

**BOROUGH OF EMERSON  
COUNTY OF BERGEN  
NOTICE OF ADOPTION**

**ORDINANCE 1532-16**

Introduced: August 16, 2016  
Adopted: September 6, 2016

**NOTICE IS HEREBY GIVEN** that the following ordinance was adopted on the second reading after a Public Hearing at the Regular Meeting of the Borough Council of the Borough of Emerson on the 6th day of August, 2016. A copy of Ordinance 1532-16 is on file in the Borough Clerk's Office in the Municipal Building, 1 Municipal Pl., Emerson, NJ 07630.

**AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 216, PROPERTY MAINTENANCE, ARTICLE I. RESIDENTIAL PROPERTY MAINTENANCE, OF THE CODE OF THE BOROUGH OF EMERSON**

**WHEREAS**, Chapter 216, Article I of the Code of the Borough of Emerson establishes rules and regulations governing the minimum standards for the maintenance, appearance, condition and occupancy of residential premises within the Borough of Emerson; and

**WHEREAS**, the Mayor and Council believe that it is in the interests of the residents of the Borough to amend Article I of said Chapter because vacant and abandoned residential properties create a wide range of problems for municipalities, including but not limited to, the fostering of criminal activity, creating public health problems and otherwise diminishing the quality of life for residents and business operators in those areas; and

**WHEREAS**, the Mayor and Council strongly believe abandoned properties are presumptively considered nuisances in view of their negative effects on nearby properties and the residents or users of those nearby properties; and

**WHEREAS**, the Mayor and Council wish to amend said Article I of Chapter 216 to include provisions governing the minimum property maintenance standards for vacant and abandoned residential properties within the Borough; and

**WHEREAS**, the Mayor and Council wish to amend Article I of said Chapter 216 to establish and adopt the municipal powers authorized by the Public Laws of 2014, Chapter 35, N.J.S.A. 40:48-2.12, and related statutory provisions, to further provide for the maintenance of vacant residential properties during foreclosure; and

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Borough of Emerson, in the County of Bergen and State of New Jersey that the Article I “Residential Property Maintenance”, of Chapter 216 “Property Maintenance” of the Code of the Borough of Emerson is hereby amended and supplemented as follows:

**Section 1. Section 216-2 - Purposes.,** is hereby amended as follows:

§ 216-2. Purposes.

- A. The purposes of this code shall be to:
  - (1) Provide for the public health, safety and welfare by establishing minimum standards governing the maintenance, appearance, condition and occupancy of residential premises.
  - (2) Protect the public health, safety, morals and welfare by establishing minimum standards governing the maintenance, appearance and condition of vacant and abandoned properties by establishing standards governing facilities and conditions of said facilities and fixing penalties for the violation of this chapter.
  - (3) Prevent residential structures or premises from becoming substandard as defined in this code.
  - (4) Maintain neighborhoods within the Borough which are free of blight and substandard conditions.
  - (5) Fix certain responsibilities and duties upon owners, operators and occupants of residential property within the Borough of Emerson.
  - (6) Provide for administration and enforcement of this code.
  - (7) Fix penalties for the violation of this code.
- B. This code is declared to be remedial and essential for the public interest.
- C. It is not one of the purposes of this code to provide for any inspections in transactions between private parties, including but not limited to banks and mortgage companies with individuals selling their homes.

**Section 2. Section 216-3 - Definitions.,** is hereby supplemented and amended include following definitions:

§ 216-3. Definitions.

**NUISANCES AND HAZARDS**

The following shall be considered nuisances and hazards for the purposes of this Article:

- (1) Any public or private condition that would constitute a nuisance according to the statutes, laws and regulations of the State of Jersey, its governmental agencies or ordinances of the Borough.
- (2) Any physical condition existing in or on the exterior of any residential premises which is potentially dangerous, detrimental or hazardous to the life, health or safety of a person on, near or passing within the proximity of the premises where the condition exists.
- (3) Any unsanitary condition or conditions which render air, food or drink detrimental to the life, health or safety of human beings.

## RESPONSIBLE PARTY

The title owner of a vacant and abandoned property or a creditor responsible for the maintenance of a property pursuant to N.J.S.A. 46:10B-51

## STREET ADDRESS

The 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.

## VACANT AND ABANDONED RESIDENTIAL PROPERTY

Any improved residential property which is not physically occupied by a title owner, title owner's family member, title owner's relative and at least three of the following conditions exist at the property:

- (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 or abandoned;
- (9) Windows or entrances to the property are boarded up or closed off, or multiple window panes 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 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;
- (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 mortgagee expressing the clear intent of all mortgagers to abandon the property; or
- (15) Any other reasonable indicia of abandonment.

## YARD

An open space extending between the closest point of any building and a lot line or street line, excluding those portions of the yard that are environmentally sensitive areas and/or subject to conservation restrictions.

