

**TOWNSHIP OF CRANFORD
CRANFORD, NEW JERSEY**

ORDINANCE NO. 2017-04

**AN ORDINANCE TO AMEND THE CODE OF THE TOWNSHIP OF CRANFORD,
CHAPTER 136 LAND DEVELOPMENT**

WHEREAS, pursuant to the Abandoned Property Rehabilitation Act (N.J.S.A. 55:19-78 et seq.), the Township Committee of the Township of Cranford has the power to establish an Abandoned Property List and to establish and adopt specific municipal powers that are authorized to municipalities under the New Jersey Abandoned Property and Rehabilitation Act, N.J.S.A. 55:19-78 et seq., (the “Act”).

WHEREAS the Township Committee strongly agrees with the Act that abandoned properties, particularly those in close proximity to occupied residences and businesses, create a wide range of problems for the communities in which they are located, fostering criminal activity, creating public health problems and otherwise diminishing the quality of life for residents and business operators in those areas.

WHEREAS the Township Committee strongly agrees with the Act that 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.

WHEREAS the Township Committee strongly agrees with the Act that, for these reasons, abandoned properties are presumptively considered to be nuisances, in view of their negative effects on nearby properties and the residents or users of those properties.

WHEREAS the Township Committee strongly agrees with the Act that it is the responsibility of property owners to maintain property in sound condition and to prevent it from becoming a nuisance to others even when that property is not in use; and that the failure by an owner to comply with legitimate orders to demolish, stabilize or otherwise repair his or her property leads to the deterioration and loss of the property, or ‘demolition by neglect,’ and creates a presumption that the owner has abandoned the property.

WHEREAS the Township Committee strongly agrees with the Act that many abandoned buildings still have potential value for residential and other uses and such buildings should be preserved rather than demolished, wherever feasible, particularly buildings that have historic or architectural value, or contribute to maintaining the character of neighborhoods or streetscapes, or both, as the case may be.

NOW THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Cranford, in the County of Union, State of New Jersey, as follows:

SECTION 1. Chapter 136 of the Land Development Ordinances of the Township of Cranford shall be amended by the inclusion of a new Article X which shall be entitled “Abandoned Properties,” which shall read in its entirety as follows:

SECTION 2.

§ 136-91. Definitions.

The following terms, as used in this chapter, shall have the following meanings:

“Abandoned property” means any property that is determined to be abandoned pursuant to the provisions of Section 136-93.

“Abandoned property list” means a list of properties identified by the public officer, designated pursuant to N.J.S.A. 40:48-2.5, to establish and maintain a list of properties that contains the tax block and lot number, the name of the owner of record, if known, and the street address of the lot, pursuant to the provisions of N.J.S.A. 55:19-55.

“Interested Party” means any resident of the Township of Cranford, any owner or operator of a business within the Township, or any organization representing the interests of residents, business owners or otherwise engaged in furthering the revitalization and improvement of the neighborhood in which the property is located.

“Lienholder” or “mortgage holder” means any person or entity holding a note, mortgage or other interest secured by the building or any part thereof.

“Owner” means the holder or holders of title to an abandoned property.

“Property” means any building or structure and the land appurtenant thereto.

“Public officer” shall mean the Building Inspector or other public officer designated by the mayor of the Township of Cranford, pursuant to section N.J.S.A. 40:48-2.4, or any officer of the Township qualified to carry out the responsibilities set forth under the provisions of this chapter and as designated by the mayor.

“Qualified rehabilitation entity” means an entity organized or authorized to do business under the New Jersey statutes which shall have as one of its purposes the construction or rehabilitation of residential or non-residential buildings, the provision of affordable housing, the restoration of abandoned property, the revitalization and improvement of urban neighborhoods, or similar purpose, and which shall be well qualified by virtue of its staff, professional consultants, financial resources, and prior activities set forth in this chapter to carry out the rehabilitation of vacant buildings in urban areas.

