

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF ELIZABETH CHAPTER 8.85 ENTITLED "ABANDONED PROPERTIES" SPECIFICALLY TO ESTABLISH SECURITY AND MAINTENANCE REGULATIONS FOR ABANDONED PROPERTIES

WHEREAS, abandoned properties create a wide range of problems, such as fostering criminal activity, creating public health problems and otherwise diminishing the quality of life for residents and business operators in those areas; and;

WHEREAS, abandoned properties diminish the property values of neighboring properties and have a negative effect on the quality of life of adjacent property owners, increasing the risk of property damage through arson and vandalism and discouraging neighborhood stability and revitalization; and

WHEREAS, the continued presence of abandoned properties, which are presumptively considered to be nuisances in view of their negative effects on nearby properties and the residents or users of those properties, in the City of Elizabeth acts a significant barrier to the City's continued progress, development, and revitalization; and

WHEREAS, on January 12, 2016, the City Council of the City of Elizabeth adopted Ordinance 4659 establishing Chapter 8.85 of the Code of the City of Elizabeth, which sought to establish municipal powers in regards to vacant and abandoned properties within the City; and

WHEREAS, Ordinance 4659 did not establish security and maintenance regulations for vacant and abandoned properties;

WHEREAS, pursuant to N.J.S.A. 40:48-2, this Governing Body is authorized to enact and amend ordinances as deemed necessary for the preservation of the public health, safety and welfare and as may be necessary to carry into effect the powers and duties conferred and imposed upon the City by law; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ELIZABETH:

SECTION 1. Section 8.85.001 of the Code of the City of Elizabeth entitled "Definitions" is hereby established to read as follows:

For the purpose of this chapter, the following terms, phrases, words, and their derivations shall have the meaning given herein. When consistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. The word "shall" is always mandatory and not merely directory.

- a) "City" means the City of Elizabeth.
- b) "Vacant and Abandoned property" means any property on the City of Elizabeth's Vacant and Abandoned property list that has been designated by the code enforcement officer under the criteria set forth in N.J.S.A. 55:19-81 (abandoned property criteria) and/or N.J.S.A. 55:19-82 (nuisance property criteria).
- c) "Property" means any real estate, residential property, or portion thereof, located in the city, including buildings or structures situated on the property. For the purposes of this section only, property does not include property owned or subject to the control of the city, or any of its governmental bodies, or agencies including, but not limited to, property, owned or controlled by the housing authority of the city.
- d) "Owner" means every person, entity, service company, property manager or real estate agency, who alone or with others:

PRESENTED to the Mayor for
APPROVAL or DISAPPROVAL on
APR 27 2022
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1. Has legal or equitable title to any dwelling, dwelling unit, mobile dwelling unit or parcel of land, vacant or otherwise;
 2. Has care, charge, or control of any dwelling, dwelling unit or parcel of land, vacant or otherwise, in any capacity including but not limited to agent, executor, executrix, administrator, administratrix, trustee or guardian, trustee or guardian of the estate of the holder of legal title;
 3. Is a mortgagee who has filed a notice of intent to foreclose or has filed a foreclosure complaint;
 4. Is an agent, trustee, or other person appointed by the courts and vested with possession or control of any such property;
 5. Is an officer or trustee of the association of unit owners of a condominium. Each such person is bound to comply as if he were the owner. However, this chapter shall not apply to any condominium association or co-op that forecloses or initiates the foreclosure process for unpaid assessments due or owing the association;
 6. Every person who operates a rooming house; or
 7. Is a trustee who holds, owns, or controls mortgage loans for mortgage backed securities transactions and has initiated the foreclosure process.
- e) "Secured" the process of preventing all un-authorized entry by properly securing all first floor (within 10' of grade) openings including, but not limited to all windows and doors.
 - f) "Securing Method" The specific method/materials to be used to prevent un-authorized entry as required by this ordinance and our Boarding Schedule. The only approved securing methods are as follows:
 - i. HUD Reinforced Boarding Spec (See Appendix)
 - ii. Metal Screening
 - g) "Code Enforcement Official" any person who has been designated by the Enforcement authority to carry out
 - h) "Enforcement authority" means the department of planning and divisions of community development, the department of public works, the department of health and human services and the police department and any other department designated as such by the mayor.
 - i) "Non-Residential Property/Structure" Any property, structure or portion thereof that is not intended to be used for human habitation.
 - j) "Pre-existing, Non-conforming Use" A use of property that was allowed under the zoning regulations at the time the use was established but which, because of subsequent changes in those regulations, is no longer a permitted use
 - k) "Vacant structure" - a structure that is not legally occupied, secured and well maintained.

