

**ORDINANCE NO. 24-2023**

**AN ORDINANCE OF THE TOWNSHIP COMMITTEE OF THE  
TOWNSHIP OF HANOVER IN THE COUNTY OF MORRIS AND  
STATE OF NEW JERSEY, AMENDING PART II, "GENERAL  
LEGISLATION" OF THE CODE OF THE TOWNSHIP OF HANOVER,  
TO ESTABLISH NEW CHAPTER 260: "VACANT AND ABANDONED  
PROPERTIES"**

**WHEREAS**, properties in foreclosure proceedings can involve properties that are vacant and abandoned or have an increased risk of becoming vacant and abandoned during the foreclosure proceeding; and

**WHEREAS**, in addition to properties in foreclosure, there are certain properties within the Township, which although not in foreclosure, have become unoccupied and are otherwise vacant because the owner(s) thereof plan to renovate, reconstruct and/or redevelop the property and the improvements thereon, regardless of whether or not permits or approvals have been applied for and/or obtained from the Township's administrative officers and agencies, including the Zoning Board of Adjustment, Planning Board and the Construction Official; and

**WHEREAS**, unoccupied properties that are the subject of anticipated, impending and/or ongoing renovations, reconstruction and/or redevelopment and vacant and abandoned properties subject to impending or pending foreclosure proceedings, have a high likelihood of becoming unsecured, unmaintained and neglected, before, during and after local zoning, planning and construction approvals are obtained and/or before during and after completion of foreclosure proceedings; and

**WHEREAS**, unoccupied properties, as well as vacant and abandoned properties in foreclosure, pose a greater risk of blight and an increased risk of public safety and general welfare concerns for the communities in which they are located, foster criminal activity, create public and private nuisances and public health problems, depress neighboring property values, reduce revenues for municipalities, and otherwise diminish the quality of life for residents and business operators in those areas; and

**WHEREAS**, the Township's Construction Official and Property Maintenance Officer has found there to be an influx of unoccupied, vacant and/or abandoned properties, that have been left unsecured, neglected and unmaintained, whether such properties are unoccupied, vacant and/or abandoned due to impending or ongoing renovations/redevelopment projects or pending and/or impending foreclosure proceedings; and

**WHEREAS**, the increased public health risks and dangers to the general welfare of the public associated with neglected, unmaintained and/or unsecure unoccupied, vacant and/or abandoned properties are vast, and include but are not limited to: increased risks of fire, structural collapse and falling objects; unsecure property improvements attractive to curious adolescents; illegal dumping and littering activities; infestation of rodents, pests and mold; greater susceptibility to criminal activity and trespass;

**WHEREAS**, because of the increased public health risks and dangers to the general health and welfare of the public associated with unoccupied, vacant and/or abandoned properties, it is important that the Township possess tools to identify such properties, monitor their status, and mitigate the public health risks associated with same; and

**WHEREAS**, the State of New Jersey has enacted statutes intended to assist municipalities in addressing such risks, including requiring enhancing the authority of municipalities to adopt ordinances to mitigate the risks against blighting conditions and requiring municipalities to receive notice of the initiation of a foreclosure actions, vacant and abandoned property registration programs, and authorizing a public officer of the municipality to take certain action against properties that have been unoccupied, vacant, and/or abandoned; and

**WHEREAS**, the State of New Jersey has enacted statutes intended to assist municipalities in addressing such risks, including requiring that municipalities receive notice of the initiation of a foreclosure action in court in connection with residential properties and authorizing a public officer in a municipality to take certain action against properties that have been abandoned for more than six months; and

**WHEREAS**, pursuant to N.J.S.A. 40:48-1 et seq., the New Jersey Legislature delegated to municipalities the responsibility to promulgate regulations designed to promote the public health, safety, and welfare of its citizens; and

**WHEREAS**, pursuant to N.J.S.A. 40:48-1 et seq., the New Jersey Legislature has delegated to municipalities the responsibility to promulgate local regulations designed to promote the public health, safety, and welfare of its citizens; and

**WHEREAS**, pursuant to N.J.S.A. 40:48-1 and -1.1, the Township has specific police powers to adopt ordinances and regulations as to the construction, alteration and repair of buildings and structures of every kind within the municipality and to provide for/require the demolition and removal of any structures and buildings which are or may become unfit, dangerous to the to the life and health of the public or which might tend to be susceptible to fire, and to assess the costs thereof as a municipal lien against such properties; and

**WHEREAS**, in January 2022, Assembly Bill A2877 was signed into law as P.L. 2021 c.444, which instructed municipalities to establish Vacant/Abandoned Property Ordinances and Fee Schedules, which including requirements that municipalities receive notice of the initiation of a foreclosure action in court in connection with residential properties and authorizing a public officer in a municipality to take certain action against properties that have been abandoned for more than six months; and

**WHEREAS**, a property registration program provides a valuable tool to confront the risk of blight created by properties on which foreclosure proceedings have been initiated and such properties that become vacant and abandoned; and

**WHEREAS**, it is in the best interest of the Township to operate such a property registration program in accordance with N.J.S.A. 40:48-2.12s3; and

**WHEREAS**, it is also in the best interest of the Township to adopt certain additional restrictions and requirements by ordinance to address and protect against the risk of blight, nuisance, unfit and dangerous property conditions that occur when properties are vacant and unoccupied in accordance with N.J.S.A. 40:48-2.3 thru -2.12g, -2.13 thru -2.14, -2.26 thru -2.29 for use by the Township's Zoning, Building, and Property Maintenance Enforcement Officers in tandem with the Township's existing "Property Maintenance Code" set forth at Chapter 218 of the Code of the Township of Hanover; and

**WHEREAS**, the Business Administrator, Township Zoning Officer/Construction Official, and Property Maintenance Officer, and the Township Attorney have reviewed the proposed Ordinance to establish Chapter 260 entitled: Vacant and Abandoned Properties and recommend the Township Committee adopt same; and

**WHEREAS**, the Township Committee has determined that it is necessary and appropriate, and in the best interest of the health, safety and welfare of the Township of Hanover's residents and members of the public who visit, travel, or conduct business in the Township of Hanover, to amend the Code of the Township of Hanover to add a new Chapter addressing unoccupied, vacant and abandoned residential, commercial and industrial properties; and

**WHEREAS**, the Township Committee has reviewed the recommended amendments and revisions and has determined that same should be enacted in pursuant to the Township's police powers to protect and preserve the public health, safety and general welfare in accordance with N.J.S.A. 40:48-1 N.J.S.A. 40:48-2 et seq.

**NOW THEREFORE, BE IT ORDAINED**, by the Township Committee of the Township of Hanover, in the County of Morris and State of New Jersey, that Part II, "General Legislation" of the Code of the Township of Hanover is hereby amended to establish as new Chapter 260 "Vacant and Abandoned Properties," as follows:

**Section 1.** Part II "General Legislation" of the Code of the Township of Hanover is hereby amended to add as new Chapter 260 entitled Vacant and Abandoned Properties Code of the Township of Hanover, to read as follows:

**TITLE.** This chapter shall be known as the "Vacant and Abandoned Properties Code of the Township of Hanover" and may be referred to in this chapter in short form as the "Vacant and Abandoned Properties Code" or as "this code."

## **ARTICLE I**

### **DEFINITIONS**

#### **§260-1 DEFINITIONS AND WORD USAGE:**

- A.** Interchangeability. Words used in the present tense include the future; words in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural includes the singular.
- B.** Terms defined in the "Building Code" and "Property Maintenance Code." Where terms are not defined in this section and are defined in the "Building Code" or "Property Maintenance Code" of the Township of Hanover, they shall have the meanings ascribed to them as in the "Building Code" and/or "Property Maintenance Code" of the Township of Hanover set forth at Chapters 105 and 218 of the Code of the Township of Hanover, respectively.
- C.** Terms not defined. Where terms are not defined under the provisions of this code, the "Building Code" and the "Property Maintenance Code" they shall have ascribed to them their ordinarily accepted meanings or such as the context herein may imply.
- D.** Meanings of certain words. Whenever the words "accessory structure," "building," "dwelling," "dwelling unit" or "structure" are used in this code, they shall be construed, unless expressly stated to the contrary, to include the plurals of these words and as if they were followed by the words "or any part thereof." The word "shall" shall be applied retroactively as well as prospectively.
- E.** Applied meaning of words and terms. Unless otherwise expressly stated, the following words, terms, and phrases, when used in this Chapter of this code of the shall have the respective meanings assigned to them unless a different meaning clearly appears from the context:

**ABANDONED REAL PROPERTY:**

With respect to Article II of this Chapter only, any real property located in the Township of Hanover, whether vacant or occupied, that a summons and complaint has been filed with respect to foreclosure on a mortgage, has had a lis pendens filed against it by the lender holding a mortgage on the property, is subject to an ongoing foreclosure action by the lender, is subject to an application for a tax deed or pending tax assessor's lien sale, or has been transferred to the lender under a deed in lieu of foreclosure. The designation of a property as "abandoned" shall remain in place until such time as the property is sold or transferred to a new owner, the foreclosure action has been dismissed with prejudice, and any default on the mortgage or lien has been cured.

**ABANDONED PROPERTY:**

Any property that is determined to be abandoned pursuant to P.L. 2003, c. 210 (N.J.S.A. 55:19-78 et seq.), as follows:

A. Property must not have been legally occupied for six months and must meet any one of the following criteria:

- (1) 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.
- (2) Construction was initiated and 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 determination that the building is abandoned.
- (3) At least one installment of property tax remains unpaid and delinquent as of the date of determination.
- (4) The property has been determined to be a nuisance by the public officer as defined in this section.

