

CITY OF MILLVILLE
COUNTY OF CUMBERLAND
STATE OF NEW JERSEY

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE CITY OF MILLVILLE CODE, CHAPTER 11 (“BUREAU OF PERMITS AND INSPECTIONS”) SO AS TO REPEAL ARTICLES II, IV AND V IN THEIR ENTIRETY AND TO REPLACE AND SUPERCEDE THEM WITH NEW ARTICLE II (“PROPERTY MAINTENANCE CODE”), NEW ARTICLE IV (“ABANDONED PROPERTY AND BUILDINGS UNFIT FOR HABITATION, OCCUPANCY OR USE” AND NEW ARTICLE V (“VACANT PROPERTY REGISTRATION AND MAINTENANCE REQUIREMENTS”)

WHEREAS, two separate tax foreclosure entitles are challenging the legal validity of certain City Code provisions which require the registration of vacant properties and which establish a schedule of registration fees;

WHEREAS, a group fo tax foreclosure entities recently successfully challenged similar vacant property registration ordinances of the Borough of Glassboro, the Borough of Paulsboro, the Township of Monroe and the Township of Deptford in the matter of *Empire TF4 Jersey Holdings, LLC et al. v. Community Champions et al.*, Superior Court of New Jersey, Law Division, Gloucester County, Docket No. L-597-17;

WHEREAS, the Board of Commissioners of the City of Millville finds it to be in the best interests of City residents to so amend its vacant property ordinance in order to avoid litigation expenses with little doubt as to the outcome of the litigation;

NOW THEREFORE, BE IT ORDAINED by the Board of Commissioners of the City of Millville that Millville City Code, Chapter 11 (“BUREAU OF PERMITS AND INSPECTIONS”), is hereby amended to repeal ARTICLE II (“Vacant and Abandoned Properties”), ARTICLE IV (“Properties in Foreclosure”) and ARTICLE V (“Property Maintenance Code”) in their entirety and to replace and supercede them as follows:

**SECTION 1
ARTICLE II
PROPERTY MAINTENANCE CODE**

§ 11-8. Statutory authority.

N.J.S.A. 40:48-2 provides in relevant part that a municipality may make and enforce such ordinances, rules and regulations 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 persons and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants.

§ 11-9. Purpose and scope.

The purpose of this article is to establish the standards and to regulate the manner by which existing structures and premises within the City shall be maintained to preserve the environmental quality of the City and to protect the health, safety, and welfare of the public.

§ 11-10. Adoption of standards by reference.

Chapters 2 through 8, inclusive, of the International Property Maintenance Code of 2012 as it may be updated, amended or revised from time to time, are hereby adopted and incorporated herein as if the same were set forth with particularity. These regulations shall be known as the "Property Maintenance Code of the City of Millville."

§ 11-11. Amendments and additions.

A. (Subsection 201.3). Terms defined in other codes. Where terms are not defined in this code or an applicable state code but are defined in the International Building Code, New Jersey edition; the International Fire Code; state and local zoning codes; the National Standard Plumbing

Code; the International Mechanical Code; the International Residential Code, New Jersey edition; and the National Electrical Code, such terms shall have the meanings ascribed to them as in those codes.

- B. (Subsection 302.4). Weeds. All premises and exterior property shall be maintained free from weeds or plant growth in excess of eight inches. All noxious weeds shall be prohibited. "Weeds" shall be defined as all grasses, annual plants and vegetation, other than trees, shrubs, cultivated flowers and gardens.
- C. (Subsection 302.10). Laundry: At no time shall laundry be located on front porches, deck railings or any other appurtenances that can be viewed from the roadway.
- D. (Subsection 304.14). Insect screens. During the period from May 1 to October 1, every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored, shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch (16 mesh per 25 mm), and every swinging door shall have a self-closing device in good working condition.
- E. Carbon monoxide alarms and smoke detectors shall be installed within all residential homes located within the City of Millville in accordance with the requirements imposed by the New Jersey Uniform Fire Code.
- F. Chapter 8 referenced standards. Where there is an applicable state code and the standards in the applicable state code are in conflict with the referenced standards in this chapter, the standards contained in the state code shall apply.
- G. Maintenance of signs. All signs authorized or permitted by Chapter 30 of the Municipal Code (Land Use and Development Regulations) or by Chapter 33 of the Municipal Code (Licensing and Permits) or by § 11-22B of this chapter shall be maintained in good repair and be properly anchored so as to be kept in a sound condition. When required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials such as paint or similar surface treatment.

§ 11-12. Liberal construction of article.

This article shall be construed liberally and justly to ensure public health, safety and welfare insofar as they are affected by the continued use and maintenance of structures and premises.

§ 11-13. Applicability of uniform construction codes.

