

Mayor Nolan offered the following ordinance pass final reading and moved on its adoption:

O-14-35

**BOROUGH OF HIGHLANDS
COUNTY OF MONMOUTH**

**An Ordinance Amending Chapter 10 “Buildings And Housing” Of The Borough Code To
Create A Vacant Property Registration Process**

WHEREAS, the Borough of Highlands regulates the maintenance of commercial and residential property within the Borough by and through Chapter X of the Borough Code, “Buildings and Housing;” and

WHEREAS, the Borough of Highlands contains many structures that are vacant in whole or in part; and

WHEREAS, in many cases, the owners or other responsible parties of these structures are neglectful of them, and are failing to maintain or secure them to adequate standards, or restore them to productive use; and

WHEREAS, many of these structures are in violation of state and local housing and property maintenance codes; and

WHEREAS, the governing body finds that vacant and abandoned structures cause severe harm to the health, safety and general welfare of the community, including diminution of neighboring property values, loss of property, tax revenues, accumulation of trash and debris, increased risk of fire, and potential increases in criminal activity and public health risk; and

WHEREAS, the Borough of Highlands 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 of Highlands 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 Highlands; and

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

NOW, THEREFORE BE IT ORDAINED as follows:

Section One. The Borough Code, Article X, “Buildings and Housing” shall be amended and a new chapter, Chapter 10-13 shall hereinafter be adopted to provide as follows:

10-13 VACANT STRUCTURE LICENSING AND VACANT PROPERTY REGISTRATION PROCESS.

10-13.1. Definitions.

A. “Municipal Officer” shall mean the Administrator or Designee as may be designated by the Administrator in writing.

B. “Owner” shall include any private title holder, any agent of a private title holder having authority to act with respect to a vacant property, any foreclosing entity that has filed a notice with the municipal clerk pursuant to the provisions of C.46:10B-51 (P.L. 2008, c. 127, Sec. 17 as amended by P.L. 2009, c. 296), or any other entity determined by the Municipal Officer of the Borough of Highlands to have authority to act with respect to the property. This Ordinance exempts any municipal, county or state owner of a vacant building or structure.

C. “Vacant Property” shall mean any building or structure which is not at present legally occupied or at which all lawful business or construction operations or residential or other occupancy have substantially ceased, and which is in such condition that it cannot legally be re-occupied without repair and rehabilitation, including but not limited to, any property meeting the definition of vacant property in N.J.S.A. 55:19-80, *et seq.*, provided, however, that any habitable property where all building systems are in sound working order, where the building and grounds are maintained in good condition, and which is being actively marketed by its owners for sale or rental, shall not be deemed a vacant property for purposes of this ordinance.

10-13.2.

A. Effective January 1, 2015, the owners an any vacant property, as defined herein shall, within thirty (30) days after the building becomes vacant or within thirty (30) days after assuming ownership of the vacant property, whichever is later; or within ten (10) days of receipt of notice by the municipality, file a registration statement for such vacant property with the Municipal Officer on forms provided for that purpose by the Municipal Officer along with any fee required by this Ordinance. Failure to receive notice by the municipality shall not constitute grounds for failing to register the property.

B. Each property having a separate tax block and lot number shall be registered separately.

C. The registration shall include the information required under Section 10-13.4 of this Ordinance, the insurance certificate required by Section 10-13.7 of this Ordinance, as well as any additional information that the Municipal Officer may reasonably require.

D. The registration shall remain valid for one year from the date of registration. The Owner shall be required to renew the registration annually as long as the building or structure remains a vacant property and shall pay a registration or renewal fee in the amount prescribed in Section 10-13.5 of this Ordinance for each vacant property registered.

E. The Municipal Officer may establish for purposes of efficient administration that all registrations shall be renewed by a single date in each year, which date shall be established by the municipal officer in which case the initial registration fee shall be pro-rated for registration statements received less than ten (10) months prior to that date.

F. i. Any Owner of vacant property who submits plans to the Municipal Officer that completely rehabilitate or restore the property to productive use and occupancy within the twelve (12) month period following the date of the initial property registration shall be exempt from payment of the registration fee if the Municipal Officer deems that the rehabilitation or restoration project may be complete in that twelve (12) month period, but shall comply with all other provisions of this Ordinance. In the event that the property has not been restored to productive use and occupancy at the end of the twelve (12) month period, the owner shall be liable for any fee waived. The Municipal Officer may extend the waiver of the registration fee for not more than one (1) additional year in response to a written request by the Owner where the Municipal Officer finds that compelling conditions outside the Owner's control made it impossible for the Owner to restore the property within the initial twelve (12) month period.

ii. Where the Owner is an entity experienced in rehabilitation or redevelopment of vacant properties, and where the property is subject to this Ordinance is being held for a project of rehabilitation or redevelopment consistent with municipal plans and ordinances, and where by virtue of financing, marketing or other conditions that project may require more than one (1) year for realization, the Municipal Officer may extend the waiver of the registration fee on an annual basis without limitation upon written request by the Owner as long as the Municipal Officer finds that the Owner is making reasonable progress toward completion of the project. The Owner shall provide the Municipal Officer with such documentation, which may include plans, financing applications, applications for land use approval or other evidence of progress.