B. Exceptions to abandoned property.

(1) A property on which an entity other than the Township holds a tax sale certificate is not deemed to be abandoned if the owner of the certificate:

- (a) Continues to pay all municipal taxes and liens when due; and
- (b) Initiates foreclosure proceedings within six months after the property is eligible for foreclosure.

(2) A property used on a seasonal basis is deemed to be abandoned only if it meets any two of the criteria set forth in N.J.S.A. 55:19-81.

C. A property which contains both residential and nonresidential space may be considered abandoned pursuant to N.J.S.A. 55:19-78 et seq. so long as 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 months at the time of the determination of abandonment by the public officer.

**ABANDONED PROPERTY LIST:**

The list of abandoned properties established and maintained by the Township's Enforcement Officer pursuant to Article III of this Chapter, which shall only include properties that fit the criteria for "abandoned property" as defined in this Article I.

**ACCESSIBLE PROPERTY/STRUCTURE:**

A property that is accessible through a compromised/breached gate, fence, wall etc, or other barrier, or a property/structure that is unsecured and/or is breached in such a way as to allow access to the property's immediate surrounding yards or the interior space of any structure thereon by unauthorized persons, including but not limited to, by way of unlocked, missing or damaged doors, windows, or structural components.

**APPLICABLE CODES:**

Any and all provisions of the Code of the Township of Hanover; the Statutes of the State of New Jersey, and all regulations promulgated pursuant thereto.

**BLIGHTED PROPERTY:**

- A. Property that has broken, severely damaged or missing windows, doors, walls or roofs, or portions of a structural system, which create hazardous conditions and encourage trespassing; or
- B. Property that is not maintained in conformance with the maintenance of other neighboring properties, causing a decrease in value of the neighboring properties; or
- C. Property declared or deemed unfit, dangerous, unmaintained, a nuisance, or cited for violating any of the provisions of Part II "General Legislation," of the Code of the Township of Hanover at: Chapter 94 "Buildings and Structures"; Chapter 105 "Construction Codes, Uniform," Chapter 137 "Fire Prevention" and/or Chapter 218 "Property Maintenance Code"; or
- D. Property or any improvement(s) thereon, declared unsafe or an imminent hazard pursuant to the Uniform Construction Code Act, N.J.S.A. 52:27D-119, et seq., the Uniform Fire Safety Act, N.J.S.A. 52:27D-192 et seq., and/or the related regulations promulgated pursuant thereto, under the Uniform Construction Code, N.J.A.C. 5:23-1 et seq., sub-code, and the Uniform Fire

Code, N.J.A.C. 5:70-1 et seq.

- E. Property that endangers the public's health, safety or welfare because the property or improvements thereon are dilapidated, deteriorated, or violate or have been cited as violating the minimum health and safety standards or lack of maintenance as required under any other provision of the Code of the Township of Hanover, including but not limited to Part II, Chapter 94 "Buildings and Structures"; Part II Chapter 105 "Construction Codes, Uniform"; Part II Chapter 137 "Fire Prevention"; Part II Chapter 218 "Property Maintenance Code"; Part II Chapter 166 "Land Use and Development"; and/or Part III "Board of Health Legislation."

**BUILDING:**

Any structure or improvement, or part thereof, whether used for human habitation or otherwise and includes any outbuildings and/or accessory structures.

**CREDITOR:**

A State-chartered bank, savings bank, savings and loan association or credit union, any person required to be licensed under the provisions of the "New Jersey Residential Mortgage Lending Act," sections 1 through 39 of P.L. 2009, c. 53 (N.J.S.A. 17:11C-51 through N.J.S.A. 17:11C-89), and any entity acting on behalf of the creditor named in the debt obligation including, but not limited to, servicers. For purposes of this Chapter, a Creditor shall not include the State, a political subdivision of the State, a State, county, or local government entity, or their agent or assignee, such as the servicer.

**ENFORCEMENT OFFICER:**

Any law enforcement officer, the Construction Official, building inspector, Director of Rehabilitation, Property Maintenance Officer, Zoning Officer, Fire Chief, Fire Inspector, Assistant Zoning Officer, Assistant Property Maintenance Officer, the Municipal Engineer, Deputy Municipal Engineer, or any other officers and employees of the Township designated by the Township to assist the above-listed officers and officials or otherwise enforce the Code of the Township of Hanover.

**MORTGAGEE:**

The Creditor, including but not limited to trustees, mortgage service companies, and lenders in a mortgage agreement; any employee, agent or contractor of the Creditor; any successor in interest; or any assignee of the Creditor's rights, interest or obligations under the mortgage agreement.

**NUISANCE PROPERTY:**

Any property that is determined by the Enforcement Officer to be a nuisance if any one of the following applies:

- (a) The property is found to be unfit for human habitation, occupancy or use pursuant to N.J.S.A. 40:48-2.3 or Chapter 94 of the Code of the Township of Hanover;
- (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 Township 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 has 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, 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; or
- (f) The property falls within the definition and/or characteristics of "Blighted Property" as defined hereinabove.

**OWNER:**

Any person, legal entity or other party having any ownership interest, whether legal or equitable in real property. This term shall also apply to any person, legal entity or agent responsible for the construction maintenance or operation of the property involved.

**PROPERTY MANAGEMENT COMPANY:**

A local property manager, property maintenance company or similar entity responsible for the maintenance and/or upkeep of property, whether occupied, unoccupied, vacant and/or abandoned.

**PUBLIC OFFICER:**

The Business Administrator and/or Municipal Clerk, or such other officer, employee, or third-party contractor designated or appointed by the Township Committee to maintain and oversee the Township's Property Registration Program.

**RESPONSIBLE PARTY:**

The owner of real property, title holder(s) of real property, an agent of the title holder(s) authorized to act with respect to a vacant or unoccupied property (including any "property management company"), any Property Management Company, any Creditor or foreclosing party required to provide notice to the Township pursuant to N.J.S.A. 46:10B-51, and any amendments or supplements thereto, any other party-in-interest determined by the Township's officials or officers to have authority to act with respect to the maintenance of any unoccupied and/or vacant property.

"Responsible Party" shall also include a Creditor responsible for the maintenance of



property pursuant to section 18 of P.L. 2008, c. 127 (C46:10B-51) and a filing a summons and complaint in an action to foreclose who shall be responsible for the care, maintenance, security, and upkeep of the exterior of the property if the property is vacant and abandoned at any time while the property is registered with the property registration program; and/or an in-State representative or agent of the Creditor who shall be responsible for the care, maintenance, security, and upkeep of the exterior of the property if it becomes vacant and abandoned.

**STREET ADDRESS:**

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.

**TOWNSHIP:**

The Township of Hanover, County of Morris, State of New Jersey

**UNOCCUPIED PROPERTY:**

Any real property currently improved with a building or structure or previously improved with a structure or building which no longer exists in whole or in part due to demolition, fire or other calamity; and such the property is no longer lawfully occupied, in whole or in part, under one or more of the following scenarios:

- (a) The property is a multi-tenant commercial property, such as a strip mall, office complex or industrial complex, and one or more of the individual tenant spaces has been vacant for 30 days or more and the property has otherwise become a blighted property; or
- (b) The property is no longer lawfully occupied because it is in the process of undergoing demolition, construction, renovation, or rehabilitation; or
- (c) The property is no longer lawfully occupied because construction, renovation or rehabilitation 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 determined by the Construction Official and/or Property Maintenance Officer; or
- (d) The property is not occupied or is otherwise considered unfit for human habitation, occupancy or use, within the meaning of §94-5 of Chapter 94 of the Code of the Township of Hanover, because one or more of the conditions under §94-6 of Chapter 94 of the Code of the Township of Hanover exists; or
- (e) The property is not currently occupied, in whole or in part, because the owner and/or contract purchaser has ceased renting or leasing the property for the purpose(s) of applying for or obtaining planning, zoning or other land use approvals, or for the purpose of developing, redeveloping, renovating,

constructing, rehabilitating, converting or changing one or more uses of the property pursuant to a planning, zoning or other land use approval that has been obtained; or

- (f) The building and/or structure on the property is not regularly occupied because the owner is deceased or has relocated; or
- (g) The property has been ordered closed and/or vacated by court order or by order of any Federal, State, County or local government agency, authority or officer by reason of posing health risk, imminent harm/danger of collapse or fire, and/or due to the presence of contamination; or
- (h) The property has been deemed abandoned property under the provisions of N.J.S.A. 55:19-78 et seq.; or
- (i) The property has not been occupied for a period of six months, and is in need of rehabilitation in the reasonable judgment of the Construction Official and/or Director of Rehabilitation appointed under Chapter 94 of the Code of the Township of Hanover.

Residential property shall not be considered "unoccupied" if on the property, the primary building or structure is undergoing construction, renovation or rehabilitation that is proceeding diligently to completion and the building is in compliance with all applicable ordinances, codes, regulations and statutes; there is a building occupied on a seasonal basis that is otherwise secure and in compliance with all applicable ordinances, codes, regulations and statutes; there is a building that is secure and is otherwise in compliance with all applicable ordinances, codes, regulations and statutes, but it is unoccupied because it is the subject of a probate action, action to quiet title, or other ownership dispute.

**"VACANT AND ABANDONED PROPERTY":**

Any residential or commercial property shall be considered vacant and abandoned if it is not legally occupied by an owner, mortgagor or tenant, and which the property cannot be legally reoccupied because of the presence or a finding of at least two or more of the following conditions:

- (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, 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 government 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 windowpanes 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 the 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 under any other provisions of the Code of the Township of Hanover or pursuant to any other State, County or Local law;
- (13) The mortgagee or other 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 a mortgagor expressing the clear intent of all mortgagors to abandon the property; or
- (15) Any other reasonable indicia of abandonment.