Any repairs, or alterations to a structure, or changes of use therein, which may result directly or indirectly from the enforcement of this article shall be done in accordance with the procedures and provisions of the State Uniform Construction Code.

§ 11-14. Workmanship.

All repairs, maintenance work, alterations or installations which are required for compliance with this article shall be executed and installed in a workmanlike manner so as to secure the results intended by this article.

§ 11-15. Modification of provisions.

When there are practical difficulties involved in carrying out structural or mechanical provisions of this article, the public officer and the construction official shall be permitted jointly to vary or modify such provision upon application of the owner or the owner's representative, provided that the spirit and intent of this article is observed and public health, welfare and safety protected.

§ 11-16. Grant of access to owner or operator.

Every occupant of a structure or premises shall give the owner or operator thereof, or the owner's agent or employee, access to any part of such structure or its premises at reasonable times for the purpose of making such inspection, maintenance, repairs, or alterations as are necessary for the owner to comply with the provisions of this article.

§ 11-17. Emergency orders.

Whenever the public officer finds that an emergency exists in any structure or part thereof which requires immediate action to protect the public health and safety, or that of the occupants of said structure or part thereof, the public officer shall, with proper notice, issue an order reciting the existence of such an emergency and requiring that repairs be made to the structure or premises forthwith.

**SECTION 2
ARTICLE IV**

Abandoned Property and Building Unfit for Habitation, Occupancy or Use

§ 11-34. Definitions.

As used in this article, the following terms shall have the meanings indicated:

ABANDONED PROPERTY

Any property that is determined to be abandoned pursuant to P.L. 2003, N.J.S.A. 55:19-81;

CITY

The City of Millville, Cumberland County, State of New Jersey;

BOARD OF COMMISSIONERS

The Board of Commissioners of the City of Millville;

BUILDING

Any building, or structure, or part thereof, whether used for human habitation or otherwise, and includes any outbuildings, and appurtenances belonging thereto;

CODE OFFICIAL

Any City official or employee authorized to issue and enforce orders pursuant to any statute, code, ordinance or regulation.

INTERESTED PARTIES

Includes any resident of the City of Millville, any owner or operator of a business within the City of Millville, 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

Any person or entity holding a note, mortgage, or other interest secured by a building or any part thereof;

OPENING

Any window, door or other point or means of access to the interior of a structure.

OPEN VACANT STRUCTURE

Any building or other enclosure, which has remained unoccupied for a period of six months or more and which, in the official opinion of the applicable code official, is inadequately secured to prevent entry and/or intrusion of the elements into any portion thereof.

OWNER

The holder or holders of title in fee simple;

PARTIALLY BOARDED BUILDING

Any building or other enclosure where the boards are uncut to fit the openings, unpainted (or covered with exterior weathertight material) and do not comply with established and industry-approved design standards, which has remained unoccupied for a period of six months or more and which is, in whole or in part, boarded up for a period of six months or more and which, in the official opinion of the applicable code official, is a public nuisance and an unfit building

inimical to the welfare of the citizens of the City of Millville as it diminishes neighboring property values, constitutes an attractive nuisance, is a forum for crime, a breeding ground for vermin, or is in any other respect dangerous or injurious to the health and safety of the people of the City of Millville. Such a building shall be deemed, for all purposes of the Code of the City of Millville, a vacant building subject to abatement or demolition.

PROPERTY

Any building or structure and the land appurtenant thereto;

PUBLIC OFFICER

A person designated or appointed by the Board of Commissioners pursuant to P.L. 1942, N.J.S.A. 40:48-2.5 or any officer of the municipality qualified to carry out the responsibilities set forth in N.J.S.A. 55:19-78 et seq. as designated by resolution of the Board of Commissioners;

QUALIFIED REHABILITATION ENTITY

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 nonresidential 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 to carry out the rehabilitation of vacant buildings, as set forth under N.J.S.A. 55:19-80.

SECURED

Any structure in which all openings have been boarded and locked in accordance with the terms of this chapter so as to prevent unauthorized access by persons or intrusion by the elements.

VACANT BUILDING

Any building or other enclosure which has remained unoccupied for a period of six months or more and which lacks the habitual presence of human beings who have a legal right to be on the premises, whether or not boarded up, and which, in the official opinion of the applicable code official, is a public nuisance and an unfit building inimical to the welfare of the citizens of Millville as it diminishes neighboring property values, constitutes an attractive nuisance, is a forum for crime, a breeding ground for vermin or is in any other respect dangerous or injurious to the health and safety of the people of the City of Millville.

§ 11-35. Enforcement.

- A. A code official shall have the authority to direct that an owner of any open vacant structure secure all openings in such structure in the manner and according to the standards set forth in this chapter.
- B. Nothing in this chapter shall be construed to limit or infringe upon the exercise by a code official of any other lawful power or authority of such official.