G. The Owner shall notify the Municipal Officer within thirty (30) days of any change in the registration information by filing an amended registration statement on a form provided by the Municipal Officer for such purpose.

H. 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 against the Owner or Owners of the building

10-13.3.

At any time 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 exterior and interior inspections of the building to determine compliance with municipal codes, on reasonable notice to the property owner or designated agent.

10-13.4.

A. The registration statement shall include (i) the name, street address, email address and telephone number of a natural person twenty-one (21) years of age or older, designated by the Owner or Owners at 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; and (ii) the name, street address, email address, and telephone number of the firm or individual responsible to maintain the property shall be available by telephone or in person on a twenty-four (24) hour per day, seven (7) day per week basis. The two (2) entities may be the same or different persons.

B. An owner who is a natural person may designate him or herself as agent or as the individual responsible for maintaining the property.

C. By designating an authorized agent under the provision 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 and 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 Municipal Officer in writing of a change of authorized agent or until the owner files a new annual registration statement.

D. Any Owner who fails to register a vacant property under the provisions of this Ordinance shall further be deemed to consent to receive, by posting at the building, any and all notices of code violations and all process in an

administrative proceeding brought to enforce code provisions concerning the building.

10-13.5.

A. The registration and renewal fee for each building or structure shall be as follows:

Initial Registration	\$250.00 or pro-rated amount per Sec. 10-13.2 of this Ordinance
First Renewal	\$400.00
Second Renewal	\$750.00
Any Subsequent Renewal	\$1,000.00 or 5% of assessed value, whichever is higher.

B. At least 50 percent of all fee income resulting from the application of this Ordinance shall be deposited in a trust fund that shall be used for the sole purpose of carrying out municipal activities with respect to vacant and distressed properties, including but not limited to, code enforcement, abatement of nuisance conditions, stabilization, rehabilitation, and other activities designed to minimize blight and/or promote further productive reuse of properties.

10-13.6.

The Owner of any structure that has become vacant property, and any person responsible for maintaining any such building that has become vacant, shall within thirty (30) days of the structure becoming vacant or thirty (30) days of the Owner taking title to the property shall:

- (1) Enclose and secure the structure as provided in the applicable code of the Borough of Highlands or as set forth in rules and regulations adopted by the Municipal Officer to supplement those codes;
- (2) Ensure that the grounds of the structure, including yards, fences, sidewalks, walks and driveways, are well-maintained and kept free from trash and debris;
- (3) Post a sign affixed to the structure with the name, address, and telephone number of the Owner and the Owner's authorized agent for the purpose of service of process, and the name, address, and telephone number of the entity responsible for the maintenance of the property, which may be the same as the authorized agent. The sign shall be at least 8" x 24" in dimension, shall include the words "to report problems with this building, call ...", and shall be placed in a location where it is clearly legible from the nearest public street sidewalk; and
- (4) Maintain the structure in a secure and closed condition, keep the grounds in a clean and well maintained condition, and ensure that the

sign is visible and intact until the building is again occupied or demolished or until repair or rehabilitation of the building is complete.

10-13.7.

The Owner of any vacant property shall acquire or otherwise maintain liability insurance, in an amount of not less than \$300,000.00 for buildings designed primarily for one to four unit residential use and not less than \$1,000,000.00 for any other building, including, but not limited to, buildings designed for multifamily, manufacturing, storage or commercial uses, covering any damage to any person or any property caused by any physical condition of or in the building.

Any insurance policy acquired or renewed after the building has become vacant shall provide for written notice to the Municipal Officer within thirty (30) days of any lapse, cancellation or change in coverage. 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 be deemed an invalid registration.

10-13.8.

The Borough of Highlands shall establish an on-line procedure by which citizens can provide the Municipal Officer with information on unkempt or unregistered properties that may be subject to this Ordinance through electronic means.

10-13.9.

A. Any person who violates any provision of this Ordinance or of the rules and regulations issued hereunder shall be fined not less than \$250.00 and not more than \$1,000.00 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.

B. For purposes of this section, failure to file a registration statement within thirty (30) days after a building becomes vacant property or within thirty (30) days after assuming ownership of a vacant property, whichever is later; or within ten (10) days of receipt of notice by the municipality, failure to provide correct information on the registration statement, failure to comply with the provisions of section 10-13.6 or 10-13.7 of this Ordinance, or such other matters as may be established by the rules and regulations of the Municipal Officer shall be deemed to be violations of this Ordinance.

Section Two. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance, which shall otherwise remain in full force and effect.

Section Three. REPEALER. All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section Four. EFFECTIVE DATE. This Ordinance shall take effect after final passage as provided by law.

Seconded by Mr. Card and adopted on the following roll call vote:

ROLL CALL:

AYES: Mr. Card, Ms. Kane, Mr. Redmond, Ms. Ryan, Mayor Nolan

NAY: None

ABSTAIN: None

ABSENT: None

DATE: January 7, 2015

Carolyn Cummins, Borough Clerk

I hereby certify this to be a true copy of Ordinance O-14-35 adopted by the Governing Body of the Borough of Highlands on January 7, 2015.

Borough Clerk/Deputy Clerk