For purposes of this Chapter, "vacant and abandoned" residential property is also defined to mean (i) residential real estate with respect to which the mortgagee proves in the Superior Court of New Jersey, by clear and convincing evidence, that the mortgaged real estate is vacant and has been abandoned; or where a notice of violation has been issued by the Township's Construction, Zoning and/or Property Maintenance Officer pursuant to section 3 of P.L. 2021, c. 444 (N.J.S.A. 40:48-2.12s3) for a Creditor's failure to provide care, maintenance, security and upkeep of the exterior of such residential property. Where a notice of violation has not been issued pursuant to section 3 of P.L. 2021, c. 444 (N.J.S.A. 40:48-2.12s3), real property shall be deemed "vacant and abandoned" if a court of competent jurisdiction finds that the property, mortgaged or not, is not occupied by an owner, mortgagor or tenant as evidenced by a lease agreement entered into prior to the service of a notice of intention to commence foreclosure according to section 4 of the "Fair Foreclosure Act," P.L. 1995, c. 244

(N.J.S.A. 2A:50-56, and at least two of the above the above-listed conditions exist.

## ARTICLE II

### PROPERTY REGISTRATION PROGRAM & REQUIREMENTS

#### **§260-2 Establishment of Property Registration Program and Registry.**

**A. Establishment & Purpose of Registration Program & Registry:** The Township of Hanover hereby establishes a Property Registration Program and Registry of the Township of Hanover pursuant to its authority granted by P.L. 2021, c. 444. The purpose of this program is to create and maintain a registry for all commercial and/or residential properties within the Township's municipal boundaries for which a summons and complaint in an action to foreclose has been filed with the Superior Court of New Jersey. The registry will be formed and maintained to assist the Township with identifying, monitoring, and regulating the maintenance, security and upkeep of properties which may become vacant and abandoned during the foreclosure process, in order to prevent the deleterious effects of blight associated with vacant and abandoned properties that are not maintained in accordance with the Code of the Township of Hanover.

**B. Officials Duties & Responsibilities:**

(1) The Business Administrator and Township Clerk shall serve as the municipal official(s) responsible for administering and coordinating The Township Property Registration Program in conjunction with the Enforcement Officers of the Township. The Business Administrator and Township Clerk shall be responsible for: maintaining the Registry in conjunction with the advice and recommendations of the Enforcement Officer; accepting registrations and notices from Creditors and/or Responsible Parties; collecting registration fees; processing registration payments; and assisting in the enforcement of delinquent registration fees required to be submitted to the Township under §260-4 below.

(2) The Township Construction Official, Director of Rehabilitation, and Property Maintenance Officer, shall be responsible for notifying Creditors of any violations or issues related to care, maintenance, security and upkeep of the exterior of vacant and abandoned residential and commercial properties; determining eligibility for designation as vacant and abandoned property under this article, and for the enforcement of the provisions of this article, including issuing violations, and imposing and collecting fines and penalties for the failure of Creditors to register.

(3) The responsibilities herein may be designated to a third party pursuant to the terms and conditions of a contract for professional services

consistent with P.L. 2021, c. 444.

- C. The Township may, at its discretion, create, maintain and administer this registry independently, retain the professional services of a private third party pursuant to the Local Public Contracts Law, N.J.S.A. 40A:11-1, et seq., or participate in a shared services agreement with other local units, counties, and/or county improvement authorities for the creation, maintenance and administration of the registry pursuant to the Uniform Shared Services and Consolidation Act, N.J.S.A. 40A:65-1 et seq.
  
- D. Any third parties retained to create, maintain, and/or administer the registry shall have the authority on behalf of the Township, to:
  - (1) Identify properties subject to the registration requirement;
  - (2) Maintain and update the registration list;
  - (3) Communicate with Creditors and/or in-state representatives;
  - (4) Invoice and collect payment of fees;
  - (5) Monitor Compliance; and
  - (6) Such other functions, within the scope of P.L. 2021, c. 444, which may be deemed necessary to carry out its function on behalf of the Township.
  
- E. Any third parties retained to create, maintain, and/or administer the registry shall be required to comply with the following reporting and payment requirements:
  - (1) Any and all amounts collected by the third party as part of its administration of the Township's registry, including registration fees, interest, and penalties, shall be paid, in full, directly to the Township, or Morris County, and/or county improvement authority, as applicable, not less than once per year, or as otherwise directed by the Township's public officer. No fees, payments, expenses, or other deductions shall be made from this payment; payment for any third-party's services under this article shall be made by the Township, or as applicable, the county/county improvement authority, directly to the third party, under the terms and conditions outlined within the contract for professional services.
  - (2) Not less than once per year on the first business day of each calendar year, or as otherwise may be requested by the Tax Collector, any third party administering the Township's registry shall file with Tax Collector a certification identifying:
    - (a) The address, block, lot, and contact information of any

property for which registration fees under this article are due and owing at the time of the certification;

(b) The amount of the registration fees, and separately, any interest, fines, and other penalties due and owing at the time of the certification; and

(c) The date on which the property became eligible for inclusion on the Township's registry.

**§260-3 Registration Notice, and Other Creditor Requirements.**

- A.** Within 30 days of the effective date of this article, any Creditor or other Responsible Party who has initiated a summons and complaint with the New Jersey Superior Court in an action to foreclose on a commercial and/or residential mortgage for a property located within the Township of Hanover: (i) prior to the effective date of this article, and (ii) which is pending as of the effective date of this article, shall provide notice to the Township of in accordance with Subsection **B** of § **260-3**.
- B.** Within 10 days of filing a summons and complaint with the New Jersey Superior Court in an action to foreclose on a commercial and/or residential mortgage for a property located within the Township of Hanover, the Creditor and/or Responsible Party shall notify the Township Clerk, or his/her designee, of the action by completing a certification of registration on forms provided by the Township Clerk. Such notice/certification form shall include the following information:
- (1) The address, block, and lot of the subject property;
  - (2) The date the summons and complaint in an action to foreclose on a mortgage was filed against the subject property, the court in which it was filed, and the docket number of the filing;
  - (3) Whether the property is vacant and abandoned in accordance with the definition of "vacant and abandoned" in § **260-1**, Definitions;
  - (4) The full name, address, telephone number, and email address for the representative of the Creditor and/or Responsible Party responsible for receiving notice of complaints of property maintenance and code violations;
  - (5) The full name, address, telephone number, and email address of any Responsible Party and/or other person or entity retained by the Creditor or a representative of the Creditor to be responsible for any care, maintenance, security, or upkeep of the property;
  - (6) Provide evidence of any liability insurance;

(7) If the Creditor is out-of-state, the full name, address, and telephone number of an in-state representative or agent of the Creditor or Responsible Party who shall be responsible for any care, maintenance, security, or upkeep of the property, and for receiving notice complaints of property maintenance and code violations; and

(8) After initial notice to the Township, Creditors and Responsible Parties subject to the notice requirement shall update the Township's property registration program within 10 days of any change in the information contained in the original or any subsequent notices.

(9) The notice/certification requirements herein represent a continuing obligation of the Creditor and other Responsible Parties throughout the pendency of the foreclosure action, as well as during and after sheriff sale, short sale, resale or other transfer of title occurs in which the Creditor and/or Responsible Party no longer has authority over the occupancy, custody and/or control of the property. Within 10 days of the transfer of title to a third-party, the Creditor shall update the Township's property registration program of the transfer of title and provide all updated information contained in the original or any subsequent notices.

**C. Creditors and/or other Responsible Parties of any commercial and/or residential mortgage required to notify the Township pursuant to this section shall:**

(1) Register the property with the Township's property registration program as a property in foreclosure, within 30 days of notifying the Township;

(2) Be subject to the registration fee, notice requirements, and penalties for noncompliance established within this Article II, at §260-2 thru -5 herein.

(3) Update the property registration within 10 days of any change in the information contained in the original notice to the Township;

(4) If an out-of-state Creditor, appoint an in-state representative or agent or other Responsible Party to act for the foreclosing Creditor, whose contact information shall be contained within the initial notice to the Township;

(5) Within 10 days of the property becoming vacant and abandoned at any time during the pendency of the foreclosure action, the Creditor and/or the Creditor's Responsible Party shall:

(a) Assume full responsibility for the care, maintenance, upkeep, and security of the exterior of the property, which shall include all obligations and responsibilities applicable to owners and tenants for dangerous and unfit buildings and structures under Chapter 94 "Buildings and Structures," and Articles I thru III, V, VII, VIII and Article IX with respect to commercial properties of Chapter 218 "Property Maintenance

Code," of the Code of the Township of Hanover, including but not limited to:

[1] Keeping the property free of weeds, overgrown brush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspaper circulars, flyers, notices, except those required by federal, state or local law, discarded personal items including but not limited to furniture, clothing, large and small appliances, printed material or any other items that give the appearance that the property is abandoned;

[2] Keeping the property free of graffiti or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior structure;

[3] Keeping all pools and spas free from stagnant water so the water structure remains clear of pollutants and debris.

(b) Secure the property against unauthorized entry, which shall include but not be limited to the closure and locking of windows, doors, gates and other openings of such size that may allow a child to access the interior of the property or structure. Broken windows, doors, gates and other openings of such size that may allow a child to access the interior of the property or structure must be repaired. Broken windows shall be secured by reglazing of the window;

(c) Post a sign on the inside of the property, visible to the public, no smaller than 18 inches by 24 inches, containing the name, address, telephone number, and email address of the Creditor, Responsible Party, or an out-of-state Creditor's in-state representative or agent or Responsible Party, for the purpose of receiving service of process;

(d) If different than the person receiving service of process, the sign posted inside the property must also include the name, address, telephone number, and email address of the person responsible for day-to-day supervision and management of the building;

(e) Post the property with "no trespassing" signs of a nature sufficient to give notice to any person entering upon the property that it is against the law to enter the property without permission of the Creditor;

(f) Acquire and maintain a vacancy insurance policy which covers any damage to any person or any property caused by any physical condition of the property while registered with the Township's property registration program;

(g) Provide proof, within 10 days of receiving a request by the



Township or its designee, that the above conditions have been satisfied.