§ 136-92. Public Officer Designated

Pursuant to N.J.S.A. 40:48-2.5, the Township of Cranford Building Inspector is hereby designated and appointed as the public officer to exercise the powers prescribed by this chapter

§ 136-93. Abandoned property; criteria

Except as provided in Section 136-96, any property that has not been legally occupied for a period of six months and which meets any one of the following additional criteria may be deemed to be abandoned property upon a determination by the public officer that:

- a. The property is in need of rehabilitation in the reasonable judgment of the public officer, and no rehabilitation has taken place during that six-month period;
- b. Construction was initiated on the property and was discontinued prior to completion, leaving the building unsuitable for occupancy, and no construction has taken place for at least six months as of the date of a determination by the public officer pursuant to this section;
- c. At least one installment of property tax remains unpaid and delinquent on that property in accordance with Chapter 4 of Title 54 of the Revised Statutes as of the date of a determination by the public officer pursuant to this section; or
- d. The property has been determined to be a nuisance by the public officer in accordance with Section 136-94.

A property which contains both residential and non-residential space may be considered abandoned pursuant to the criteria set forth in this chapter so long as two-thirds or more of the total net square footage of the building was previously legally occupied as residential space and none of the residential space has been legally occupied for at least six months at the time of the

determination of abandonment by the public officer and the property meets the criteria of either subsection a. or subsection d. of this section.

§ 136-94. Nuisance property; criteria

A property may be determined to be a nuisance if:

- a. The property has been found to be unfit for human habitation, occupancy or use pursuant to Chapter 81 of the Township of Cranford Municipal Code;
- b. The condition and vacancy of the property materially increases the risk of fire to the property and adjacent properties;
- c. The property is subject to unauthorized entry leading to potential health and safety hazards; the owner has failed to take reasonable and necessary measures to secure the property; or the Township has secured the property in order to prevent such hazards after the owner has failed to do so;
- d. The presence of vermin or the accumulation of debris, uncut vegetation or physical deterioration of the structure or grounds have created potential health and safety hazards and the owner has failed to take reasonable and necessary measures to remove the hazards; or
- e. The dilapidated appearance or other condition of the property materially affects the welfare, including the economic welfare, of the residents of the area in close proximity to the property, and the owner has failed to take reasonable and necessary measures to remedy the conditions.

The public officer who determines a property to be a nuisance pursuant to subsections b. through e. of this section shall follow the notification procedures set forth in N.J.S.A. 40:48-2.3 et seq.

§ 136-95. Abandoned Properties List

- a. The public officer shall establish and maintain a list of properties deemed to be abandoned properties pursuant to this Chapter. All properties listed shall include the tax block and lot number, the name of the owner of record, if known, and the street address of the lot, pursuant to the provisions of N.J.S.A. 55:19-55.
- b. Abandoned Property shall not be included on the Abandoned Property List if rehabilitation is being performed in a timely manner, as evidenced by building permits issued and diligent pursuit of rehabilitation work authorized by those permits.
- c. The public officer shall establish the abandoned property list or any additions thereto by publication in the official newspaper of the municipality, which publication shall constitute public notice and, within 10 days after publication, shall send a notice, by certified mail, return receipt requested, and by regular mail, to the owner of record of every property included on the list. The published and mailed notices shall identify property determined to be abandoned setting forth the owner of record, if known, the tax lot and block number and street address. The public officer, in consultation with the tax collector, shall also send out a notice by regular mail to any mortgagee, servicing organization, or property tax processing organization that receives a duplicate copy of the tax bill pursuant to subsection d. of N.J.S.A. 54:4-64. When the owner of record is not known for a particular property and cannot be ascertained by the exercise of reasonable diligence by the tax collector, notice shall not be mailed but instead shall be posted on the property in the manner as provided in N.J.S.A. 40:48-2.7. The mailed notice shall indicate the factual basis for the public officer's finding that the property is abandoned property as that term is defined in N.J.S.A. 55:19-54 and the rules and regulations promulgated thereunder, specifying the information relied upon in making such finding. In all cases a copy of the mailed or posted notice shall also be filed by the public officer in the office of the Union County Clerk. This filing shall have the same force and effect as a notice of *lis pendens* under N.J.S.2A:15-6. The notice shall be indexed by the name of the property owner as

defendant and the name of the municipality as plaintiff, as though an action had been commenced by the municipality against the owner.