§ 11-36. Procedure to secure structure.

- A. Notice to secure. Upon a determination by a code official that a structure is an open vacant structure, that official shall serve notice upon the owner of such structure ordering said owner to secure the structure. The form of notice, manner of service and right to appeal shall be as set forth in the particular code under which such code official is authorized to proceed.
- B. Completion of work. In the event that an owner fails to complete all work required to secure a structure within 30 days after the end of the applicable period for the owner to appeal the code official's determination, then the City shall have the authority to secure the subject structure itself or by agreement with a third party. The costs incurred by the City in so proceeding, including reasonable administrative charges, shall be assessed against and be a lien upon the subject property.
- C. Permits and inspections. No work shall be undertaken pursuant to this

article unless the proper construction permits shall first have been obtained from the Bureau of Permits and Inspections. Such work shall be subject to all inspections and other requirements as set forth in the Uniform Construction Code or any other relevant law, ordinance or regulation.

§ 11-37. Standards.

- A. Standards applicable to all structures. All openings shall be secured utilizing one of the following methods:
- (1) Seal all openings with brick or block and mortar.
 - (2) Cover all openings with five-eighths-inch exterior grade sheathing plywood. Such plywood shall either be cut to fit the exact size of the opening or shall rest on window or door ledge and shall overlap the window frame for at least two inches on each side and the top. When no ledge exists, the plywood shall overlap on the bottom for at least two inches. One two-by-four shall be placed on the exterior cut to the width of the plywood, and one two-by-four shall be placed on the interior cut to a length that shall cause it to overlap for a length of eight inches beyond the window frame on either side. The two-by-fours shall be held in place by inserting at least one five-eighths-inch steel carriage bolt or two three-eighths-inch carriage bolts through the two-by-fours and the plywood. The bolt(s) shall be inserted from the exterior, and the securing nut shall be located on the interior. When the height of the plywood covering the opening exceeds 20 inches, at least two two-by-fours shall be located on both the exterior and the interior. All lumber used to secure structures shall be painted at the exterior with exterior paint or stain which, as closely as practicable, matches the predominant characteristics of the structure, as approved by the Construction Official pursuant to an application for construction permit submitted by or on behalf of the owner of a subject structure.
- B. Access openings. One opening in any structure may be utilized to access the structure for repairs, inspection or other necessary purposes. Such opening shall be secured in the same fashion as other openings, as set forth herein, except that an access opening may be constructed with hinge-operated hardware or an acceptable substitute as determined by the Construction Official. All such operable openings shall be equipped with an approved locking device and shall face and be readily visible from the adjoining street or roadway.

§ 11-38. Noncompliance; administrative fee; lien.

An owner is required to complete all work pursuant to this article. Where the owner fails to comply with the requirements of this chapter, the Public Officer or his designee shall certify the cost thereof to the Board of Commissioners, which shall examine the certificate, and if it shall be found correct, the Board of Commissioners shall cause the cost as shown thereon, with an additional administrative fee of \$100, to be charged against the lands from which the work required to the abandoned building shall have been completed; and the amount so charged shall forthwith become a lien upon the lands and shall be added to and become and form part of the taxes next to be assessed and levied upon such lands, the same to bear interest at the same rate as taxes, and shall be collected and enforced by the same officers and in the same manner as taxes.

§ 11-39. Determination that property is abandoned; nuisance.

- A. Except as provided under N.J.S.A. 55:19-83, 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:
- (1) The property is in need of rehabilitation in the reasonable judgment of the Public Officer, and no rehabilitation has taken place during that same six-month period; or
 - (2) 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;

- (3) At least one installment of property tax remains unpaid and delinquent on that property as of the date of a determination by the Public Officer; or
- (4) The property has been determined to be a nuisance by the Public Officer, in accordance with N.J.S.A. 55:19-82 for one or more of the following reasons:
 - (a) The property has been found to be unfit for human habitation, occupancy or use pursuant to N.J.S.A. 40:48-2.3;
 - (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 municipality 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.

- B. A property which contains both residential and nonresidential space may be considered abandoned pursuant to N.J.S.A. 55:19-78 et seq., so long as 2/3 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.

§ 11-40. Abandoned property list; notice to owner of record; challenge by owner.

