Introduced: July 13, 2020

Adopted:

THE TOWNSHIP OF SOUTH ORANGE VILLAGE

ORDINANCE #2020-18

AN ORDINANCE AMENDING AND RESTATING CHAPTER 237 - PROPERTY MAINTENANCE REGARDING THE OBLIGATIONS OF OWNERS AND CREDITORS OF VACANT, FORECLOSED AND ABANDONED PROPERTY.

WHEREAS, the Board of Trustees of the Township of South Orange Village finds that there exists in the Township of South Orange Village vacant, foreclosed and/or abandoned structures which require registration of such properties and the identification of owners, creditors and authorized agents to ensure the maintenance of such properties and to prevent those properties from falling into disrepair, neglect or creating a blighting condition on their respective neighborhood and, as such, desires to amend and restate Chapter 237 of the Code of the Township of South Orange Village (the "Code").

NOW, THEREFORE, be it ordained, by the Board of Trustees of the Township of South Orange Village, a municipal corporation of New Jersey located in Essex County thereof, that Chapter 237 of the Code be amended and restated as follows:

Section 1.

237-8 Definitions: Word Usage is hereby amended and restated to include or redefine the following terms:

CREDITOR - Any person, lienholder or any Federal or State chartered bank, savings bank, savings and loan association, credit union or any other financial institution or entity acting on behalf of the Creditor, including, but not limited to, servicers, located in-state or out-of-state, who serves a summons and complaint in an action to foreclose on a mortgage on property located in the Township of South Orange Village, New Jersey.

OWNER - Any person, firm, association, partnership or corporation owning, controlling, maintaining or collecting rents for a property, including a duly authorized agent or attorney. Guardians, conservators or trustees or other fiduciaries shall also be regarded as owners. Title holders, any agent of the title holder having authority to act with respect to a vacant property, any foreclosing entity subject to the provisions of N.J.S.A. 46:10B-51 (P.L. 2008, c.127, Sec. 17), or any other entity determined by the Township of South Orange Village to have authority to act with respect to the property shall also be regarded as owners. First mortgagees and/or their servicers may also be deemed owners, provided they have been duly served with a certificate of de facto abandonment pursuant to §§ 237-65 and 237-66.

VACANT PROPERTY - Any building which is not legally occupied or at which substantially all lawful construction operations or occupancy has ceased, or which is in such condition that it cannot legally be reoccupied without repair or rehabilitation; provided, however, that any property that contains all building systems in working order and is being actively marketed by its owner for sale or rental, shall not be deemed vacant. Property determined to be "abandoned property" in accordance with the meaning of such term in the Abandoned Properties Rehabilitation Act, N.J.S.A.

55:19-78 *et seq*. or if found to be de facto abandoned as provided below, or creating a nuisance and/or blight due to being uninhabited shall also be deemed to be vacant property for the purposes of this section.

Section 2.

Chapter 237-65 is hereby amended and restated as follows:

237-65 – Vacant, Foreclosed and Abandoned Properties

A. The owner or creditor of any vacant property as defined herein shall, within 30 days after the building becomes vacant property or within 30 days after assuming ownership of the vacant property, or within 10 calendar days after receipt of notice from the Village, whichever is earlier,

1. File a registration statement for each such vacant property on forms or manner provided by the Village for such purposes;
2. Enclose and secure the building against unauthorized entry;
3. Post and maintain a sign affixed to the building indicating the name, address and telephone number of the owner, the owner's authorized agent for the purpose of service of process and 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) until the building is again legally occupied or demolished or until repair or rehabilitation of the building is complete. 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 18" x 24".

The registration shall remain valid for six months from the date of registration. The registrant shall be required to renew the registration after six months as long as the building remains vacant property and shall pay a registration or renewal fee in the amount prescribed herein for each vacant property registered. Following the first year, it will become a yearly fee.

B. Whenever the Village finds that any improved real property remains unoccupied for 30 consecutive days and conditions exist on that property which constitute one or more violations of Chapter 237, the Village, through its Building and Code Enforcement Department, may execute a Certificate of De Facto Abandonment, setting forth the facts upon which the finding was made and serve a copy of the certificate of de facto abandonment upon owner, creditor, any mortgagee and/or the servicer for the mortgagee having an interest in the property known to the Village and/or by posting same in a prominent location of the property in question. The certificate so served shall be prima facie proof that the subject property is "vacant property' as defined within this Chapter (Chapter 237). Any owner, creditor, mortgagee or servicer receiving a Certificate of De Facto Abandonment shall, within twenty (20) days of the date of such notice, respond to the Building and Code Enforcement Department by:

1. Complying with the registration and fee requirements contained within this Chapter (and any other applicable sections of Village Code) and
2. Acknowledging responsibility for repair and maintenance of the property.
3. If the registrant wishes to avoid responsibility for repair and maintenance of the property, the registrant (to the extent such party possesses the right and authority to do so) may offer an assignment of lien position to the Township of South Orange Village for nominal consideration (Ten ($10.00) Dollars).

C. The registrant shall notify the Building and Code Enforcement Department within 10 days of any change in the registration information including but not limited to change in ownership by filing an amended registration statement on a form provided by the Building and Code

Enforcement Department for such purposes.

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 Village against the owner, owners or creditors of the building.