- d. The public officer, within ten days of the establishment of the abandoned property list, or any additions thereto, shall send by regular mail, facsimile or electronic mail, a copy of the abandoned property list to the electric and gas utilities serving the municipality.
- e. An Owner or Lien Holder may challenge the inclusion of his property on the Abandoned Property List by appealing that determination to the Public Officer within thirty (30) days of the Owner's receipt of the certified notice or forty (40) days from the date upon which the notice was sent. An Owner whose identity was not known to the Public Officer shall have forty (40) days from the date upon which notice was published or posted, whichever is later, to challenge the inclusion of a property on the Abandoned Property List. For good cause shown, the public officer shall accept a late filing of an appeal.
- f. Within thirty (30) days of receipt of a request for an appeal of the findings contained in the notice pursuant to subsection e. this section, the public officer shall schedule a hearing for redetermination of the matter. Any property included on the list shall be presumed to be Abandoned Property unless the Owner, through the submission of an affidavit or certification by the property Owner averring that the property is not abandoned and stating the reasons for such averment, can demonstrate that the property was erroneously included on the list. The affidavit or certification shall be accompanied by supporting documentation, such as but not limited to photographs, and repair invoices, bills and construction contracts. The sole ground for appeal shall be that the property in question is not Abandoned Property as that term is defined in N.J.S.A. 55:19-54. The Public Officer shall decide any timely filed appeal within ten (10) days of the hearing on the appeal and shall promptly, by certified mail, return receipt requested, and by regular mail, notify the Property Owner of the decision and the reasons therefore.
- g. The Property Owner may challenge an adverse determination as the result of an appeal with the Public Officer pursuant to subsections e. and f. of this section, by instituting, in accordance with the New Jersey Court Rules, a summary proceeding in the Superior Court, Law Division, Union County, which action shall be tried de-novo. Such action shall be instituted within 20 days of the date of the notice of decision mailed by the Public Officer pursuant to subsection 'f' of this section. The sole ground for appeal shall be that the Property in question is not Abandoned Property as that term is defined in N.J.S.A. 55:19-54. The failure to institute an action of appeal on a timely basis shall constitute a jurisdictional bar to challenging the adverse determination, except that, for good cause shown, the court may extend the deadline for instituting the action. The Public Officer shall promptly remove any property from the Abandoned Property List that has been determined not to be abandoned on appeal.
- h. The Abandoned Property List shall become effective, and the Township shall have the right to pursue any legal remedy with respect to properties on the Abandoned Property List at such time as any one Property has been placed on the list in accordance with the provisions of this section, upon the expiration of the period for appeal with respect to that Property or upon the denial of an appeal brought by the Property Owner.

§ 136-96. Property not to be placed on the abandoned property list; conditions

- a. If an entity other than the Township of Cranford has purchased or taken assignment from the Township of a tax sale certificate on a property that has not been legally occupied for a period of six months, that property shall not be placed on the abandoned property list pursuant to Section 136-93 if: (1) the owner of the certificate has continued to pay all municipal taxes and liens on the property in the tax year when due; and (2) the owner of the certificate takes action to initiate foreclosure proceedings within six months after the property is eligible for foreclosure pursuant to either subsection a. or subsection b. of N.J.S.A. 54:5-86, as appropriate, and diligently pursues foreclosure proceedings in a timely fashion thereafter.
- b. A property which is used on a seasonal basis shall be deemed to be abandoned only if the property meets any two of the additional criteria set forth in Section 136-93.

c. A determination that a property is abandoned property under the provisions of this chapter shall not constitute a finding that the use of the property has been abandoned for purposes of municipal zoning or land use regulation.

d. Upon the request of a purchaser or assignee of a tax sale certificate seeking to bar the right of redemption on an abandoned property pursuant to subsection b. of N.J.S.A. 54:5-86, the public officer or the tax collector shall, in a timely fashion, provide the requester with a certification that the property fulfills the definition of abandoned property according to the criteria set forth in Sections 136-93 and 136-94.

§ 136-97. Action to transfer possession and control of abandoned property

The Township of Cranford, or its designee, may bring a summary action or otherwise to transfer possession and control of any abandoned property in need of rehabilitation in the Superior Court Law Division.