- A. The Board of Commissioners may direct the Public Officer to identify abandoned property for the purpose of establishing an abandoned property list throughout the City, or within those parts of the City as the Board of Commissioners may designate. Each item of identified abandoned property shall include the tax block and lot number, the name of the owner of record, if known, and the street address of the property lot.
- B. The Public Officer shall establish and maintain a list of abandoned property, known as the "abandoned property list." The Board of Commissioners may add properties to the abandoned property list at any time, and may delete properties at any time when the Public Officer finds that the property no longer meets the definition of an abandoned property.
- C. Notice.
 - (1) The Public Officer shall establish the abandoned property list or any additions/deletion thereto in the official newspaper designated by the City of Millville. Within 10 days after publication in said newspaper, the Public Officer 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 abandoned property list. The published and mailed notices shall identify property determined to be abandoned setting forth the owner of record and, 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 N.J.S.A. 54:4-64(d).

- (2) 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 finding of the Public Officer, that the property is abandoned property as that term is defined herein and in N.J.S.A. 55:19-54, and shall specify 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 Clerk, County of Cumberland. This filing shall have the same force and effect as a formal notice under N.J.S.A. 2A:15-6. The notice shall be captioned with the name of the City of Millville as "Plaintiff" and the name of the property owner as "Defendant," as though an action had been commenced by the City against the owner.
- D. An owner or lienholder may challenge the inclusion of his property on the abandoned property list by appealing that determination to the Board of Commissioners within 30 days of the owner's receipt of the certified notice or 40 days from the date upon which the notice was sent. An owner whose identity was not known to the Public Officer shall have 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 Board of Commissioners shall accept a late filing of an appeal. Within 30 days of receipt of a request for an appeal of the findings contained in the notice, the Board of Commissioners 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 asserting that the property is not an abandoned property, 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, 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 herein and in N.J.S.A. 55:19-54. The Board of Commissioners shall decide any timely filed appeal within 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 therefor.
 - E. The property owner may challenge an adverse determination of an appeal with the Board of Commissioners, by instituting, in accordance with the New Jersey Court Rules, a summary trial proceeding in the Superior Court, County of Cumberland. Such action shall be instituted within 20 days of the date of the notice of decision mailed by the Board of Commissioners. The sole ground for appeal and new hearing before the Superior Court shall be that the property in question is not an 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.
 - F. The City shall promptly remove any property from the abandoned property list that has been determined by the Board of Commissioners or on appeal not to be abandoned and may, in its discretion, remove properties from said list whenever the Board of Commissioners deem such removal appropriate under the circumstances.
 - G. The abandoned property list shall become effective, and the City shall have the right to pursue any legal remedy with respect to properties on the list, at any time after at least one property has been placed on the

list and following the expiration of the period for appeal with respect to that first property or upon the denial of an appeal brought by the property owner of that first property.

§ 11-41. Request for additions to abandoned property list.

- A. Any interested party may submit a written request to the Board of Commissioners asserting that any property within the City of Millville should be included on the abandoned property list. The written request must specify the street address and block and lot number of the property to be included and the grounds for its inclusion. Within 30 days of receipt of any such request, the Board of Commissioners shall provide a written response to the party, either indicating that the property will be added to the abandoned property list or otherwise stating the Board of Commissioners reasons for not adding the property. For the purposes of this section, the term "interested parties" shall include any resident of the City of Millville, any owner or operator of a business within the City of Millville, 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.
- B. Any interested party may participate in a redetermination hearing regarding the inclusion of a property on the abandoned property list. Upon written request by any interested party, the Board of Commissioners shall provide that party with at least 20 days' notice of any such hearing. The party shall provide the Board of Commissioners with notice at least 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.

§ 11-42. Sale of tax lien on abandoned property; remediation costs.

- A. Notwithstanding N.J.S.A. 54:5-19 or the provisions of any other law to the contrary, if a property is included on the abandoned property list and the property taxes or other City liens due on the property are delinquent six or more quarters as of the date of expiration of the right to appeal inclusion on the list, or, if an appeal has been filed, as of the date that all opportunities for appeal of inclusion on the list have been exhausted, then the tax lien on the property may be sold in accordance with the procedures in the Tax Sale Law, N.J.S.A. 54:5-1 et seq., on or after the 90th day following the expiration of that time of appeal or final determination on an appeal, as appropriate.
 - (1) The City may, at its option, require that the sale of the tax sale certificate or any subsequent assignment or transfer of a tax sale certificate held by the City be subject to the express condition that the purchaser or assignee shall be obliged to perform and conclude any rehabilitation or repairs necessary to remove the property from the abandoned property list pursuant to N.J.S.A. 55:19-55. The City may further require that the purchaser or assignee post a bond in favor of the City to guarantee the rehabilitation or repair of the property. The cost of rehabilitation and repairs and the cost of the bond shall be added to the amount required to be paid by the owner for redemption of the property.
 - (2) The Public Officer may waive a requirement to post a bond imposed by the City for any purchaser, assignee or transferee of a tax sale certificate that provides documentation acceptable to the Public Officer that the purchaser, assignee or transferee is a qualified rehabilitation entity as defined herein.
 - (3) The purchaser, assignee or transferee of the tax sale certificate who is required to rehabilitate and repair the property shall be required to file the appropriate affidavits with the Tax Collector, pursuant to N.J.S.A. 54:5-62, representing the amounts of monies expended periodically toward the rehabilitation or repair of the property. A purchaser, assignee or transferee shall be entitled to interest on the amounts expended, as set forth in the affidavits, at the delinquent rate

of interest for delinquencies in excess of \$1,500 pursuant to N.J.S.A. 54:4-67, in effect for the time period when the amounts were expended.