SECTION 2. Section 8.85.090 of the Code of the City of Elizabeth entitled "Public Nuisance declared; Maintenance and security requirements" is hereby established to read as follows:

It is declared a public nuisance for any owner to cause, permit or maintain any property condition contrary to the provisions of this section. The owner or individual responsible for the care and control of the property must adhere to the vacant property

maintenance requirements as contained in this section. The owner shall perform regular weekly inspections of the property to assure compliance with the requirements of this section.

A. Vacant Properties, Securing Method;

- 1.) Vacant property shall comply with the minimum security fencing barrier and maintenance requirements of this code.
 - a. All windows and doors must be secured.
 - b. Broken glass should be replaced, unless the opening is to be boarded. All broken glass should be removed.
 - c. Locks on the front and rear entry doors should be in proper working order.
 - d. A deadbolt lock shall be installed on every exterior door that provides access to common or living areas.
 - e. Doors should not be braced or nailed shut or the Mortgagee will be held accountable for resulting damage.
 - f. Sliding glass doors should be double locked.
 - g. Detached garage doors and outbuildings should be secured with a padlock and hasp.
 - h. Unplug automatic garage door openers and secure garage doors, when applicable. Garage doors should be left in such a condition as to allow for opening and closing without the use of the automatic garage door opener.
- 2.) Vacant property shall be maintained free of graffiti, tagging or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior structure.
- 3.) Vacant property shall be landscaped and properly maintained. Landscaping includes, but is not limited to grass, bushes, hedges or similar plantings, decorative gravel and maintained in an appropriate manner. Landscaping does not include weeds, gravel, broken concrete, asphalt, decomposed materials, plastic sheeting. Maintenance includes, but is not limited to cutting, pruning and mowing of landscaping and removal of all trimmings.
- 4.) Pools, spas and other water features located on vacant property shall be kept in working order or winterized to ensure that the water remains clear and free of pollutants and debris or drained and kept dry and free of debris and must comply with the minimum-security fencing barrier and maintenance requirements of this code.
- 5.) Utilities at vacant property must be properly disconnected or maintained in proper working order.
- 6.) Building appurtenances at vacant property must be securely attached so as not to cause a blighting condition, including, but not limited to gutters, leaders, shutters, railings, guards, steps, awnings, canopies, signs, light fixtures, and fire-escapes.
- 7.) Vacant property fencing and retaining walls shall be maintained structurally sound. Any fence or wall with broken or hanging components shall be repaired or removed.
- 8.) Vacant properties shall be kept free of any accumulation of newspapers, circulars, flyers, and notices, discarded items including, but not limited to furniture, clothing, large and small appliances, printed material, signage, containers, equipment, construction materials, and illegal outside storage of vehicles.
- 9.) The owner of a vacant building upon any street, square, highway or public place within the City that is or may be graded, curbed and flagged shall cause the sidewalk in front of the property to be cleared of snow, ice or sleet, to a width of at least four feet, within twelve (12) hours of daylight after the same shall be formed or fall thereon.

B. Vacant and Abandoned Properties, Securing Method;

- 1.) All vacant and abandoned residential properties shall be secured and boarded up. **See HUD Specs.** The boarding shall be required to be painted a similar color as the building siding in order to protect the plywood from the weather and reduce the visual appearance of abandonment.
- 2.) All other vacant and abandoned structures shall be secured using Metal Securing.
- 3.) In the event that the securing method installed by the Owner fails to prevent unauthorized entry at any point, the Code Enforcement Officer at his/her discretion may require a different, more secure method be used. If the owner cannot be found or refuses to take action, the City or the City's authorized contractor will secure the property and place a lien on the property to recover the costs.