Upon the court granting possession and control of the property to the Township, the Township may thereafter commence and maintain those further proceedings for the conservation, protection or disposal of the property or any part thereof that are required to rehabilitate the property, necessary to recoup the cost and expenses of rehabilitation and for the sale of the property.

Failure by the owner, mortgage holder or lien holder to submit plans for rehabilitation to the Township, or to obtain appropriate construction permits for rehabilitation or, in the alternative, submit formal applications for funding the cost of rehabilitation to local, state or federal agencies providing such funding within that six-month period shall be deemed prima facie evidence that the owner has failed to take any action to further the rehabilitation of the property.

§ 136-98. Notice of Action to Transfer Possession and Control of Abandoned Property

a. At least thirty (30) days before filing a complaint pursuant to Section 136-97, the Township of Cranford shall serve a notice of intention to take possession of an abandoned property. The notice shall inform the owner and interested parties that the property has not been legally occupied for six months and of those criteria that led to a determination of abandonment pursuant to Section 136-93.

The notice shall provide that unless the owner or a party in interest prepares and submits a rehabilitation plan to the appropriate Township officials, the Township or its designee will seek to gain possession of the building to rehabilitate the property and the associated cost shall be a lien against the property, which may be satisfied by the sale of the property, unless the owner applies to the court for reinstatement of control of the property.

b. After serving the notice of intent pursuant to subsection a. of this section, the Township or its designee may enter upon that property after written notice to the owner by certified mail, return receipt requested, in order to secure, stabilize or repair the property, or in order to inspect the property for purposes of preparing the plan to be submitted to the court.

§ 136-99. Exercise of rights to further rehabilitation and reuse of property; designation of qualified rehabilitation entity

a. The Township of Cranford may exercise its rights under the provisions of this chapter, and under New Jersey Statutes Title 55, Chapter 19, directly or may designate a qualified rehabilitation entity to act as its designee for the purpose of exercising its rights where that designation will further the rehabilitation and reuse of the property consistent with municipal plans and objectives. This designation shall be made by the mayor of the Township, who may delegate this authority to the public officer.

b. Regardless of whether the Township exercises its rights directly or designates a qualified rehabilitation entity pursuant to this section, while in possession of a property pursuant to the provisions of this chapter, the Township shall maintain, safeguard, and maintain insurance on the property. Notwithstanding the Township's possession of the property, nothing in this chapter shall be deemed to relieve the owner of the property of any civil or criminal liability or any duty imposed by reason of acts or omissions of the owner including of any obligation the owner or any other person may have for the payment of

taxes or other municipal liens and charges, or mortgages or liens to any party, whether those taxes, charges or liens are incurred before or after the granting of possession.

- c. Pursuant to the provisions of N.J.S.A. 55:19-91, where the Township has designated a qualified rehabilitation entity to act on its behalf, the qualified rehabilitation entity shall provide quarterly reports to the Township on its activities and progress toward rehabilitation and reuse of the property, and the Township or qualified rehabilitation entity, as the case may be, shall provide such reports to the court as the court determines to be necessary.
- d. Pursuant to the provisions of N.J.S.A. 55:19-91, the Township shall file a notice of completion with the court, and shall also serve a copy on the owner and any mortgage holder or lien holder, at such time as the Township has determined that no more than six months remain to the anticipated date on which rehabilitation will be complete. This notice shall include an affidavit of the public officer attesting that rehabilitation can realistically be anticipated to be complete within that time period, and a statement setting forth such actions as it plans to undertake to ensure that reuse of the property takes place consistent with the plan.

§ 136-100 Procedure to Gain Title to Property; Authorization to Sell; Proceeds

- a. Pursuant to the provisions of N.J.S.A. 55:19-96, where the Township of Cranford seeks to gain title to the property, it shall purchase the property for fair market value on such terms as the court shall approve, and may place the proceeds of sale in escrow with the court.
- b. The court may authorize the Township to sell the building free and clear of liens, claims and encumbrances, in which event all such liens, claims and encumbrances shall be transferred to the proceeds of sale with the same priority as existed prior to resale in accordance with the provisions of this section, except that municipal liens shall be paid at settlement. The proceeds of the purchase of the property shall be distributed as set forth in Section 136-101.
- c. The Township may seek approval of the court to sell the property to a third party when the court finds that such conveyance will further the effective and timely rehabilitation and reuse of the property.
- d. Upon approval by the court the Township shall sell the property on such terms and at such price as the court shall approve, and may place the proceeds of sale in escrow with the court. The court may order a distribution of the proceeds of sale after paying court costs in the order of priority set forth in Section 136-101.