- (4) The tax sale certificate purchaser, assignee or transferee, under the auspices and with the authority of the City, shall be permitted to enter in and upon the property for the purposes of appraising the costs of rehabilitation and repair and to perform all other acts required to guarantee the completion of the rehabilitation or repair of the property. No rehabilitation or repair work shall be commenced, however, until proof of adequate liability insurance and an indemnification agreement holding the City harmless is filed with the Public Officer. If the tax sale certificate is not purchased at the initial auction of the tax sale certificate and the City purchases the certificate pursuant to N.J.S.A. 54:5-34, then the City is authorized and empowered to convey and transfer to the authority or any of its subsidiaries, without receiving compensation therefor, all of its right, title and interest in that certificate; however, any portion of the amount paid to the Tax Collector to redeem the tax sale certificate that represents tax or other City lien delinquencies and subsequent City liens, including interest, shall be returned by the Tax Collector of the City.

B. If the City acquires the tax sale certificate for a property on the abandoned property list then, upon 10 days' written notice to the property owner and any mortgagee as of the date of the filing of the lis pendens notice under Subsection d. of N.J.S.A. 55:19-55, that entity shall be permitted to enter upon the property and remediate any conditions that caused the property to be included on the abandoned property list. No remediation shall be commenced, however, if within that ten-day period the owner or mortgagee shall have notified the City or authority or its subsidiary, as appropriate, in writing that the owner or mortgagee has elected to perform the remediation itself. When the owner or mortgagee elects to perform the remediation itself, it shall be required to post bond in favor of the City in order to ensure performance. The amount and conditions of the bond shall be determined by the Public Officer.

- (1) The cost of remediation incurred by the City pursuant to this section, as so certified by the entity incurring the cost upon completion of the remediation, shall constitute a lien upon the property first in time and right to any other lien, whether the other lien was filed prior to, or after the filing of any lien by the City, except for City taxes, liens and assessments and any lien imposed pursuant to the "Spill Compensation and Control Act," N.J.S.A. 58:10-23.11 et seq., together with any interest thereon. The certification of cost shall be filed and recorded as a lien by the entity incurring the cost with the county clerk or register of deeds and mortgages, as appropriate, in the county in which the property is located.
- (2) Failure of an owner or lienholder to remove a property from the abandoned property list within the period of time for appeal of inclusion of the property on the abandoned property list pursuant to subsection shall be prima facie evidence of the intent of the owner to continue to maintain the property as abandoned property.
- (3) The clearance, development, redevelopment, or repair of property being maintained as an abandoned property pursuant to this article shall be a public purpose and public use, for which the power of eminent domain may be exercised.

§ 11-43. Removal of property from list of abandoned properties; remediation.

- A. An owner may remove a property from the abandoned property list prior to sale of the tax sale certificate by paying all taxes and City liens due, including interest and penalties, and:
- (1) By posting cash or a bond equal to the cost of remediating all conditions because of which the property has been determined

- to be abandoned pursuant to Section 36 of P.L. 1996, N.J.S.A. 55:19-55, and posting cash or a bond to cover the cost of any environmental cleanup required on the property, evidenced by a certification by a licensed engineer retained by the owner and reviewed and approved by the Public Officer stating that the cash or bond adequately covers the cost of the cleanup; or
- (2) By demonstrating to the satisfaction of the Public Officer that the conditions rendering the property abandoned have been remediated in full; provided, however, that where the Public Officer finds that the owner is actively engaged in remediating the conditions because of which the property was determined to be abandoned pursuant to Section 36 of P.L. 1996, N.J.S.A. 55:19-55, as evidenced by significant rehabilitation activity on the property, the Public Officer may grant an extension of time of not more than 120 days for the owner to complete all work, during which time no further proceedings will be taken against the owner or the property.
- B. If the owner has posted cash or a bond in order to have a property removed from the abandoned property list and the conditions because of which the property was determined to be abandoned have not been fully remediated within one year of the date of posting the cash or bond, or, in the case of a property which requires a remediation of any known, suspected or threatened release of contaminants, if the owner has failed to enter into a memorandum of agreement with the Department of Environmental Protection or an administrative consent order, as the case may be, or if an agreement or order is in effect but the owner has failed to perform the remediation in conformance with the agreement or order, then the cash or bond shall be forfeited to the City which shall use the cash or bond and any interest which has accrued thereon for the purpose of demolishing or rehabilitating the property or performing the environmental remediation. Any funds remaining after the property has been demolished, rehabilitated or cleaned up shall be returned to the owner.

