

**ORDINANCE NO. 3667-23**

**ORDINANCE AMENDING THE BOROUGH CODE OF THE BOROUGH OF RUTHERFORD IN ORDER TO ESTABLISH PROVISIONS GOVERNING THE MAINTENANCE OF VACANT AND ABANDONED PROPERTIES IN THE BOROUGH AND ESTABLISHING REGISTRATION FEES FOR VACANT AND ABANDONED PROPERTIES**

**WHEREAS**, the Borough of Rutherford contains several structures which are vacant in whole or large part; and;

**WHEREAS**, in many cases, the owners or responsible parties of these structures are neglectful of them, not maintaining or securing them to an adequate standard and/or not restoring them to productive use; and

**WHEREAS**, it has been established that vacant and abandoned structures cause severe harm to the health, safety, and general welfare of the community, including diminution of neighboring property values, increased risk of fire, and potential increases in criminal activity and public health and safety risks; and

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

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

**WHEREAS**, the presence of these structures within the Borough imposes a great cost on the Borough and it is in the public interest for the Borough of Rutherford to impose a fee in conjunction with the registration of vacant and abandoned structures in an attempt to offset the disproportionate costs.

**NOW THEREFORE BE IT ORDAINED** by the Borough Council of the Borough of Rutherford, in the County of Bergen and State of New Jersey that the Borough Code is hereby amended as follows:

## **Section 1. Definitions**

### **OWNER**

The title holder, any agent of the title holder having authority to act with respect to a vacant property, any party holding a subordinate interest in the title holder of any property, and foreclosing entity subject to the provisions of C. 46:10B-51 (P.L. 2008, c.127, Sec. 17) or any other entity determined any Court of competent jurisdiction or by the Borough of Rutherford to have authority to act or to have any demonstrable interest with respect to the property.

### **VACANT AND ABANDONED PROPERTY**

Any building used or to be used as a residence or business which is not legally occupied or at which substantially all lawful construction or business operations or residential occupancy has ceased, and which is in such condition that it cannot legally be reoccupied without repair or rehabilitation and at least two (2) of the following conditions exist:

- (1) Overgrown or neglected vegetation, including, but not limited to brush weeds, dead or dying trees;
- (2) Infestation of insects, vermin, rats, or other pests;
- (3) The accumulation of newspapers, circulars, flyers, or mail on the property;
- (4) Disconnected gas, electric, or water utility services to the property;
- (5) The accumulation of hazardous, noxious, or unhealthy substances or materials on the property;
- (6) The accumulation of junk, litter, trash, or debris on the property;
- (7) The absence of window treatments such as blinds, curtains, or shutters;
- (8) The absence of furnishings and personal items;
- (9) Statements by neighbors, delivery persons, or government employees indicating that the residence is vacant and abandoned;
- (10) Windows or entrances to the property that are boarded up or closed off, or multiple window panes that are damaged, broken, and unrepaired;
- (11) Doors to the property that are smashed through, broken off, unhinged, or continually unlocked;

- (12) A risk to the health, safety, or welfare of the public or any adjoining or adjacent property owners, that exists due to acts of vandalism, loitering, criminal conduct, or the physical destruction or deterioration of the property;
- (13) An uncorrected violation of a municipal building, housing, or similar code during the preceding year, or any order by municipal authorities declaring the property to be unfit for occupancy and to remain vacant and unoccupied;
- (14) The mortgage or other authorized party has secured or winterized the property due to the property being deemed vacant and unprotected or in danger of freezing;
- (15) A written statement issued by a mortgagor expressing the clear intent of all mortgagors to abandon the property; or
- (16) Any other reasonable indicia of abandonment.