§ 136-101. Distribution of Proceeds

The proceeds paid pursuant to Section 136-100 shall be distributed in the following order of priority:

- a. The costs and expenses of sale;
- b. Other governmental liens;
- c. Repayment of principal and interest on any borrowing or indebtedness incurred by the Township of Cranford and granted priority lien status pursuant to Section 136-102.
- d. A reasonable development fee to the Township consistent with the standards for development fees established for rehabilitation programs by the New Jersey Department of Community Affairs or the New Jersey Housing and Mortgage Finance Agency;
- e. Other valid liens and security interests, in accordance with their priority; and
- f. The owner.

§ 136-102. Public officer; authority to place lien on property; remedies

- a. Pursuant to the provisions of N.J.S.A. 55:19-98, the public officer, with the approval of the court, may place a lien on the property to cover any costs of the Township of Cranford in connection with a proceeding under the provisions of this chapter incurred prior to the grant by the court of an order of possession under this chapter, which may include costs incurred to stabilize or secure the property to ensure that it can be rehabilitated in a cost-effective manner. Any such lien shall be considered a municipal lien for the purposes of N.J.S.A. 54:5-9 with the rights and status of a municipal lien pursuant thereto.
- b. With the exception of the holding of special tax sales pursuant to Section 136-104 of this chapter, the remedies available under this chapter shall be available to the Township with respect to any abandoned property, whether or not the Township has established an abandoned property list as provided in N.J.S.A. 55:19-55 and whether or not the property has been included on any such list.

§ 136-103 Recourse of the Township of Cranford against individuals or corporations

With respect to any lien placed against any real property pursuant to the provisions of N.J.S.A. 40:48-2.3 or N.J.S.A. 40:48-2.5, or N.J.S.A. 40:48-2.3a, or any receiver's lien pursuant to N.J.S.A. 2A:42-114, et al., the Township of Cranford shall have recourse with respect to the lien against any asset of the owner of the property if an individual, against any asset of any partner if a partnership, and against any asset of any owner of a ten (10) percent interest or greater if the owner is any other business organization or entity recognized pursuant to law.

§ 136-104. Properties eligible for tax sales; requirements of the Township of Cranford; notice

The Township of Cranford may hold special tax sales with respect to those properties eligible for tax sale pursuant to N.J.S.A. 54:5-19 which are also on an abandoned property list established by the Township pursuant to section N.J.S.A. 55:19-55. Any such special tax sale shall be subject to the following provisions:

- a. The Township shall establish criteria for eligibility to bid on properties at the sale, which may include, but shall not be limited to: documentation of the bidder's ability to rehabilitate or otherwise reuse the property consistent with municipal plans and regulations; commitments by the bidder to rehabilitate or otherwise reuse the property, consistent with municipal plans and regulations; commitments by the bidder to take action to foreclose on the tax lien by a date certain; and such other criteria as the Township may determine are necessary to ensure that the properties to be sold will be rehabilitated or otherwise reused in a manner consistent with the public interest;
- b. The Township may establish minimum bid requirements for a special tax sale that may be less than the full amount of the taxes, interest and penalties due, the amount of such minimum bid to be at the sole discretion of the Township, in order to ensure that the properties to be sold will be rehabilitated or otherwise reused in a manner consistent with the public interest;
- c. The Township may combine properties into bid packages, and require that bidders place a single bid on each package, and reject any and all bids on individual properties that have been included in bid packages;
- d. The Township may sell properties subject to provisions that, if the purchaser fails to carry out any commitment that has been set forth as a condition of sale pursuant to subsection A of this section or misrepresents any material qualification that has been established as a condition of eligibility to bid pursuant thereto, then the properties and any interest thereto acquired by the purchaser shall revert to the Township, and any amount paid by the purchaser to the Township at the special tax sale shall be forfeited to the Township;