§ 11-44. Property deemed not abandoned; criteria; certification of abandonment.

- A. An 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 the furtherance of rehabilitation work as authorized by said permits.
- B. If an entity or person other than the City has purchased or taken assignment for the City 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 if:
- (1) The owner of the certificate has continued to pay all City taxes and liens on the property in the tax year when due; and
- (2) The owner of the certificate takes action to initiate a foreclosure proceeding within six months after the property is eligible for foreclosure pursuant to N.J.S.A. 54:5-86, and diligently pursues foreclosure proceedings in a timely fashion thereafter.
- C. 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 under N.J.S.A. 55:19-81.
- D. Upon request of a purchaser or assignee of a tax sale certificate seeking to bar the right of redemption on an abandoned property pursuant to N.J.S.A. 54:5-86, the Public Officer or the City Tax Collector shall, in a timely fashion, provide the requester with a certification of abandonment that the property satisfies the definition of an abandoned property in accordance with this article.

§ 11-45. Acquisition of tax sale certificate for abandoned property; action to foreclose right of redemption.

- A. When a person other than the City acquires a tax sale certificate for a property on the abandoned property list at tax sale, the purchaser may institute an action to foreclose the right of redemption at any time after

the expiration of six months following the date of the sale of the tax sale certificate.

- B. When the City is the purchaser at tax sale of any property on the abandoned property list pursuant to N.J.S.A. 54:5-34, an action to foreclose the right of redemption may be instituted in accordance with the provisions of Subsection b. of N.J.S.A. 54:5-77. After the foreclosure action is instituted, the right to redeem shall exist and continue to exist until barred by the judgment of the Superior Court; provided, however, that no redemption shall be permitted except where the owner:
- (1) Posts cash or a bond equal to the cost of remediating the conditions because of which the property was determined to be abandoned pursuant to N.J.S.A. 55:19-56, as determined by the court; or
 - (2) Demonstrates to the court that the conditions because of which the property was determined to be abandoned pursuant to N.J.S.A. 55:19-56 have been remedied in full.

§ 11-46. Special tax sale; criteria for bidders.

- A. The City 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 the abandoned property list.
- B. The Board of Commissioners shall establish criteria for eligibility to bid on properties at the sale, which may include, but need not be limited to:
- (1) Documentation of the bidder's ability to rehabilitate or otherwise reuse the property consistent with City plans and regulations; commitments by the bidder to rehabilitate or otherwise reuse the property, consistent with City plans and regulations;
 - (2) Commitments by the bidder to take action to foreclose on the tax lien by a date certain; and
 - (3) Such other criteria as the Board of Commissioners 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.
- C. The Board of Commissioners may establish minimum bid requirements for a special tax sale that are less than the full amount of the taxes, interest and penalties due, to help ensure that the properties will be rehabilitated or otherwise utilized in a manner consistent with the public interest.
- D. The Board of Commissioners may combine properties in said special tax sale into bid packages, and require that bidders place a single bid on each package, rejecting any and all bids on individual properties that are submitted.
- E. The Board of Commissioners may sell said properties subject to the provision that, if the purchaser fails to carry out any commitment that has been set forth as a condition of sale 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 City, and any amount paid by the purchaser at the special tax sale shall be forfeit to the City.
- F. In the event there are two or more qualified bidders for any property or bid package in a special tax sale, the City may designate the unsuccessful qualified bidder whose bid was closest to the successful bid, as an eligible purchaser. In the event that the selected purchaser of that property or bid package fails to meet any of the conditions of sale established by the City pursuant to this section and their interest in the property or properties reverts to the City, the City 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 City 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 City pursuant to this section. Nothing shall prohibit the City from holding a special tax sale on the same day as a standard or accelerated tax sale.

§ 11-47. Expedited action to foreclose right of redemption.

- A. When a person or entity other than the City acquires a tax sale certificate for a property on the abandoned property list at tax sale, the purchaser may institute an action to foreclose the right of redemption at any time.
- B. When the City is the purchaser at tax sale of any property on the abandoned property list pursuant to N.J.S.A. 54:5-34, an action to foreclose the right of redemption may be instituted in accordance with the provisions of Subsection b of N.J.S.A. 54:5-77.
 - (1) After the foreclosure action is instituted, the right to redeem shall exist and continue to exist until barred by the judgment of the Superior Court; provided, however, that no redemption shall be permitted except where the owner:
 - (a) Posts cash or a bond equal to the cost of remediating the conditions because of which the property was determined to be abandoned pursuant to N.J.S.A. 55:19-56, as determined by the Court; or
 - (b) Demonstrates to the Court that the conditions because of which the property was determined to be abandoned have been remedied in full.