**Section 3. Section 216-5 – Minimum standards; effect on other standards., Section 216-6 – Effect on Commercial Property Maintenance Code., and Section 216-7 Highest Standards to Prevail.,** are hereby joined together as **Section 216-5 Minimum standards; effect on other standards; highest standards to prevail.,** as follows:

§ 216-5. Minimum standards; effect on other standards; highest standards to prevail.

- A. This code establishes minimum standards for the initial and continued occupancy and use of all residential premises and does not replace or modify standards otherwise established for the construction, repair, alteration or use of such premises, except as may be hereinafter provided.
- B. This code does not replace or modify standards established in the Commercial Property Maintenance Code of the Borough of Emerson
- C. In any case where the provisions of this code impose a higher standard than set forth in any other ordinance of the Borough of Emerson or under the laws of the State of New Jersey, then the standards as set forth in this code shall prevail. If, however, the provisions of this code impose a lower standard than any other ordinance or law, the higher standard shall prevail.

**Section 4. Section 216-8 – Violations of other ordinances.,** is hereby renumbered as Section 216-6, as follows:

§ 216-6. Violations of other ordinances.

No certification of compliance with this code shall constitute a defense against any violation of any other ordinance of the Borough of Emerson.

§ 216-7. Duties and responsibilities of owners and operators.

Owners and operators shall have the duties and responsibilities as prescribed in this code. No owner or operator shall be relieved from any such duty and responsibility nor be entitled to defend against any violation charged by reason of the fact that the occupant is also responsible.

**Section 6. Section 216-10 – Duties and responsibilities of occupant., Section 216-14 – Responsibility of occupant., and Section 216-15 Occupant to place refuse in proper containers.,** are hereby joined together as new **Section 216-8 Duties and responsibilities of occupant.,** as follows:

§ 216-8. Duties and responsibilities of occupant.

- A. Occupants shall have all the duties and responsibilities as prescribed in this code and shall not be relieved from them or entitled to defend against any violation charged by reason of the fact that the owner or operator is also responsible.
- B. An occupant shall be responsible for keeping his/her dwelling and the portion of the dwelling in the premises over which he/she has exclusive control in a clean and sanitary condition.
- C. An occupant shall be responsible for placing all garbage and refuse in proper, legal containers supplied by the occupant or provided by the owner for such purposes.

**Section 7. Section 216-11 – Agreement not to affect obligations.,** is hereby renumbered as Section 216-9, as follows:

§ 216-9. Agreements not to affect obligations.

Unless expressly provided to the contrary in this code, agreements between owners and occupants shall not affect the obligations and responsibilities of either under this article.

**Section 8. New Section 216-10 – Notice of vacancy and abandonment; Registration of vacant and abandoned residential properties.:**

§ 216-10. Notice of vacancy and abandonment; Registration of vacant and abandoned residential properties.

- A. Notice of Vacancy and Abandonment. Upon determination of the enforcement officer that a residential property is vacant and abandoned, the enforcement officer shall notify the responsible party by personal service, registered mail or posting of notice in a noticeable place on the property of the determination and the requirements of this chapter.
- B. Registration. The responsible party for a vacant and abandoned residential property shall file a certificate of registration with the Building Department within 90 days after receipt of notice pursuant to §216-13, that the property has been determined to be vacant and abandoned, or within 30 days after the responsible party assumes ownership of or responsibility for a property already determined to be vacant and abandoned, whichever is later. A certificate of registration shall remain valid for one year from the date of issuance and shall be renewed on an annual basis, if the property remains vacant and abandoned.
- C. Form of Certificate of Registration. This certificate of registration shall be filed on forms prescribed by the Building Department and shall contain:
  - 1) The name, street address, and telephone number of a person who resides or maintains an office within the State and who is either the responsible party or an authorized agent designated by the responsible party to receive notices and complaints of property maintenance and code violations on behalf of the responsible party;
  - 2) The name, street address and telephone number of the person responsible for maintaining the property, if different; and
  - 3) A certificate from a licensed insurance provider evidencing the liability insurance coverage on the vacant and abandoned residential property as required by §216-11.

- D. Certificate of Registration Amendments. A responsible party for a vacant and abandoned residential property shall file an amended certificate of registration within 30 days after any change in the information required to be included thereon.
- E. Certificate of Registration Fees. The following fees for a certificate of registration shall be paid by the responsible party:
  - 1) \$250 for the initial registration fee;
  - 2) \$250 for all annual renewals of the registration where there are no outstanding property maintenance or code violations at the time of the renewals; and
  - 3) \$500 for annual renewal of the registration where there are outstanding property maintenance or code violations at the time of renewal

**Section 9. New Section 216-11 – Security; notification, liability insurance.:**

§ 216-11. Security; notification, liability insurance.