E. Any owner or creditor of vacant property who intends to restore the property to occupancy following the initial registration shall file a detailed plan for restoration of the property to habitable condition on a form issued by the Building and Code Enforcement Department together with an amended registration statement.

1. During the restoration period, the owner or creditor shall be exempt for a period of 12 months from payment of the vacant property registration fee(s) as long as the property is being actively restored but shall comply with all other laws, regulations and municipal ordinances. Exception will terminate if the restoration activity ceases and owner or creditor shall submit the full annual registration fee which shall be due within ten (10) days of notice from Building and Code Enforcement Department that cessation of restoration activity has been observed.

2. In the event the property has not been approved for occupancy at the end of the twelve-month period, the owner shall be liable for any fees waived. The Director of the Building and Code Enforcement Department or his designee may extend the waiver of the registration fee for not more than one additional twelve-month period in response to a written request, prior to the expiration of the initial twelve-month period, by the owner or creditor where the Director of the Building and Code Enforcement Department or his designee finds compelling conditions existed outside the owner or creditor's control which inhibited such owner or creditor from restoring the property within the initial twelve-month period.

F. After filing a registration statement or a renewal of a registration statement, the owner or creditor of any vacant property shall provide access to the Village to conduct an exterior and interior inspection of the building to determine compliance with the municipal code, following reasonable notice, during the period covered by the initial registration or any subsequent renewal.

G. The registration statement shall include the name, street address and telephone number of a natural person 21 years of age or older, designated by the owner or creditor for receiving notices of code violations and for receiving process, in any court proceeding or administrative enforcement proceeding, on behalf of such owner or creditor in connection with the enforcement of any applicable code.

1. This person must maintain an office in the State of New Jersey or reside within the State of New Jersey.

2. The statement shall also include the name of the person responsible for maintaining and securing the property, if different.

3. An owner or creditor who is a natural person and maintains an office or residence within the State of New Jersey may designate himself or herself as agent.

4. Any owner or creditor who has designated an authorized agent or someone other than themselves for receiving above-mentioned notices shall be deemed to consent to the continuation of such agent's designation for the purposes of this section until the owner or creditor notifies the Building and Code Enforcement Department of a change of authorized agent or until the owner or creditor files a new annual registration statement. The designation of an authorized agent for notice purposes in no way releases the owner or creditor from any requirement of this article.

H. Registration fees.

The fees for initial registration and renewals are:

1. Initial registration (first 6 months of vacancy): $500
2. First renewal (for months 6-12 of vacancy): $1,500
3. Second renewal (for months 12-24 of vacancy): $3,000 per year
4. Subsequent renewals (for each year of vacancy after the first 24 months of vacancy): $5,000 per year

I. Violations and Penalties.

1. Any owner or creditor who is not in full compliance with this Chapter or who otherwise violates any provision, rule or requirement of this Chapter 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 Chapter shall be recoverable from the owner and shall be a lien on the property.
2. For purposes of this section, failure to file a registration statement in time, failure to provide correct information on the registration statement, failure to comply with the provisions of this Chapter, or such other matters as may be established by the Village or their designee shall be deemed to be a violation of this Chapter.

J. Repair or Remediation by the Village.

If the Village expends public funds, utilizes public services or is otherwise required to utilize public resource, time or energy in order to abate a nuisance or correct a violation on a vacant property in situations in which the owner or creditor was given notice pursuant to this Chapter, but failed to abate the nuisance or correct the violation as directed, the Village shall have recourse against the owner and creditor as provided in Chapter 237-60, including, but not limited to, recourse provided under N.J.S.A. 55:19-100.

K. Nothing in this Chapter is intended to nor shall be read to conflict or prevent the Village from taking action against buildings or properties found to be unfit for human habitation or unsafe structures as provided in applicable provisions of the Village Code. Further, any action taken under any such code provision (other than demolition of a structure) shall not relieve an owner or creditor from their obligations under this Chapter.

Section 3.

Chapter 237-66 is hereby amended and restated as follows:

237-66 - Reserved

Section 4.

Repealer.

All ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistencies.

Section 5.

This ordinance shall take effect upon final passage and publication as required by law.

Section 6.

On passage this ordinance shall be codified.

# # #

Introduction – First Reading

Trustee Member	Motion	Second	Ayes	Nays	Abstain	Absent
Clarke						
Coallier						
Hartshorn Hilton						
Jones						
Schnall						
Zuckerman						

CERTIFICATION

I, Kevin D. Harris, Village Clerk of the Township of South Orange Village, County of Essex, State of New Jersey, do hereby certify that this Ordinance was introduced on first reading by the Board of Trustees at their regular meeting held on Monday, July 13, 2020.

_____
Kevin D. Harris
Village Clerk

Adoption – Second Reading

Trustee Member	Motion	Second	Ayes	Nays	Abstain	Absent
Clarke						
Coallier						
Hartshorn Hilton						
Jones						
Schnall						
Zuckerman						

CERTIFICATION

I, Kevin D. Harris, Village Clerk of the Township of South Orange Village, County of Essex, State of New Jersey, do hereby certify that this Ordinance was adopted on second reading by the Board of Trustees at their regular meeting held on Monday, July 27, 2020.

Kevin D. Harris
Village Clerk

Adopted:

Sheena C. Collum, Village President

Attest:

Kevin D. Harris, Village Clerk