(h) Cure any violations of the above requirements within 30 days of receiving a notice of violation, or if deemed to present an imminent threat to public health and safety, within 10 days of receiving such notice.

(6) Update the property registration within 10 days of the Creditor and/or Responsible Party becoming aware that the property is deemed vacant and abandoned as defined herein.

- D. Upon registering the property in accordance with this Article, the Creditor shall be issued a certification of registration from the Township Clerk and/or Business Administrator.
- E. If at any time the Creditor or other Responsible Party is deemed to be in violation of the above requirements, and/or if the property is deemed to be in violation of any other applicable local or state maintenance, health, or safety codes, including the provisions of Chapter 94 "Buildings and Structures," Chapter 105 "Construction Code, Uniform", and/or Chapter 138 "Fire Prevention", Chapter 218 "Property Maintenance Code," of Part II "General Legislation" of the Township's Code; and/or the provisions of Part III "Board of Health Legislation of the Township's Code, the Enforcement Official and/or his/her designee shall notify the Creditor and/or Responsible Party using the contact information provided in the property registry established by this Article II.
- F. This section shall not be construed to diminish any property maintenance responsibilities of property owners who are not subject to the provisions of this section.

**§260-4 Provisions Applicable to Commercial Properties:**

- A. For the purposes of this section only, "Creditor" means a State chartered bank, savings bank, savings and loan association or credit union, any person required to be licensed under the provisions of the "New Jersey Residential Mortgage Lending Act," N.J.S.A. 17:11C-51 through N.J.S.A. 17:11C-89, and any entity acting on behalf of the Creditor named in the debt obligation including, but not limited to, servicers. For purposes of this section, a Creditor shall not include the State, a political subdivision of the State, or a State, county, or local government entity, or their agent or assignee, such as the servicer.
- B. A Creditor serving a summons and complaint in an action to foreclose on a mortgage on commercial property shall, within 10 calendar days of serving the summons and complaint, notify the Business Administrator and Township Clerk that a summons and complaint in an action to foreclose on a mortgage has been filed against the subject property.

- C. The notice shall contain the full name, address, and telephone number for the representative of the Creditor who is responsible for receiving complaints of property maintenance and code violations and the full name and contact information for any person or entity retained by the Creditor or a representative of the Creditor to be responsible for any care, maintenance, security, or upkeep of the property.
- D. The notice may contain information about more than one property, and shall be provided by mail and electronic mail communication.
- E. The Township Clerk shall forward a copy of the notice to the Construction Official, Property Maintenance Officer, Chief Municipal Finance Officer, Tax Assessor and any other local official responsible for the administration of any zoning and property maintenance ordinances and regulations.
- F. The notice shall also include the street address, lot, and block number of the property.
- G. If there is any change in the name, address, or telephone number for a representative, agent, or individual authorized to accept service on behalf of a Creditor required to be provided in a notice pursuant to this paragraph following the filing of the summons and complaint, the Creditor shall provide a notice to the Township Clerk containing the updated name, address, or telephone number within 10 days of the change in that information.
- H. If the owner of a commercial property vacates or abandons any property on which a foreclosure proceeding has been initiated or if a commercial property becomes vacant at any point subsequent to the Creditor's filing the summons and complaint in an action to foreclose on a mortgage against the subject property, but prior to vesting of title in the Creditor or any other third party, and the exterior of the property is found to be a nuisance or in violation of any applicable State or local code, the Business Administrator and/or the Township Clerk and/or their designees shall notify the Creditor or the representative or agent.
- I. The Township shall include a description of the conditions that gave rise to the violation with the notice of violation and shall provide a period of not less than 30 calendar days from the Creditor's receipt of the notice for the Creditor to remedy the violation.
- J. If the Creditor fails to remedy the violation within that time period, the Township may impose penalties allowed for the violation of municipal ordinances.
- K. If the Township expends public funds in order to abate a nuisance or correct

a violation on a commercial property in situations in which the Creditor was given notice pursuant to the provisions of subsection (h) of this section but failed to abate the nuisance or correct the violation as directed, the Township shall have the same recourse against the Creditor as it would have against the title owner of the property, including but not limited to the recourse provided under N.J.S.A. 55:19-100.

**§260-5 Fees, Violations & Penalties.**

- A. All fees, penalties, and/or fines established within this Article and assessable pursuant to the Township's authority outlined within P.L. 2021, c. 444 shall be deemed a municipal charge in accordance with N.J.S.A. 54:5-1, et seq.
- B. Creditors required to notify the Township and register a property as one in foreclosure shall be required to pay the following annual registration fee, per property, due at the time of registration: \$500.

(1) For all residential and/or commercial properties subject to an existing foreclosure action initiate prior to the effective date of this Article and which is pending as of the effective date of this Article II, the initial registration fee of \$500 shall become due and payable within thirty (30) days after the effective this Article II;

(2) Thereafter annual registration for each registered residential and/or commercial property subject to foreclosure proceedings which continue to remain pending shall become due and payable to the Township on January 31, annually;

(3) For all residential and/or commercial properties that first become the subject of a foreclosure action after the effective date of this Article II, the initial annual registration fee of \$500 shall become due at the time of registration in accordance with Article II, at §260-3B;

- C. If a property registered with the Township's Registration Program as a property in foreclosure is vacant and abandoned at the time of registration, or becomes vacant and abandoned at any time during the pendency of the foreclosure proceeding, the Creditor shall pay an additional annual registration fee, per property, due at the time the determination that the property is vacant and abandoned is made, of: \$2,000.
- D. If there is an outstanding property maintenance or code violation on a vacant and abandoned property that remains unabated at the time of renewal, the Responsible Party shall pay an additional fee of \$500.
- E. If there is an outstanding property maintenance or code violation on a vacant and abandoned property that remains unabated at the time of a subsequent renewal, the Responsible Party shall pay an additional fee of \$750.

**F. Violations.**

(1) An out-of-state Creditor subject to the notice and registration requirements of this Article II, found to be in violation of the requirement to appoint an in-state representative or agent, shall be subject to a fine of \$2,500 for each day of the violation. The violation shall be deemed to commence on the day after the creditor's initial ten- or thirty-day requirement to notify the Township of applicable foreclosure actions.

(2) A Creditor subject to the notice and registration requirements of this Article II, found to be in violation of any part of this ordinance [with the exception of a violation pursuant to Subsection F(1)], shall be subject to a fine of \$1,500 for each day of the violation. The violation shall be deemed to commence on the thirty-first day following the Creditor's receipt of a notice of violation, or if deemed to present an imminent threat to public health and safety, on the eleventh day following the creditor's receipt of such notice.

G. 20% of any money collected pursuant to this section shall be utilized by the Township for code enforcement purposes.

H. If the Township expends public funds in order to abate a nuisance or correct a violation on a commercial property in situations in which the creditor was given notice pursuant to this Article II, but failed to abate the nuisance or correct the violation as directed, the Township shall have the same recourse against the creditor as it would have against the title owner of the property, including but not limited to the recourse provided under N.J.S.A. 55:19-100, et seq.

**ARTICLE III**

**ABANDONED AND UNOCCUPIED PROPERTIES**

**§260-6 Designation and powers of public officer.**

The Township Construction Official, Property Maintenance Officer, and/or Director of Rehabilitation (collectively hereinafter referred to as the "Public Officer" is hereby directed to identify abandoned properties within the Township, place said properties on an abandoned property list, and provide such notices and carry out such other tasks as are required to effectuate an abandoned property list as provided by law.

**§260-7 Abandoned property report.**

The Public officer shall provide a report to Township Committee and the Township Business Administrator every six months with respect to the number and location of properties on the abandoned property list, the status of those properties, and any actions taken by the Township or by any qualified rehabilitation entity, designated pursuant to the authority granted the public officer, with respect to any

property on the list or any other abandoned property within the Township of Hanover.

**§260-8 Establishment of and updates to abandoned property list.**

The Public Officer shall establish the abandoned property list and any additions or deletions thereto by authorizing the publication of the list in the official newspaper of the Township of Hanover, which publication shall constitute public notice, and, within 10 days after publication, shall send a notice, by certified mail, return receipt requested, and by regular mail, to the owner of record of every property included on the list. The published and mailed notices shall identify property determined to be abandoned, setting forth the owner of record, if known, the tax lot and block number and street address. The public officer, in consultation with the Tax Collector, shall also send out a notice by regular mail to any owner, mortgagee, servicing organization, or property tax processing organization that receives a duplicate copy of the tax bill pursuant to N.J.S.A. 54:4-64d. When the owner of record is not known for a particular property and cannot be ascertained by the exercise of reasonable diligence by the Tax Collector, notice shall not be mailed but instead shall be posted on the property in the manner as provided in N.J.S.A. 40:48-2.7. The mailed notice shall indicate the factual basis for the finding of the public officer that the property is abandoned property, as that term is defined herein and in N.J.S.A. 55:19-54, and shall specify the information relied upon in making such finding. In all cases, a copy of the mailed or posted notice shall also be filed by the public officer in the office of the Morris County Clerk. This filing shall have the same force and effect as a formal notice under N.J.S.A. 2A:15-6. The notice shall be captioned with the name of the Township of Hanover as "plaintiff" and the name of the property owner as "defendant," as though an action had been commenced by the Township against the owner.