Within 45 days after the property has been determined to be vacant and abandoned and until the property is reoccupied, the responsible party for a vacant and abandoned residential property shall:

- 1) Enclose and secure the property against unauthorized entry;
- 2) Post a sign affixed to the inside of the property and visible to the public indicating the name, address, and telephone number of the responsible party, any authorized agent designated by the responsible party for the purpose of receiving service of process, and the person responsible for maintaining the property if different from the responsible party or authorized agent; and
- 3) Acquire and otherwise maintain liability insurance by procuring a vacancy policy, covering any damage to person or any property caused by any physical condition of the property.

**Section 10. New Section 216-12 – Maintenance standards for vacant and abandoned residential properties.:**

§ 216-12. Maintenance standards for vacant and abandoned residential properties.

Vacant and abandoned residential properties shall be maintained in accordance with the following standards:

- 1) The property shall be kept free of all nuisances and hazards, litter and debris.
- 2) The property shall be kept free of accumulations of water, vegetation or other matter which might serve as a source of food or as a harboring or breeding place for infestation.
- 3) Grass in the yard area shall be cut and maintained so as to prevent the grass from growing to exceed seven inches (7") in height.
- 4) The exterior of every structure or accessory structure or other improvement on the premises shall be kept in good repair and all exposed surfaces subject to deterioration shall be protected against weathering or deterioration by a protective coating appropriate for the particular material involved as needed.
- 5) The exterior of the building(s) shall be free of loose material that may create a hazard by falling on persons utilizing the premises.

- 6) All exterior walls, roofs, windows, window frames, doors, door frames, sky lights, foundations, and other parts of the structure shall be maintained to keep water from entering the structure and to prevent excessive drafts or heat loss during cold or inclement weather and to provide a barrier against infestation. Damaged or badly worn materials shall be repaired or replaced and places showing signs of rot, leakage or deterioration or corrosion shall be treated or restored to prevent weathering or seepage.
- 7) Loaders and drain pipes shall be securely fastened to the building and maintained in good condition free of leaks and free of obstructions and shall direct storm waters into drainage systems or away from the foundation walls of the structure.

**Section 11. New Section 216-13 – Notice of foreclosure action.:**

§ 216-13. Notice of foreclosure action.

- A. A creditor serving a summons and complaint in an action to foreclose on a mortgage on residential property within the Borough shall, within ten (10) days of serving the summons and complaint, notify the Building Department that a summons and complaint in an action to foreclose on a mortgage has been filed against the subject property and provide the name and contact information for the representative of the creditor who is responsible for receiving complaints of property maintenance and code violations pursuant to paragraph one of N.J.S.A. 46:10B-51.
- B. An out-of-State creditor that serves a summons and complaint in an action to foreclose on a residential property within the Borough must include the full name and contact information of an in-State representative or agent who shall be responsible for the care maintenance, security and upkeep of the exterior of the property if it becomes vacant and abandoned pursuant to paragraph one of N.J.S.A. 46:10B-51.
- C. In the event a property being foreclosed on is an affordable unit pursuant to the “Fair Housing Act,” (N.J.S.A. 52:27D-301 et seq.), the creditor shall provide notice to the Building Department within ten (10) days of service of a summons and complaint in an action to foreclose on the mortgage advising the property is subject to the “Fair Housing Act”, include the street address, lot and block number of the property, and the full name and contact information of an individual located within the State who is authorized to accept service on behalf of the creditor pursuant to paragraph one of N.J.S.A. 46:10B-51.

**Section 12. New Section 216-14 – Failure to designate representative, out-of-State creditor violation.:**

§ 216-14. Failure to designate representative, out-of-State creditor violation.

An out-of-State creditor found by a court of competent jurisdiction to have violated paragraph one of N.J.S.A. 46:10B-51 shall be subject to a fine of \$2,500.00 for each day of the violation commencing on the day after the ten (10) day period set forth in paragraph one of N.J.S.A. 46:10B-51 and Section 313-1 of this Code with respect to notifying the Building Department that an action to foreclose on the property has been filed.

**Section 13. New Section 216-15 – Statutory consistency.:**

§216-15. Statutory consistency.

All sections hereof arising from or citing a specific statutory reference shall be deemed as automatically adopting any amendment to such statute(s) as may be consistent with the Borough's purposes in enacting this ordinance.

**Section 14. Section 216-16 – Enforcement officer.,** is hereby supplemented and amended as follows:

§ 216-16. Enforcement officer.

The enforcement officer shall be as follows: the Zoning Officer of the Borough of Emerson, Health Officer of the Borough of Emerson, all police officers of the Borough of Emerson, the Construction Official of the Borough of Emerson, the Property Maintenance Officer of the Borough,

The Borough Engineer of the Borough of Emerson or any other Borough officials so designated by resolution of the Mayor and Council to enforce the provisions of this chapter. Nothing herein shall preclude any Borough employee engaged in the enforcement of laws and ordinances from enforcing the provisions hereof. The Construction Official shall be responsible for enforcement of violations of the New Jersey Uniform Construction Code.

**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 provision so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective.

**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.

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

ATTEST:

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Jane Dietsche, RMC  
Borough Clerk

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Mayor Louis J. Lamatina