SECTION 3. Section 8.85.100 of the Code of the City of Elizabeth entitled "**Securing – Required Permits**" is hereby established to read as follows:

Once a property is deemed Vacant and Abandoned by the City and is required to be secured, the Owner must apply for a Boarding Permit with the City Zoning Office. Permit application shall include site address, owner information, boarding method and all details, maintenance company contact info, and pictures. Once the application is received, the City will send a copy to the City of Elizabeth Fire Prevention Bureau for their records.

- A. Boarding Permit Fee
- a.) Residential - \$50
 - b.) Commercial - \$100

SECTION 4. Section 8.85.110 of the Code of the City of Elizabeth entitled "**Unsecured property; securing fee**" is hereby established to read as follows:

Vacant and abandoned property that is left open and or accessible shall be subject to entry by the City in order to ensure that the property has not become an attractive nuisance ad to ensure that the property is locked and or secured. The owner of vacant property subject to this ordinance, which property is found open or unsecured, shall be responsible if the owner and or management company cannot be contacted or does not secure the property within a reasonable time – not to exceed 24 hours, the City or the City's authorized contractor will secure the property and place a lien on the property to recover the costs.

SECTION 5. Section 8.85.120 of the Code of the City of Elizabeth entitled "**Fire damaged property**" is hereby established to read as follows:

If a building is damaged by fire and must be vacated, the owner has forty-eight hours (48) hours to temporarily secure any damaged openings (No permit required for temporary securing). In addition, the owner has ninety (90) days from the date of the fire to apply for permits to start construction or demolition. Failure to do so will result in the property being deemed vacant property and subject to all the requirements of this ordinance. If the owner and or management company cannot be contacted or does not secure the property within a reasonable time – not to exceed 24 hours, the City or the City's authorized contractor will secure the property and place a lien on the property to recover the costs.

SECTION 6. Section 8.85.130 of the Code of the City of Elizabeth entitled "**Emergency Securing**" is hereby established to read as follows:

At certain times at the discretion of the City, it may become necessary to secure a property on an emergency basis. If the owner and or management company cannot be contacted or does not secure the property within a reasonable time – not to exceed 24 hours, the City or the City's authorized contractor will secure the property and place a lien on the

property to recover the costs.

SECTION 7. Section 8.85.140 of the Code of the City of Elizabeth entitled "Emergency Securing" is hereby established to read as follows:

Failure to comply will result in daily fines of \$200 for failure to maintain vacant and abandoned properties.

SECTION 8. All ordinances or parts of ordinances inconsistent with the provisions of this ordinance be and the same are hereby repealed.

SECTION 9. If any portion or clause of this ordinance is declared invalid for any reason whatsoever, same shall not affect the validity or constitutionality of any other part or portion of this ordinance.


SECTION 10. The effective date of this ordinance shall be twenty (20) days after its final passage by City Council and approval by the Mayor at the time and in the manner provided by law.

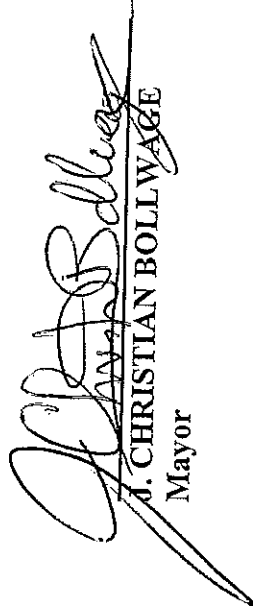
PASSED:

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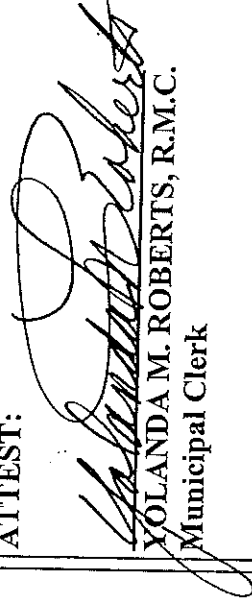
APPROVED:

4/27/22


NELSON GONZALEZ
President of City Council


J. CHRISTIAN BOLLWAGE
Mayor

ATTEST:


YOLANDA M. ROBERTS, R.M.C.
Municipal Clerk