

**ORDINANCE NO. 14-16 ORDINANCE AMENDING AND SUPPLEMENTING
THE CODE OF THE BOROUGH OF KINNELON BY
THE ADDITION OF CHAPTER 143, VACANT
PROPERTY REGISTRATION**

WHEREAS, pursuant to N.J.S.A. 40:48-2, the governing body of a municipality may make, amend, repeal, and enforce such other ordinances, regulations, rules and by-laws not contrary to the laws of this state or of the United States, as it may deem necessary and proper for the good government, order and protection of person and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants, and as may be necessary to carry into effect the powers and duties conferred and imposed by this subtitle, or by any law; and

WHEREAS, the Borough of Kinnelon ("Borough") contains 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 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 incurs disproportionate costs in order to deal with the problems of vacant and abandoned structures, including but not limited to, police calls, fire calls, and property inspections; and

WHEREAS, it is in the public interest for the Borough 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; and

WHEREAS, it is in the public interest for the Borough to impose a fee in conjunction with the registration of vacant and abandoned structures in light of the disproportionate costs imposed on the Borough by the presence of these structures; and

WHEREAS, the Borough desires to enact an Ordinance establishing minimum standards of accountability regarding vacant and abandoned structures and imposing a fee in conjunction with the registration of vacant and abandoned structures.

NOW, THEREFORE, BE IT ORDAINED, by the Governing Body of the Borough of Kinnelon, County of Morris, State of New Jersey as follows:

SECTION ONE. The Code of the Borough of Kinnelon, Morris County, New Jersey is hereby amended and supplemented by the addition of the following:

Chapter 143: VACANT PROPERTY REGISTRATION

§143-1. Definitions

"Owner" means 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, any foreclosing entity subject to the provisions of N.J.S.A. 46:10B-51 or any other entity determined by any Court of competent jurisdiction or by the Borough of Kinnelon to have authority to act or to have any demonstrable interest with respect to the property.

"Vacant Property" means any building used or to be used as a residential, commercial or industrial structure which is not legally occupied or at which substantially all lawful construction operations or occupancy has ceased, and 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, is fully compliant with the Borough's property maintenance code and is being actively marketed by its owner for sale or rent shall not be deemed vacant for the purposes of this Chapter. Property determined to be "abandoned property" in accordance with the

meaning of such term as set forth in the Abandoned Properties Rehabilitation Act, N.J.S.A. 55:19-78 et seq., and as set forth in Chapter 142, Rehabilitation of Abandoned Property, of the Code of the Borough of Kinnelon, shall also be deemed vacant property for the purposes of this Chapter.

§143-2. Registration 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 Zoning Officer on forms provided by the Zoning Officer 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 §143-4 of this Chapter for each vacant property registered. Each property having a separate block and lot number as designated in the official records of the Borough shall be registered separately.
- B. The owner shall notify the Borough Zoning Officer within thirty (30) days of any change in the registration information by filing an amended registration statement on a form provided by the Zoning Officer for such purpose.
- C. 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 Kinnelon against the owner or owners of the building.

§143-3. 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 to conduct an exterior and interior inspection of the vacant property to determine compliance with the Code of the Borough of Kinnelon, following reasonable notice, during the period covered by the initial registration or any subsequent renewal. Such inspections shall be carried out on weekdays between the hours of 9:00 am and 4:00 pm, or such other time as may be agreed upon between the owner and the Borough.

- 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, street address, e-mail address and telephone number of the person responsible for maintaining and security of the property, if different.
- C. An owner who is a natural person and who meets the requirements of this Chapter as to location of residence or office may designate him or herself as agent.
- D. By designating 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 Zoning Officer 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 Chapter.
- E. If an owner fails to register vacant property under the provisions of this Chapter, notice of any and all code violations concerning the vacant property and all process in any court proceeding or administrative enforcement proceeding brought to enforce code provisions concerning the vacant property shall be provided by posting on the vacant property and by service at the last known address of the owner of the property by regular and certified mail.

§143-4. 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 and any subsequent renewal is seven hundred fifty (\$750.00) dollars.

Vacant and Abandoned Property Registration Fee Schedule

Initial registration - \$250.00

First renewal - \$500.00

Second and any subsequent renewal - \$750.00

§143-5. Requirements for Owners of Vacant Property

The owner of any building that has become a vacant 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 Code of the Borough of Kinnelon; and
- (2) Post 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 (if designated pursuant to §143-3 of this Chapter), 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. 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 eight by 10 inches (8" x 10"); and
- (3) Post the property with No Trespassing signs or signs of a sufficient nature to give notice to any person entering the property that it is against the law to enter the property without the permission of the owner; and
- (4) Secure the building from unauthorized entry and maintain all signs until the building is again legally occupied or demolished or until repair or rehabilitation of the building is complete; and
- (5) Ensure that the exterior grounds of the property, including yards, fences, sidewalks, walkways, right-of-ways, alleys, retaining walls, attached or unattached accessory structures and driveways, are well-maintained and free from trash, debris, loose litter and weed and weed growth; and

- (6) Continue to maintain the structure in a secure and closed condition until the building is again occupied, demolished, or until repair and/or rehabilitation of the building is complete.

§143-6. Administration

The Borough Zoning Officer may issue rules and regulations for the administration of the provisions of this Article. The Governing Body of the Borough of Kinnelon shall be notified in the event that any rules and regulations for the administration of the provisions of this article are adopted or amended.

§143-7. Violations and Penalties

- A. Any owner who violates any provision of this Chapter 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 Chapter shall be recoverable from the owner and may become a lien on the property, in accordance with the provisions of State Law and the Code of the Borough of Kinnelon.
- B. For purposes of this Chapter, failure to file a registration statement in time, failure to provide correct information on the registration statement and failure to comply with any rules and regulations established by the Zoning Officer pursuant to this Chapter shall be deemed to be violation of this Chapter.

§143-8. Compliance with Other Provisions

- A. Nothing in this Chapter is intended to nor shall be read to conflict or prevent the Borough from taking action against buildings found to be unfit for human habitation or unsafe structures as provided in applicable provisions of the Code of the Borough of Kinnelon 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 Chapter.

SECTION TWO. All Ordinances of the Borough of Kinnelon which are inconsistent with the provisions of this Ordinance are hereby repealed as to the extent of such inconsistency.

SECTION THREE. If any section, subsection, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or invalid by any Court of competent jurisdiction, such decision shall not affect the remaining portions of this Ordinance.

SECTION FOUR. This Ordinance shall take effect as provided by law.

ATTEST:

BOROUGH OF KINNELON

Karen M. Iuele, Deputy Borough Clerk

Robert W. Collins, Mayor

CERTIFICATION

I, Karen M. Iuele, Deputy Borough Clerk of the Borough of Kinnelon, County of Morris, State of New Jersey, do hereby certify the foregoing to be a true copy of an Ordinance introduced, read by title and passed on the first reading at the regular meeting of the Borough held on _____ and adopted by the Governing Body at a regular meeting of the Borough held on _____.

Karen M. Iuele, Deputy Borough Clerk