- e. In the event there are two or more qualified bidders for any property or bid package in a special tax sale, the Township may designate the unsuccessful but qualified bidder whose bid was closest to the successful bid as an eligible purchaser;
- f. In the event that the purchaser of that property or bid package fails to meet any of the conditions of sale established by the Township pursuant to this section, and their interest in the property or properties reverts to the Township, the Township may subsequently designate the entity previously designated as an eligible purchaser as the winning bidder for the property or properties, and assign the tax sale certificates to that entity on the basis of that entity's bid at the special tax sale, subject to the terms and conditions of the special tax sale;
- g. The Township shall provide notice of a special tax sale pursuant to N.J.S.A 54:5-26. The notice shall include any special terms of sale established by the Township pursuant to subsection b., c. or d. of this section. Nothing herein shall prohibit the Township from holding a special tax sale on the same day as a standard or accelerated tax sale.

§ 136-105. Eminent domain proceedings; establishment of fair market value

With respect to any eminent domain proceeding carried out under N.J.S.A. 55:19-56, the fair market value of the property shall be established on the basis of an analysis which determines independently:

- a. The cost to rehabilitate and reuse the property for such purpose as is appropriate under existing planning and zoning regulations governing its reuse or to demolish the existing property and construct a new building on the site, including all costs ancillary to rehabilitation such as, but not limited to, marketing and legal costs;
- b. The realistic market value of the reused property after rehabilitation or new construction, taking into account the market conditions particular to the neighborhood of the Township of Cranford in which the property is located; and
- c. The extent to which the cost exceeds or does not exceed the market value after rehabilitation, or demolition and new construction, and the extent to which any "as is" value of the property prior to rehabilitation can be added to the cost of rehabilitation or demolition and new construction without the resulting combined cost exceeding the market value as separately determined. If the appraisal finds that the cost of rehabilitation or demolition and new construction, as appropriate, exceeds the realistic market value after rehabilitation or demolition and new construction, there shall be a rebuttable presumption in all proceedings under this subsection that the fair market value of the abandoned property is zero, and that no compensation is due the owner.

§ 136-106. Removal of property from abandoned property list

If a property, which an entity other than the Township of Cranford has purchased or taken assignment from the Township of a tax sale certificate, is placed on the abandoned property list, the property shall be removed from the list if the owner of the certificate pays all municipal taxes and liens due on the property within thirty (30) days after the property is placed on the list; provided, however, that if the owner of the certificate fails to initiate foreclosure proceedings within six months after the property was first placed on the list, the property shall be restored to the abandoned property list.

§ 136-107. Request for property to be placed on abandoned property list

- a. Any interested party may submit in writing a request to the public officer that a property be included on the abandoned property list prepared pursuant to N.J.S.A. 55:19-55, specifying the street address and block and lot number of the property to be included, and the grounds for its inclusion. Within thirty (30) days of receipt of any such request, the public officer shall provide a written response to the party, either indicating that the property will be added to the list of abandoned properties or, if not, the reasons for not adding the property to the list. For the purposes of this section, "interested party" shall include any resident of the Township of Cranford, any owner or operator of a business

within the Township or any organization representing the interests of residents or engaged in furthering the revitalization and improvement of the neighborhood in which the property is located.

- b. Any interested party may participate in any redetermination hearing held by the public officer pursuant to N.J.S.A. 55:19-55. Upon written request by any interested party, the public officer shall provide the party with at least twenty (20) days’ notice of any such hearing. The party shall provide the public officer with notice at least ten (10) days before the hearing of its intention to participate, and the nature of the testimony or other information that it proposes to submit at the hearing.

SECTION 2. All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

SECTION 3. This ordinance shall become effective upon final passage and publication according to law.

Introduced: April 11, 2017
Adopted: May 23, 2017

APPROVED:

Thomas H. Hannen, Jr., Chairman
Township Committee

ATTEST:

Tara Rowley
Township Clerk

RECORDED VOTE	INTRODUCED	ADOPTED
Thomas H. Hannen, Jr.	Aye	Aye
Patrick F. Giblin	Aye	Aye
Ann Dooley	Aye	Aye
Andis Kalnins	Aye	Aye
Mary O’Connor	Aye	Nay