§ 11-48. Transfer of possession and control of abandoned property to City.

- A. A summary action or otherwise to transfer possession and control of abandoned property in need of rehabilitation to the City may be brought by the City in the Superior Court, County of Cumberland. If the court shall find that the property is abandoned pursuant to N.J.S.A. 55:19-81, and the owner or party in interest has failed to submit and initiate a rehabilitation plan, then the court may authorize the City to take possession and control of the property and develop a rehabilitation plan.
 - (1) If the City is granted possession, it may 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; provided, however, that the court shall not direct the sale of the property if the owner applies to the court for reinstatement of control of the property as provided in N.J.S.A. 55:19-92.
 - (2) Failure by the owner, mortgage holder or lien holder to submit plans for rehabilitation to the municipality, 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.
- B. A complaint filed pursuant to section N.J.S.A. 55:19-84 and Subsection A of this section shall include:
 - (1) Documentation that the property is on the municipal abandoned property list or a certification by the Public Officer that the property is abandoned; and
 - (2) A statement by an individual holding appropriate professional qualifications that there are sound reasons that the building should be rehabilitated rather than demolished based upon the physical, aesthetic or historical character of the building or the relationship of the building to other buildings and lands within its immediate vicinity.
- C. Within 10 days of filing a complaint, the plaintiff shall file a notice of lis pendens with the County of Cumberland recording officer. At least

30 days before filing the complaint, the City shall serve a notice of intention to take possession of an abandoned building. 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 N.J.S.A. 55:19-81.

- (1) The notice shall provide that unless the owner or a party in interest prepares and submits a rehabilitation plan to the appropriate City officials, the City 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 as provided in N.J.S.A. 55:19-92.
- (2) After the complaint is filed, the complaint shall be served on the parties in interest in accordance with the New Jersey Rules of Court.
- (3) After serving the notice of intention pursuant to this subsection, the City 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 pursuant to N.J.S.A. 55:19-89.

D. Any owner may defend against a complaint filed pursuant to this section by submitting a plan for the rehabilitation and reuse of the property which is the subject of the complaint and by posting a bond equal to 125% of the amount determined by the Public Officer or the court to be the projected cost of rehabilitation.

- (1) Any plan submitted by an owner to defend against a complaint shall be submitted within 60 days after the complaint has been filed, unless the court provides the owner with an extension of time for good cause shown.
- (2) A plan submitted by an owner pursuant to this subsection shall include, but not be limited to:
 - (a) A detailed financial feasibility analysis, including documentation of the economic feasibility of the proposed reuse, including operating budgets or resale prices, or both, as appropriate;
 - (b) A budget for the rehabilitation of the property, including sources and uses of funds, based on the terms and conditions of realistically available financing, including grants and loans;
 - (c) A timetable for the completion of rehabilitation and reuse of the property, including milestones for performance of major steps leading to and encompassing the rehabilitation and reuse of the property; and
 - (d) Documentation of the qualifications of the individuals and firms that will be engaged to carry out the planning, design, financial packaging, construction, and marketing or rental of the property.

E. The court shall approve any plan that, in the judgment of the court, is realistic and likely to result in the expeditious rehabilitation and reuse of the property, which is the subject of the complaint.

- (1) If the court approves the owner's plan, then it may appoint the Public Officer to act as monitor of the owner's compliance. If the owner fails to carry out any step in the approved plan, then the City may apply to the court to have the owner's bond forfeited, possession of the building transferred to the City to complete the rehabilitation plan and authorization to use the bond proceeds for rehabilitation of the property.
- (2) The owner shall provide quarterly reports to the City on its activities and progress toward rehabilitation and reuse of the property. The owner shall provide those reports to the court on its activities that the court determines are necessary.