**§ 260-9 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 public officer within 30 days of the owner's receipt of the certified notice or 40 days from the date upon which the notice was sent. An owner whose identity was not known to the public officer shall have 40 days from the date upon which notice was published or posted, whichever is later, to challenge the inclusion of a property on the abandoned property list. For good cause shown, the public officer shall accept a late filing of an appeal. Within 30 days of receipt of a request for an appeal of the findings contained in the notice, the public officer 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 asserting that the property is not an abandoned property, 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

herein and in N.J.S.A. 55:19-54. The public officer 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 property owner of the decision and the reasons therefor.

- B. The property owner may challenge an adverse determination of an appeal with the public officer pursuant to § 260-12A by instituting, in accordance with the New Jersey Court Rules, a summary trial proceeding in the Superior Court, Law Division, Morris County, which action shall be tried de novo. Such action shall be instituted within 20 days of the date of the notice of decision mailed by the public officer. The sole ground for appeal shall be that the property in question is not an abandoned property as that term is defined in N.J.S.A. 55:19-54. 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 public officer 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 Hanover shall have the right to pursue any legal remedy with respect to properties on the abandoned property list, at such time as any after one property has been placed on the list in accordance with the provisions of this section, upon the expiration period for appeal with respect to the property or upon denial of an appeal brought by the property owner.

**§ 260-10 Sale of tax lien.**

- A. Notwithstanding the provisions of N.J.S.A. 54:5-19, or the provisions of any other law to the contrary, if a property is included on the abandoned property list and the property taxes or other Township liens due on the property are delinquent for six or more quarters as of the date of expiration of the right to appeal the property's inclusion on the list or, if an appeal has been filed, as of the date that all opportunities for appeal of inclusion on the list have been exhausted, then the tax lien on the property may be sold in accordance with the procedures of the Tax Sale Law, N.J.S.A. 54:5-1 et seq., on or after the 90th day following the expiration of that time of appeal or final determination on an appeal.
- B. The Township of Hanover may, at its option, require that the sale of the tax sale certificate or any subsequent assignment or transfer of a tax sale certificate held by the Township be subject to the express condition that the purchaser or assignee shall be obliged to perform and conclude any rehabilitation or repairs necessary to remove the property from the abandoned property list pursuant to N.J.S.A. 55:19-55 and to post a bond in favor of the Township to guarantee the rehabilitation or repair of the property. The public officer may waive a

requirement to post a bond imposed by the Township for any purchaser, assignee or transferee of a tax sale certificate that provides documentation acceptable to the public officer that the purchaser, assignee or transferee is a qualified rehabilitation entity as defined in N.J.S.A. 55:19-80. The cost of rehabilitation and repairs and the cost of the bond shall be added to the amount required to be paid by the owner for redemption of the property. The purchaser, assignee or transferee of the tax sale certificate who is required to rehabilitate and repair the property shall be required to file the appropriate affidavits with the Tax Collector, pursuant to N.J.S.A. 54:5-62, representing the amounts of monies expended periodically toward the rehabilitation or repair of the property. A purchaser, assignee or transferee shall be entitled to interest on the amounts expended, as set forth in the affidavits, at the delinquent rate of interest for delinquencies in excess of \$1,500 in effect for the time period when the amounts were expended, pursuant to N.J.S.A. 54:4-67. The tax sale certificate purchaser, assignee or transferee, with the authority of the Township of Hanover, shall be permitted to enter in and upon the property for the purposes of appraising the costs of rehabilitation and repair and to perform all other acts required to guarantee the completion of the rehabilitation or repair of the property. No rehabilitation or repair work shall be commenced, however, until proof of adequate liability insurance and an indemnification agreement, holding the Township of Hanover harmless, has been filed with the Township Clerk on a form approved by the Township Attorney.

### **C. Remediation by Township.**

(1) If the Township of Hanover acquires the tax sale certificate for a property on the abandoned property list, then, upon 10 days' written notice to the property owner and any mortgagee as of the date of the filing of the notice pursuant to N.J.S.A. 55:19-55, the Township shall be permitted to enter upon the property and remediate any conditions that caused the property to be included on the abandoned property list. No remediation shall be commenced, however, if within that ten-day period the owner or mortgagee shall have notified the Township in writing that the owner or mortgagee has elected to perform the remediation itself. When the owner or mortgagee elects to perform the remediation itself, it shall be required to post bond in favor of the Township of Hanover in order to ensure performance. The amount and conditions of the bond shall be determined by the Public Officer.

(2) The cost of remediation incurred by the Township of Hanover, as so certified by the entity incurring the cost upon completion of the remediation, shall constitute a lien upon the property first in time and right to any other lien, whether the other lien was filed prior to or after the filing of any lien by the Township, except for Township taxes, liens and assessments and any lien imposed pursuant to the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 et seq., together with any interest thereon. The certification of cost shall be filed and recorded as a lien by the entity incurring the cost with the Morris County Clerk.

**D. Intent to maintain abandoned property.**

(1) Failure of an owner or lienholder to remove the property from the abandoned property list within the period of time for appeal of inclusion of the property on the list pursuant to N.J.S.A. 55:19-55 shall be prima facie evidence of the intent of the owner to continue to maintain the property as abandoned property.

(2) The clearance, development, redevelopment, or repair of property being maintained as an abandoned property pursuant to Subsection **C(1)** of this section shall be considered a public purpose and public use, for which the power of eminent domain may be lawfully exercised.

**§ 260-11 Removal of property from abandoned property list.**

**A.** An owner may request removal of his/her/its property from the abandoned property list prior to sale of the tax sale certificate by paying all taxes and Township liens due, including interest and penalties, and:

(1) By posting a certified check, money order, or a bond equal to the cost of remediating all conditions because of which the property has been determined to be abandoned pursuant to N.J.S.A. 55:19-55 and by posting a certified check, money order, or a bond to cover the cost of any environmental cleanup required on the property, evidenced by a certification by a licensed engineer retained by the owner and reviewed and approved by the public officer, stating that the certified check, money order, or bond adequately covers the cost of the cleanup; or

(2) By demonstrating to the satisfaction of the public officer that the conditions rendering the property abandoned have been remediated in full; provided, however, that where the public officer finds that the owner is actively engaged in remediating the conditions because of which the property was determined to be abandoned pursuant N.J.S.A. 55:19-55, as evidenced by significant rehabilitation activity on the property, the public officer may grant an extension of time of not more than 120 days for the owner to complete all work, during which time no further proceedings will be taken against the owner or the property.

**B.** If the owner has posted a certified check, money order, or bond in order to have a property removed from the abandoned property list and the conditions because of which the property was determined to be abandoned have not been fully remediated within one year of the date of posting the cash or bond, or, in the case of a property which requires a remediation of any known, suspected or threatened release of contaminants, if the owner has failed to enter into a memorandum of agreement with the New Jersey Department of Environmental Protection or an administrative consent order, as the case may be, or if an



agreement or order is in effect but the owner has failed to perform the remediation in conformance with the agreement or order, then the cash or bond shall be forfeited to the Township, which shall use the cash or bond and any interest which has accrued thereon for the purpose of demolishing or rehabilitating the property or performing the environmental remediation. Any funds remaining after the property has been demolished, rehabilitated or cleaned up shall be returned to the owner.

**§ 260-12 Expedited action to foreclose right of redemption.**

- A. When a person or entity other than the Township of Hanover acquires a tax sale certificate for a property on the abandoned property list at tax sale, the purchaser may institute an action to foreclose the right of redemption at any time after the expiration of just six months following the date of the sale of the tax sale certificate.
  
- B. Notwithstanding N.J.S.A. 54:5-104.34, when the Township of Hanover is the purchaser at tax sale of any property on the abandoned property list pursuant to N.J.S.A. 54:5-34, an action to foreclose the right of redemption may be instituted in accordance with the provisions of Subsection b of N.J.S.A. 54:5-77.
  
- C. After the foreclosure action is instituted, the right to redeem shall exist and continue to exist until barred by the judgment of the Superior Court; provided, however, that no redemption shall be permitted except where the owner:
  - (1) Posts a certified check, money order, or a bond equal to the cost of remediating the conditions because of which the property was determined to be abandoned pursuant to N.J.S.A. 55:19-56, as determined by the court; or
  
  - (2) Demonstrates to the court that the conditions because of which the property was determined to be abandoned pursuant to N.J.S.A. 55:19-55 have been remedied in full.

**§ 260-13 Entry of final judgment barring right of redemption; grounds for reopening judgment.**

Once a final judgment barring the right of redemption with respect to a property on the list of abandoned properties has been recorded, no court shall reopen such judgment at any time except on the grounds of lack of jurisdiction or fraud in the conduct of the action; in any such proceeding, the provisions of N.J.S.A. 55:19-20 et seq. shall be construed liberally in favor of the purchaser, assignee or transferee of the tax sale certificate.

**§ 260-14 Property deemed not abandoned; criteria; certification of abandonment provided upon request.**

A. If an entity other than the Township of Hanover has purchased or taken assignment from the Township of a tax sale certificate on a property that has not been legally occupied for a period of six months, that property shall not be added to the abandoned property list pursuant to N.J.S.A. 55:19-55 if:

(1) The owner of the certificate has continued to pay all Township taxes and liens on the property in the tax year when due; and

(2) The owner of the certificate takes action to initiate foreclosure proceedings within six months after the property is eligible for foreclosure pursuant to either Subsection a or b of N.J.S.A. 54:5-86, as appropriate, and diligently pursues foreclosure proceedings in a timely fashion thereafter.

B. A property used on a seasonal basis shall be deemed abandoned only if it meets any two of the additional criteria set forth in N.J.S.A. 55:19-81.

