foreclosing the right to redemption, pursuant to N.J.S.A. 55:19-58;
- D. Recourse directly against property owner, pursuant to N.J.S.A. 55:19-100;
- E. Possession and control of property, pursuant to N.J.S.A. 55:19-84 to 55:19-92 et seq.;
- F. Rehabilitation and reuse of property, while in possession and control, pursuant to N.J.S.A. 55:19-90;
- G. Borrowing money and making applications for rehabilitation of property, while in possession and control, pursuant to N.J.S.A. 55:19-91;
- H. Sale of property, pursuant to N.J.S.A. 55:19-96;
- I. Purchase of property, pursuant to N.J.S.A. 55:19-96;
- J. Recover rehabilitation costs by lien on property, pursuant to N.J.S.A. 55:19-98;
- K. Clearance, development, redevelopment or repair of property through power of eminent domain, pursuant to N.J.S.A. 55:19-56, 55:19-102.

12-12.7 Rights of Utilities

Electric and natural gas utilities are granted such rights to abandoned properties as are set forth in N.J.S.A. 55:19-106.

12-12.8

Nothing in this Ordinance is intended nor shall be read to conflict or prevent the City from taking action against buildings found to be unfit for human habitations or unsafe structures as provided in applicable provisions of the Administrative Code of the City of Ocean City and as provided by State law. Further, any action taken under any such code provision or State law other than the demolition of a structure shall not relieve an owner from its obligations under this ordinance.

Section 2.

All ordinances or portions thereof inconsistent with this ordinance are repealed to the extent of such inconsistency.

Section 3.

If any portion of this ordinance is declared to be invalid by a court of competent jurisdiction, it shall not affect the remaining portions of the ordinance which shall remain in full force and effect.

Section 4.

This Ordinance shall take effect immediately upon final adoption and publication in the manner prescribed by law.

Jay A. Gillian, Mayor

Anthony P. Wilson, Council President

The above Ordinance was passed by the Council of Ocean City, New Jersey, at a meeting of said Council held on the day of , 2015, and will be taken up for second reading and final passage at a at a meeting of said Council held on the day of , 2015, in Council Chambers, Ocean City, New Jersey, at seven o'clock in the evening.

Linda P. MacIntyre, City Clerk

Explanation:

This ordinance directs the public officer designated by the Mayor to create an abandoned property list consisting of properties the public officer determines to be abandoned, based on statutory criteria, and authorizes the City to utilize the Abandoned Properties laws of the State of New Jersey to address the blight resulting from the abandonment of property in Ocean City and encourage and/or compel rehabilitation of such property.

4.17.2015

N.J.S.A. 55:19-81

New Jersey Statutes Annotated Currentness

Title 55. Tenement Houses and Public Housing

Subtitle 2. Public Housing

Chapter 19. New Jersey Urban Development Corporation (Refs & Annos)

➔55:19-81. Abandoned property; criteria

Except as provided in section 6 of P.L.2003, c. 210 (C.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 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 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 as of the date of a determination by the public officer 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 non-residential space may be considered abandoned pursuant to P.L.2003, c. 210 (C.55:19-78 et al.) 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 public officer and the property meets the criteria of either subsection a. or subsection d. of this section.

 Chapter 19. New Jersey Urban Development Corporation (Refs & Annos)

➔**55:19-82. Nuisance property; criteria**

A property may be determined to be a nuisance if:

a. The property has been found to be unfit for human habitation, occupancy or use pursuant to section 1 of P.L.1942, c. 112 (C.40:48-2.3);

b. The condition and vacancy of the property materially increases the risk of fire to the property and adjacent properties;

c. The property is subject to unauthorized entry leading to potential health and safety hazards; the owner has failed to take reasonable and necessary measures to secure the property; or the municipality has secured the property in order to prevent such hazards after the owner has failed to do so;

d. The presence of vermin or the accumulation of debris, uncut vegetation or physical deterioration of the structure or grounds have created potential health and safety hazards and the owner has failed to take reasonable and necessary measures to remove the hazards; or

e. The dilapidated appearance or other condition of the property materially affects the welfare, including the economic welfare, of the residents of the area in close proximity to the property, and the owner has failed to take reasonable and necessary measures to remedy the conditions.

A public officer who determines a property to be a nuisance pursuant to subsections b. through e. of this section shall follow the notification procedures set forth in P.L.1942, c. 112 (C.40:48-2.3 et seq.).