## **Section 2. General Requirements**

- A. Effective upon passage and adoption of this Ordinance and publication of same, the owner of any currently vacant property, or any property that subsequently becomes vacant as defined herein, shall within sixty (60) days after the building becomes vacant property or upon adoption of this Ordinance, or within thirty (30) days after assuming ownership of the vacant property, whichever is later, file a registration statement for each such vacant property with the Borough of Rutherford Code Enforcement Official on forms provided by the Borough Code Enforcement Official for such purposes. The registration shall remain valid until the end of the calendar year. The owner shall be required to renew the registration annually, no later than January 31, as long as the building remains vacant property and shall pay a registration or renewal fee in the amount prescribed in Section 4 of this Article for each vacant property registered.
- B. Any and all owners as defined in this Act who are owners of any vacant property as defined herein and who shall file the annual registration statement prior to the end of the 2023 calendar year shall be deemed as having their registration valid through the end of the calendar year 2024.
- C. The owner shall notify the Borough Code Enforcement Official within thirty (30) days of any change in the registration information by filing an amended registration statement on a form provided by the Borough Code Enforcement Official for such purpose.
- D. The registration statement shall be deemed *prima facie* proof of the statements therein contained in any administrative enforcement proceeding or court proceeding

instituted by the Borough of Rutherford against the owner or owners of the building.

### **Section 3. Registration Statement Requirements: Property Inspection**

- A. After filing a registration statement or a renewal of a registration statement, the owner of any vacant property shall provide access to the Borough Code Enforcement Official or any designated Borough Enforcement Official to conduct an exterior and interior inspection of the building to determine compliance with the Borough Code, following reasonable notice, during the period covered by the initial registration or any subsequent renewal.
- B. The registration statement shall include the name, street address, and telephone number of a natural person eighteen (18) years of age or older, designated by the owner or owners as the authorized agent for receiving notices of code violations and for receiving process in any court proceeding or administrative enforcement proceeding, on behalf of such owner or owners in connection with the enforcement of any applicable code. This person must maintain an office in the State of New Jersey or reside within the State of New Jersey. The statement shall also include the name of the person responsible for maintaining and security of the property, if different. The address for the authorized agent as set forth herein shall designate the New Jersey address as required by the provision which shall be the address utilized for service of any notices by the Borough.
- C. An owner who is a natural person and who meets the requirements of this Article as to location of residence or office may designate him or herself as agent.
- D. By designing an authorized agent under the provisions of this section, the owner consents to receive any and all notices of code violations concerning the registered vacant property and all process in any court proceeding or administrative enforcement proceeding brought to enforce code provisions concerning the registered building by service of the notice or process on the authorized agent. Any owner who has designated an authorized agent under the provisions of this section shall be deemed to consent to the continuation of the agent's designation for the purposes of this section until the owner notifies the Borough Code Enforcement Official of a change of authorized agent or until the owner files a new annual registration statement. The designation of an authorized agent in no way releases the owner from any requirement of this Article.

### **Section 4. Fee Schedule**

The initial registration fee for each building shall be two hundred fifty (\$250.00) dollars. The fee for the first renewal is five hundred (\$500.00) dollars. The fee for the second renewal is one thousand (\$1,000.00) dollars. The fee for any subsequent renewal is one thousand (\$1,000.00) dollars more than the previous year's renewal fee. Any and all who shall file the annual registration statement prior to the end of the 2023 calendar year shall be deemed as having their registration valid through the end of the calendar year 2024, and in such case the first renewal pursuant to this section shall be for the 2025 calendar year.

### **Vacant and Abandoned Property Registration Fee Schedule**

- A. Initial registration      \$250.00
- B. First renewal              \$500.00
- C. Second renewal          \$1,000.00
- D. Each subsequent renewal: \$1,000.00 more than previous year's fee charged to the property owner

### **Section 5. Requirements for Owners of Vacant and Abandoned Property**

The owner of any building that has become a vacant and abandoned property, and any person maintaining, operating, or collecting rent for any such building that has become vacant shall, within thirty (30) days thereof:

- (1) Enclose and secure the building against unauthorized entry as provided in the applicable provisions of the Borough Code, or as set forth in rules and regulations supplementing those codes; and
- (2) Post a sign affixed to the inside of the building indicating the name, address, and telephone number of the owner, the owner's authorized agent for the purpose of service of process (if designated pursuant to Section 3 of this Article), and the person responsible for day-to-day supervision and management of the building, if such person is different from the owner holding title or authorized agent; and
- (3) Secure the building from unauthorized entry and maintain the sign until the building is again legally occupied or demolished or until repair or rehabilitation of the building is complete.
- (4) Place a sign or posting indicating that unauthorized persons are not permitted entry into the building or on the porch, curtilage or surrounding areas in accordance with the provisions of New Jersey Statute 2C:18-3b(2). Said sign/posting shall clearly indicate "No trespassing" in a form approved by the Borough of Rutherford and shall be placed in a conspicuous location on the premises. The sign shall be of a size and placed in such a location so as to be legible from the nearest public street or sidewalk, whichever is nearer, but shall be no smaller than 15" x 17".
- (5) The owner of any vacant building shall acquire and otherwise maintain liability insurance by procuring a vacancy policy in an amount of not less than four hundred thousand (\$400,000.00) dollars for buildings designed primarily for use as residential units and not less than one million (\$1,000,000.00) dollars for any other building including, but not limited to buildings designed for manufacturing, industrial, storage

or commercial uses, covering any damage to any person or any property caused by any physical condition of or in the building.

- (6) The owner shall attach evidence of the insurance to the owner's registration statement. Any registration statement submitted that does not include such evidence shall not be deemed to be a valid registration.

### **Section 6. Administration**

The Administration for the Borough of Rutherford may issue rules and regulations for the administration of the provisions of this Article. Council for the Borough of Rutherford shall be notified in the event that any rules and regulations for the administration of the provisions of this article are adopted or amended.

### **Section 7. Violations and Penalties**

- A. Any owner who is not in full compliance with this Article or who otherwise violates any provision of this Article or of the rules and regulations issued hereunder shall be subject to a fine of not less than five hundred (\$500.00) dollars and not more than one thousand (\$1,000.00) dollars for each offense. Every day that a violation continues shall constitute a separate and distinct offense. Fines assessed under this Article shall be recoverable from the owner and may become a lien on the property, in accordance with other provisions of State Law and the Borough of Rutherford Code. Any failure to pay the annual registration fee or renewal fee may also become a lien on the property in accordance with other provisions of State Law and the Borough of Rutherford Code.
- B. For purposes of this Article, failure to file a registration statement in time, failure to provide correct information on the registration statement, failure to comply with the provisions of Section 5 of this Article, or such other matters as may be established by the rules and regulations of the Borough Council for the Borough of Rutherford shall be deemed to be violation of this Article.

### **Section 8. Compliance with Other Provisions**

- A. Nothing in this Article is intended to nor shall be read to conflict or prevent the Borough of Rutherford from taking action against buildings found to be in unfit for human habitation or unsafe structures as provided in applicable provisions of the code of the Borough of Rutherford, NJ Uniform Fire Code and/or the Uniform Construction Code. Further, any action taken under any such code provision other than the demolition of a structure shall not relieve an owner from its obligations under this Article.

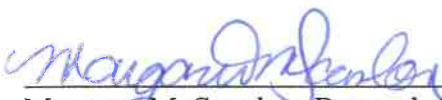
**BE IT FURTHER ORDAINED**, that if any section, paragraph, subsection, clause, or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause, or provisions so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective; and

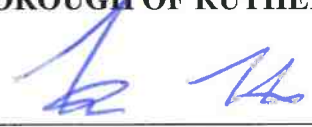
**BE IT FURTHER ORDAINED**, that any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict; and

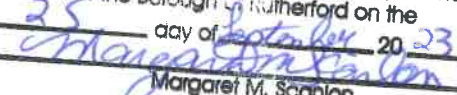
**BE IT FURTHER ORDAINED**, that this Ordinance shall take effect upon passage and publication in accordance within applicable law.

**ATTEST:**

**BOROUGH OF RUTHERFORD**

  
Margaret M. Scanlon, Borough Clerk

  
Frank Nunziato, Mayor

I hereby certify that this is a true and exact copy  
of an ordinance recorded by the Mayor and  
Council of the Borough of Rutherford on the  
25 day of September 2023  
  
Margaret M. Scanlon  
Borough Clerk