C. A determination that a property is abandoned property under the provisions of this article and N.J.S.A. 55:19-78 et seq. shall not constitute a finding that the use of the property has been abandoned for purposes of municipal zoning or land use regulation.

D. Upon the request of a purchaser or assignee of a tax sale certificate seeking to bar the right of redemption on an abandoned property pursuant to Subsection b of N.J.S.A. 54:5-86, the public officer or the Tax Collector shall, in a timely fashion, provide the requester with a certification that the property fulfills the definition of an "abandoned property" according to the criteria established in N.J.S.A. 55:19-81 and 55:19-82.

**§ 260-15 Transfer of possession and control of abandoned property.**

A. A summary action or other action to transfer possession and control of abandoned property in need of rehabilitation to the Township of Hanover may be brought by the Township in the Superior Court, Morris County. If the court

shall find that the property is abandoned pursuant to N.J.S.A. 55:19-81 and that the owner or party in interest has failed to submit and initiate a rehabilitation plan, then the court may authorize the Township to take possession and control of the property and to develop a rehabilitation plan.

- B. Where the Township has been granted possession and control, the Township may commence and maintain further proceedings for the conservation, protection or disposal of the property, or any part thereof, that are required to rehabilitate the property, recoup the cost and expenses of rehabilitation, and for the sale of the property; provided, however, that the court shall not direct the sale of the property if the owner applies to the court for reinstatement of control and possession of the property as permitted by N.J.S.A. 55:19-92.
- C. Failure by the owner, mortgage holder or lienholder to submit a plan for rehabilitation to the Township, obtain appropriate construction permits or, in the alternative, submit formal applications for funding the cost of rehabilitation to local, state or federal agencies providing such funding, within the initial six-month period, shall be deemed prima facie evidence that the owner has failed to take any action to further the rehabilitation of the property.

**§ 244-16 Property owner's defense against complaint; plan required.**

- A. An owner may defend against a complaint filed pursuant to N.J.S.A. 55:19-84 by submitting a plan for the rehabilitation and reuse of the property which is the subject of the complaint and by posting a bond equal to 125% of the amount determined by the public officer or the court to be the projected cost of rehabilitation.
- B. Any plan submitted by an owner to defend against a complaint shall be submitted within 60 days after the complaint has been filed, unless the court provides the owner with an extension of time for good cause shown.
- C. A plan submitted by an owner pursuant to this section shall include, but not be limited to:
  - (1) A detailed financial feasibility analysis, including documentation of the economic feasibility of the proposed reuse, including operating budgets or resale prices, or both, as appropriate;
  - (2) A budget for the rehabilitation of the property, including sources and uses of funds, based on the terms and conditions of realistically available financing, including grants and loans;
  - (3) A timetable for the completion of rehabilitation and reuse of the property, including milestones for performance of major steps leading to and

encompassing the rehabilitation and reuse of the property; and

(4) Documentation of the qualifications of the individuals and firms that will be engaged to carry out the planning, design, financial packaging, construction, and marketing or rental of the property.

**D.** The court shall approve any plan that, in the judgment of the court, is realistic and likely to result in the expeditious rehabilitation and reuse of the property which is the subject of the complaint.

(1) If the court approves the owner's plan, then it may appoint the public officer to act as monitor of compliance and progress. If the owner fails to carry out any step in the approved plan, then the Township may apply to the court to have the posted bond forfeited, to transfer possession of the building to the Township to complete the rehabilitation plan, and to grant authorization to use the bond proceeds for the rehabilitation.

(2) The owner shall provide bimonthly reports to the public officer on its activities and progress toward rehabilitation and reuse of the property.

**E.** The court may reject a plan and bond if it finds that the plan does not represent a realistic and expeditious means of ensuring the rehabilitation of the property or that the owner or his representative or agents, or both, lack the qualifications, background or other criteria necessary to ensure that the plan will be carried out successfully.

**§244-17 Owner's unsuccessful defense against complaint; mortgage holders or lienholders to be designated in possession of property.**

- A. If an owner is unsuccessful in defending against a complaint filed pursuant to N.J.S.A. 55:19-84, the mortgage holder or lienholder may seek to be designated in possession of the property by submitting a plan and posting a bond meeting the same conditions as set forth in N.J.S.A. 55:19-87. Their plan must be submitted within 60 days following the court's rejection of the owner's plan, unless the court provides the mortgage holder or lienholder with an extension of time for good cause shown. If the court approves any such mortgage holder or lienholder's plan, it shall designate that party to be in possession of the property for purposes of ensuring its rehabilitation and reuse and may appoint the public officer to act as monitor of the party's compliance.
- B. The mortgage holder or lienholder, as the case may be, shall provide bimonthly reports to the court and the public officer on its activities and progress toward rehabilitation and reuse of the property.
- C. If the mortgage holder or lienholder fails to carry out any material step in the approved plan, then the public officer shall notify the court, which may order the posted bond forfeit, grant the Township possession of the property, and authorize the Township to use the proceeds of the bond for rehabilitation of the property.
- D. Any sums incurred or advanced for the purpose of rehabilitating the property by a mortgage holder or lienholder granted possession of a property pursuant to Subsection A of this section, including court costs and reasonable attorneys' fees, may be added to the unpaid balance due that mortgage holder or lienholder, with interest calculated at the same rate set forth in the note or security agreement, or, in the case of a tax lienholder, at the statutory interest rate for subsequent liens.

**§244-18 Township to be designated in possession of property; submission of plan to court.**

- A. If no mortgage holder or lienholder meets the conditions of N.J.S.A. 55:19-88, then the Township may submit a plan to the court which conforms with the provisions of N.J.S.A. 55:19-87. Such plan shall designate whether the Township or a qualified rehabilitation entity shall undertake the rehabilitation plan in accordance with the provisions of N.J.S.A. 55:19-90.
- B. The court shall grant the Township or qualified rehabilitation entity possession of the property if it finds that:

(1) The proposed rehabilitation and reuse of the property is appropriate and beneficial;

(2) The Township or qualified rehabilitation entity is qualified to undertake the rehabilitation and reuse of the property; and

(3) The plan submitted by the Township or qualified rehabilitation entity represents a realistic and timely plan for the rehabilitation and reuse of the property.

C. The Township or qualified rehabilitation entity shall take all steps necessary and appropriate to further the rehabilitation and reuse of the property consistent with the plan submitted to the court. In making its findings pursuant to this subsection, the court may consult with qualified parties, including the New Jersey Department of Community Affairs, and, upon request by a party in interest, may hold a hearing on the plan.

D. Where either a redevelopment plan pursuant to N.J.S.A. 40A:12-1 et seq. or a neighborhood revitalization plan pursuant to N.J.S.A. 52:27D-490 et seq. has been adopted or approved by the New Jersey Department of Community Affairs, as appropriate, encompassing the property which is subject of a complaint, the court shall make a further finding that the proposed rehabilitation and reuse of the property are not inconsistent with any provision of either plan.

**§ 244-19 Township exercise of rights to further rehabilitation and reuse of property; designation of qualified rehabilitation entity.**

A. The Township may exercise its rights under N.J.S.A. 55:19-78 et seq. directly or may designate a qualified rehabilitation entity for the purpose of exercising the Township's rights, where that designation will further the rehabilitation and reuse of the property consistent with Township plans and objectives. This designation shall be made by resolution of the Township Committee of the Township of Hanover.

B. Regardless of whether the Township exercises its rights directly or designates a qualified rehabilitation entity pursuant to this section, while in possession of a property pursuant to N.J.S.A. 55:19-78 et seq., the Township shall maintain, safeguard, and maintain insurance on the property. Notwithstanding the Township's possession of the property, nothing in N.J.S.A. 55:19-78 et seq. shall be deemed to relieve the owner of the property of any civil or criminal liability or any duty imposed by reason of acts or omissions of the owner.

**§ 244-20 Township deemed possessor of property; borrowing of funds; reporting and filing requirements.**

A. If the Township has been granted possession of the property pursuant to

N.J.S.A. 55:19-89, the Township shall be deemed to have an ownership interest in the property for the purpose of filing plans with public agencies and boards, seeking and obtaining construction permits and other approvals, and submitting applications for financing or other assistance to public or private entities.

- B.** For purposes of any state program of grants or loans, including but not limited to programs of the New Jersey Department of Community Affairs and the New Jersey Housing and Mortgage Finance Agency, possession of a property under this subsection shall be considered legal control of the property.
- C.** Notwithstanding the granting of possession to the Township, nothing in N.J.S.A. 55:19-78 et seq., shall be deemed to relieve the owner of the property of any obligation the owner or any other person may have for the payment of taxes or other Township liens and charges, or mortgages or liens to any party, whether those taxes, charges or liens are incurred before or after the granting of possession.
- D.** The granting of possession shall not suspend any obligation the owner may have as of the date of granting possession for payment of any operating or maintenance expense associated with the property, whether or not billed at the time of the granting of possession.
- E.** The court may approve the borrowing of funds by the Township to rehabilitate the property and may grant a lien or security interests with priority over all other liens or mortgages other than municipal liens. Prior to granting this lien priority, the court must find as follows:

  - (1) The Township sought to obtain the necessary financing from the senior lienholder, which declined to provide such financing on reasonable terms;
  - (2) The Township sought to obtain a voluntary subordination from the senior lienholder, which refused to provide such subordination; and
  - (3) Lien priority is necessary in order to induce another lender to provide financing on reasonable terms. No lien authorized by the court shall take effect unless recorded with the Clerk of Morris County.
- F.** Where the Township has been granted possession by the court in the name of the Township, the Township may seek the approval of the court to assign its rights to another entity, which approval shall be granted by the court when it finds that:

  - (1) The entity to which the Township's rights will be assigned is a qualified rehabilitation entity; and

- (2) The assignment will further the purposes of this section.
- G. Where the Township has designated a qualified rehabilitation entity to act on its behalf, the qualified rehabilitation entity shall provide bimonthly reports to the Township on its activities and progress toward rehabilitation and reuse of the property. The Township or qualified rehabilitation entity, as the case may be, shall provide such reports to the court as the court determines to be necessary. If the court finds that the Township or its designee has failed to take diligent action toward rehabilitation of the property within one year from the grant of possession, then the court may request that the Township designate another qualified rehabilitation entity to exercise its rights or, if the Township fails to do so, may terminate the order of possession and return possession and control of the property to its owner.
- H. The Township shall file a notice of completion with the court, and shall also serve a copy on the owner and any mortgage holder or lienholder, at such time as the Township has determined that no more than six months remain to the anticipated date on which rehabilitation will be complete. This notice shall include an affidavit of the public officer, attesting that the rehabilitation is anticipated to be completed within that time period, and a statement setting forth the actions as it plans to undertake consistent with the plan.

**§ 244-21 Petition for reinstatement of control and possession by owner.**

- A. An owner may petition for reinstatement of the owner's control and possession of the property at any time after one year from the court's removal of possession, but no later than 30 days after the Township has filed a notice of completion with the court or, in the event the notice of completion is filed within less than one year of the grant of possession, within 30 days after the Township has filed said notice.
- B. The court may allow additional time for good cause if that additional time does not materially delay completion of the rehabilitation, place undue hardship on the Township or affect any of the terms or conditions under which the Township has applied for or received financing for the rehabilitation of the property.
- C. Any petition to reinstate the owner's control and possession of the property filed pursuant to N.J.S.A. 55:19-92 shall:
- (1) Include a plan for completion of the rehabilitation and reuse of the property consistent with the plan previously approved by the court;
- (2) Provide legally binding assurance that the owner will comply with all conditions of any grant or loan secured by the Township or repay those grants or loans in full, at the discretion of the maker of the loan or grant; and
- (3) Be accompanied by payment equal to the sum of all Township



liens outstanding on the property; all costs incurred by the Township in bringing action with respect to the property; any costs incurred by the Township not covered by grants or loans to be assumed or repaid pursuant to this section; and any costs remaining to complete rehabilitation or reuse of the property, as determined by the public officer, which payment shall be placed in escrow with the clerk of the court ending disposition of the petition.

**§ 244-22 Obligation of owner prior to grant of petition.**

- A. Prior to the granting of a petition on the part of the owner by the court pursuant to N.J.S.A. 55:19-92; the owner may be required to post a bond or other security in an amount determined by the court, after consultation with the public officer, as likely to ensure that the owner will continue to maintain the property in sound condition. That bond or other security shall be made available to the Township to make any repair on the property in the event of a code violation which is not corrected in timely fashion by owner. The bond or other security may be forfeited in full in the event that the owner fails to comply with any requirement imposed as a condition of the reinstatement petition filed pursuant to N.J.S.A. 55:19-92.
  
- B. The owner may seek approval of the court to be relieved of this requirement after five years, which shall be granted if the court finds that the owner has maintained the property in good repair during that period, that no material violations affecting the health and safety of the tenants have occurred during that period, and that the owner has remedied other violations in a timely and expeditious fashion.

**§ 244-23 Failure of owner to petition for reinstatement of control and possession of property; granting of title to Township; authority to sell.**

If the owner fails to petition for the reinstatement of control and possession of the property within 30 days after the Township has filed a notice of completion or, in any event, within two years after the initial grant of possession, or if the owner fails to meet any conditions that may be set by the court in granting a reinstatement petition, the court may grant the Township title or authorize the Township to sell the property, subject to the provisions of N.J.S.A. 55:19-96.

**§ 244-24 Procedure for Township to place liens, obtain title and sell property.**

- A. The Township, with the approval of the court, may place a lien on the property to cover any costs of the Township in connection with any proceeding under N.J.S.A. 55:19-78 et seq., incurred prior to the grant by the court of an order of possession, which may include costs incurred to stabilize or secure the property to ensure that it can be rehabilitated in a cost-effective manner. Any such lien shall be considered a Township lien for the purposes of N.J.S.A. 54:5-9, with the rights and status of a Township lien pursuant thereto.
  
- B. Where the Township seeks to gain title to the property, it shall purchase the

property for fair market value on such terms as the court shall approve and may place the proceeds of sale in escrow with the court.

- C. The court may authorize the Township to sell the building free and clear of liens, claims and encumbrances, in which event all such liens, claims and encumbrances shall be transferred to the proceeds of sale with the same priority as existed prior to resale in accordance with the provisions of this section, except that municipal liens shall be paid at settlement. The proceeds of the purchase of the property shall be distributed as set forth in N.J.S.A. 55:19-97.
- D. The Township may seek approval of the court to sell the property to a third party when the court finds that such conveyance will further the effective and timely rehabilitation and reuse of the property.
- E. Upon approval by the court, the Township shall sell the property on such terms and at such price as the court shall approve and may place the proceeds of sale in escrow with the court. The court shall order a distribution of the proceeds of sale after paying court costs in the order of priority set forth in N.J.S.A. 55:19-97.

**§ 244-25 Distribution of proceeds.**

- A. The proceeds paid pursuant to Subsection c of N.J.S.A. 55:19-96 shall be distributed in the following order of priority:
  - (1) The costs and expense of sale;
  - (2) Other governmental liens;
  - (3) Repayment of principal and interest on any borrowing or indebtedness incurred by the Township and granted priority lien status pursuant to Subsection a of N.J.S.A. 55:19-98;
  - (4) A reasonable development fee to the Township consistent with the standards for development fees established for rehabilitation by the New Jersey Department of Community Affairs or the New Jersey Housing and Mortgage Finance Agency;
  - (5) Other valid liens and security interest, in accordance with their priority; and
  - (6) The owner.

**§ 244-26 Recourse of Township; public officer authority to place lien; remedies.**

- A. With respect to any lien placed against real property pursuant to the provisions of N.J.S.A. 40:48-2.3, 40:48-2.5, or 40:48-2.3a, or any receiver's lien pursuant to N.J.S.A. 2A:42-114 et seq., the Township shall have recourse with respect to the lien against any assets of the owner of the property if an individual, against any assets of any partner if a partnership, and against any asset of any owner of a 10% interest or greater if the owner is any other business organization or entity recognized pursuant to law.

- B. The public officer, with the approval of the court, may place a lien on the property to cover any costs of the Township in connection with a proceeding under N.J.S.A. 55:19-78 et seq., incurred prior to the grant by the court of an order of possession under N.J.S.A. 55:19-78 et seq. which may include costs incurred to stabilize or secure the property to ensure that it can be rehabilitated in a cost-effective manner. Any such lien shall be considered a Township lien for the purposes of N.J.S.A. 54:5-9, with the rights and status of a Township lien pursuant thereto.
- C. With the exception of the holding of special tax sales pursuant to N.J.S.A. 55:19-101, the remedies available under N.J.S.A. 55:19-78 et seq. shall be available to the Township with respect to any abandoned property, whether or not the Township has established an abandoned property list and whether or not the property at issue has been included on any such list.

**§ 244-27 Special tax sale and criteria for bidders.**

- A. The Township may hold special tax sales with respect to those properties eligible for tax sale pursuant to N.J.S.A. 54:5-19 which are also on the abandoned property list.
- B. The Township shall establish criteria for eligibility to bid on properties at the sale, which may include, but need not be limited to:
  - (1) Documentation of the bidder's ability to rehabilitate or otherwise reuse the property consistent with Township plans and regulations;
  - (2) Commitments by the bidder to take action to foreclose on the tax lien by a date certain; and
  - (3) Such other criteria as the Township may determine are necessary to ensure that the properties to be sold will be rehabilitated or otherwise reused in a manner consistent with the public interest.
- C. The Township may establish minimum bid requirements for a special tax sale that are less than the full amount of the taxes, interest and penalties due, the amount of such minimum bid to be at the sole discretion of the Township, in order to ensure that the properties to be sold will be rehabilitated or otherwise reused in a manner consistent with the public interest.
- D. The Township may combine properties in said special tax sale into bid packages and require that bidders place a single bid on each package, rejecting any and all bids on individual properties that are submitted.
- E. The Township may sell said properties subject to the provision that, if the purchaser fails to carry out any commitment that has been set forth as a condition of sale or misrepresents any material qualification that has been established as a condition of eligibility to bid pursuant thereto, then the

properties and any interest thereto acquired by the purchaser shall revert to the Township, and any amount paid by the purchaser to the Township at the special tax sale shall be forfeit to the Township.

- F. In the event there are two or more qualified bidders for any property or bid package in a special tax sale, the Township may designate the unsuccessful qualified bidder whose bid was closest to the successful bid as an eligible purchaser.
- G. In the event that the selected purchaser of that property or bid package fails to meet any of the conditions of sale established by the Township pursuant to this section and his/her/its interest in the property or properties reverts to the Township, the Township may subsequently designate the entity previously designated as an eligible purchaser as the winning bidder for the property or properties and assign the tax sale certificates to that entity on the basis of that entity's bid at the special tax sale, subject to the terms and conditions of the special tax sale.
- H. The Township shall provide notice of a special tax sale pursuant to N.J.S.A. 54:5-26. The notice shall include any special terms of sale established by the Township pursuant to this section. Nothing shall prohibit the Township from holding a special tax sale on the same day as a standard or accelerated tax sale.

**§ 260-28 Removal of property from abandoned property list.**

A property on which an entity other than the Township has purchased or taken assignment from the Township of a tax sale certificate which has been placed on the abandoned property list may be removed if the owner of the certificate pays all municipal taxes and liens due on the property within 30 days after the property is placed on the list; provided, however, that if the owner of the certificate fails to initiate foreclosure proceedings within six months after the property was first placed on the list, the property shall be restored to the abandoned property list in accordance with the provisions of N.J.S.A. 55:19-103.

**§260-29 Interested parties may request additions to abandoned property list.**

- A. Any interested party may submit a written request to the public officer asserting that any property within the Township should be included on the abandoned property list prepared pursuant to N.J.S.A. 55:19-55, specifying the street address and block and lot number of the property to be included and the grounds for its inclusion. Within 30 days of receipt of any such request, the public officer shall provide a written response to the party, either indicating that the property will be added to the list or, if not, the reasons for not adding the property. For the purposes of this section, the term "interested parties" shall include any resident of the Township, any owner or operator of a business within

the Township or any organization representing the interests of residents, business owners or otherwise engaged in furthering the revitalization and improvement of the neighborhood in which the property is located.

- B. Any interested party may participate in a redetermination hearing regarding the inclusion of a property on the abandoned property list. Upon written request by any interested party, the public officer shall provide that party with at least 20 days' notice of any such hearing. The party shall provide the public officer with notice, at least 10 days before the hearing, of its intention to participate and the nature of the testimony or other information that it proposes to submit at the hearing.

## ARTICLE IV

### MISCELLANEOUS PROVISIONS

#### **§260-30 Additional Authority.**

- A. **Unoccupied, Blighted & Nuisance Properties.** With respect to any Unoccupied Property, Blighted Property and/or Nuisance Property, as those terms are defined within §260-1, that does not otherwise fall within the provisions of "Vacant and Abandoned Property" and "Abandoned Property," the Enforcement Officer shall be authorized to require that the owner, Creditor, Property Management Company or other Responsible Party for such property to undertake reasonable measures to secure, maintain, repair, make safe or otherwise require that such property does not become or continue to be blighted property at any time, including pre-demolition, pre-construction, construction and rehabilitation phase until a final certificate of occupancy and/or certificate of habitability is obtained.
- B. If the Enforcement Officer has reason to believe that a property subject to the provisions of this Chapter is posing a serious threat to the public health, safety and welfare, the enforcement officer may temporarily secure the property at the expense of the mortgagee, Creditor and/or owner and may issue summonses and complaints as soon as possible to address the blighting conditions of the property, whether occupied, unoccupied, and/or vacant and abandoned.
- C. The Enforcement Officer shall have the authority to require the owner, mortgagee, Creditor and/or, property management company, occupant, Responsible Party and/or the agents, of any Unoccupied Property, Blighted Property and/or Nuisance Property, to implement additional maintenance and/or security measures to address or mitigate the impact of any blighting conditions at any time leading up to, during or after completion of any renovation/redevelopment project or foreclosure process., including but not limited to securing any and all doors, windows or other openings,

employment of an on-site security guard, requirements of fire watch in accordance with §137-42 of the Code, require property to be demolished, or other measures as may be reasonably required to help prevent the further decline of the property.

- D. If there is a finding that the condition of the property is posing a threat to the public health, safety and welfare, then the Enforcement Officer may direct the Township to abate the violates and charge the mortgagee, Creditor, Responsible Party and/or owner with the cost of the abatement.
- E. If the mortgagee, owner or Creditor does not reimburse the Township for the cost of temporarily securing the property, or of any abatement directed by the Enforcement Officer within 30 days of the Township sending the mortgagee owner or Creditor, Property Management Company and/or other Responsible Party the invoice, then such amounts, together with an administrative fee of \$500 to address the Township's administrative costs and expense shall be a lien against the property and recorded and collected as provided by the statutes of the State of New Jersey in the same manner as set forth in Article III herein.

**§260-31 Inspections; Right of Entry; Denial of Entry.**

- A. The Owner, Creditor, Mortgagee, Responsible Party and/or property management company, and/or any authorized agent thereof of any Unoccupied, Abandoned, and/or Vacant and Abandoned Property must provide the Township Enforcement Officer with access to the property for the purpose of conducting interior and exterior inspections to determine compliance with all applicable laws, regulations, codes and ordinances. The Township Enforcement Officer shall provide the Owner, tenant, Creditor, Mortgagee, Responsible Party and/or property management company, and/or any authorized agent thereof with reasonable notice of such inspection, which shall be carried out during regular business hours, or at such other times as circumstances warrant or as agreed to by the parties.
- B. When the Enforcement Officer believes or has reason to believe that violations of the provisions of this code exist, he/she shall make or cause to be made inspections to determine the condition of such suspect structures and premises in order to safeguard the safety and welfare of the public under the provisions of this code.
- C. The Enforcement Officer is authorized to enter any structure or premises at any reasonable time for the purpose of performing his duties under this code.
- D. All inspections as provided for herein shall be made with the permission of either Owner, Creditor, Mortgagee, Responsible Party and/or property management company, or any authorized agent thereof of any Unoccupied, Abandoned, and/or Vacant and Abandoned Property. When requesting such permission, the

Enforcement Officer shall advise the Owner, Creditor, Mortgagee, Responsible Party and/or property management company of his/her right to refuse such permission. In the event that such permission is denied to the Enforcement Officer upon request, the provisions of § 260-32 of this Chapter shall be complied with.

**§260-32 Issuance of search warrant when entry refused.**

- A. Where any Enforcement Officer or duly appointed inspector is refused entry or access or is otherwise impeded or prevented from conducting an inspection pursuant to this chapter by Owner, Creditor, Mortgagee, Responsible Party and/or property management company, or any authorized agent thereof of any Unoccupied, Abandoned, and/or Vacant and Abandoned Property, the Enforcement Officer is authorized upon affidavit, apply to the Judge of the Municipal Court of the Township of Hanover for an administrative search warrant. If the Judge is satisfied as to the matter set forth in said affidavit and if he/she finds that probable cause for issuance of the search warrant exists, he/she shall authorize the issuance of a search warrant permitting access to and inspection of the particularly described building in a particularly described area.
- B. Probable cause permitting the issuance of the aforesaid search warrant may include but is not limited to the following:
  - (1) The passage of time.
  - (2) The nature of the building or buildings.
  - (3) The condition of the entire area.
  - (4) A valid public interest.
  - (5) Belief that a nuisance is maintained.
  - (6) Belief that a violation of this code is maintained.

**§260-33 Immunity of Enforcement Officer:**

- A. Any Enforcement Officer or any person authorized by the Township to enforce the sections of this Chapter shall be immune from civil or criminal prosecution for reasonable, good faith entry upon real property while in the discharge of the Enforcement Officer's official duties under this Chapter.
- B. Except as may otherwise be provided by statute or local law or ordinance, no officer, agent or employee of the municipality charged with the enforcement of this code shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this code.

- C. No person who institutes or assists in the prosecution of civil, quasi-criminal or criminal proceeding under this code shall be liable for damages hereunder unless acting with actual malice and without reasonable grounds for believing that the person accused or prosecuted was guilty of an unlawful act or omission.
- D. Any suit brought against any officer, agent or employee of the municipality as a result of any act required or permitted in the discharge of his duties under this code shall be defended by the legal representatives of the municipality until the final determination of the proceedings therein.

**§260-34 Penalties and Fees.**

- A. Except as otherwise explicitly provided herein, every person, firm, corporation, Owner, operator, Property Management Company, Creditor, Mortgagee, and/or Responsible Party, or any agent(s) thereof which violates any provision of this code or any ordinance adopted pursuant hereto, shall be liable be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not more than \$2,000 or the maximum fine as otherwise permitted by N.J.S.A. 40:49-5, or by imprisonment for not more than 90 days, or both.
- B. Each day that a violation continues after due notice has been served in accordance with the terms and provisions hereof shall constitute an additional separate and distinct offense for which the maximum penalty may continue to be imposed and collected.
- C. **Opposing or Obstructing Enforcement Officer; Penalty.** Any person, firm corporation, including the Owner, operator, Property Management Company, Creditor, Mortgagee, and/or Responsible Party, or any agent(s) thereof, which shall oppose, obstruct or resist any Enforcement Officer or any person authorized by this Chapter in the discharge of his/her duties as provided in this Chapter shall be subject to penalties as set forth in subsection A and B of this Section.

**Section 2.** Any article, chapter, section, paragraph, subsection, clause, or other provision of the Township Code inconsistent with the provisions of this ordinance is hereby repealed to the extent of such inconsistency.

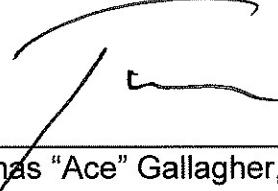
**Section 3.** In case, for any reason, any portion or provision of this Ordinance shall be held to be unconstitutional or invalid, the same shall not affect any other portion or provision of this Ordinance, except so far as the portion or provision so declared unconstitutional or invalid shall be severed from the remainder or any portion thereof.



**Section 4.** This Ordinance shall take effect in accordance with the law.

TOWNSHIP COMMITTEE  
TOWNSHIP OF HANOVER  
COUNTY OF MORRIS  
STATE OF NEW JERSEY

ATTEST:

  
Thomas "Ace" Gallagher, Mayor

  
Krista M. DiGiorgio, Township Clerk

DATE OF INTRODUCTION: June 8, 2023  
DATE OF ADOPTION: July 13, 2023

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C E R T I F I C A T I O N

I, Krista M. DiGiorgio, Township Clerk of the Township of Hanover in the County of Morris and State of New Jersey, do hereby certify the foregoing to be a true copy of an Ordinance adopted by the Township Committee of said Township on the 13<sup>th</sup> day of July 2023, at a meeting duly convened, of said Body.

  
Krista M. DiGiorgio, Township Clerk