- (3) The court may reject a plan and bond if it finds that the plan does not represent a realistic and expeditious means of ensuring the rehabilitation of the property or that the owner or his representatives or agents, or both, lack the qualifications, background or other criteria necessary to ensure that the plan will be carried out successfully.
- F. If an owner is unsuccessful in defending against a complaint filed pursuant to this section, the mortgage holder or lien holder may seek to be designated in possession of the property by submitting a plan and posting a bond meeting the same conditions as set forth in N.J.S.A. 55:19-87. The plan shall be submitted within 60 days after the court has rejected the owner's plan, unless the court provides the mortgage holder or lienholder with an extension of time for good cause shown. If the court approves any such mortgage holder or lien holder's plan, it shall designate that party to be in possession of the property for purposes of ensuring its rehabilitation and reuse and may appoint the Public Officer to act as monitor of the party's compliance.
- (1) The mortgage holder or lien holder, as the case may be, shall provide quarterly reports to the court and the City on its activities and progress toward rehabilitation and reuse of the property.
- G. If the mortgage holder or lien holder fails to carry out any material step in the approved plan, then the Public Officer shall notify the court, which may order the bond forfeit, grant the City possession of the property, and authorize the City to use the proceeds of the bond for rehabilitation of the property.
- (1) Any sums incurred or advanced for the purpose of rehabilitating the property by a mortgage holder or lien holder granted possession of a property pursuant to this section, including court costs and reasonable attorney's fees, may be added to the unpaid balance due that mortgage holder or lien holder, with interest calculated at the same rate set forth in the note or security agreement; or, in the case of a tax lien holder, at the statutory interest rate for subsequent liens.

§ 11-49. City rehabilitation of property; submission of plan to court.

- A. If no mortgage holder or lienholder meets the conditions of N.J.S.A. 55:19-88, then the City shall submit a plan to the court which conforms with the provisions of N.J.S.A. 55:19-87.
- B. The court shall grant the City possession of the property if it finds that:
 - (1) The proposed rehabilitation and reuse of the property is appropriate and beneficial;
 - (2) The City is qualified to undertake the rehabilitation and reuse of the property; and
 - (3) The plan submitted by the City represents a realistic and timely plan for the rehabilitation and reuse of the property.
- C. The City shall take all steps necessary and appropriate to further the rehabilitation and reuse of the property consistent with the plan submitted to the court. In making its findings pursuant to this section, the court may consult with qualified parties, including the Department of Community Affairs, and, upon request by a party in interest, may hold a hearing on the plan.

§ 11-50. City exercise of rights to further rehabilitation and reuse of property; designation of qualified rehabilitation entity.

- A. The City may exercise its rights under N.J.S.A. 55:19-78 et al. directly, or may designate a qualified rehabilitation entity to act as its designee for the purpose of exercising the City's rights where that designation will further the rehabilitation and reuse of the property consistent with City's plans and objectives. This designation shall be made by resolution of the Board of Commissioners.
- B. Regardless of whether the City exercises its rights directly or designates a qualified rehabilitation entity pursuant to this section, while in possession of a property, the City shall maintain, safeguard, and maintain insurance on the property. Notwithstanding the City's

possession of the property, nothing in this article 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.

- C. If the City has been granted possession of a property, the City shall be deemed to have an ownership interest in the property for the purpose of filing plans with public agencies and boards, seeking and obtaining construction permits and other approvals, and submitting applications for financing or other assistance to public or private entities.
- D. For the purposes of any state program of grants or loans, including but not limited to programs of the Department of Community Affairs and the New Jersey Housing and Mortgage Finance Agency, possession of a property under this section shall be considered legal control of the property.
- E. The court may approve the borrowing of funds by the City to rehabilitate the property and may grant a lien or security interests with priority over all other liens or mortgages other than municipal liens. For the purposes of this section, the cost of rehabilitation shall include reasonable nonconstruction costs, such as architectural fees or construction permit fees, customarily included in the financing of the rehabilitation of residential property.
- F. The City 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 City 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.
- G. Notwithstanding the granting of possession to the City, nothing in this article shall be deemed to relieve the owner of the property of any obligation the owner or any other person may have for the payment of taxes or other City 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. The granting of possession shall not suspend any obligation the owner may have as of the date of the granting of possession for payment of any operating or maintenance expense associated with the property, whether or not billed at the time of the granting of possession.

§ 11-51. Petition for reinstatement of control and possession by owner.

- A. An owner may petition for reinstatement of the owner's control and possession of the property at any time after one year from the grant of possession, but no later than 30 days after the City has filed a notice of completion with the court or, in the event the notice of completion is filed within less than one year of the grant of possession, within 30 days after the City has filed notice. The court may allow additional time for good cause if that additional time does not materially delay completion of the rehabilitation, place undue hardship on the City, or affect any of the terms or conditions under which the City has applied for or received financing for the rehabilitation of the property.
- B. Any petition for reinstatement of the owner's control and possession of the property shall:
 - (1) Include a plan for completion of the rehabilitation and reuse of the property consistent with the plan previously approved by the court;
 - (2) Provide legally binding assurances that the owner will comply with all conditions of any grant or loan secured by the City or repay those grants or loans in full, at the discretion of the maker of the loan or grant; and
 - (3) Be accompanied by payment equal to the sum of:
 - (a) All City liens outstanding on the property;
 - (b) All costs incurred by the City in bringing action with respect to the property;
 - (c) Any costs incurred by the City not covered by grants

or loans to be assumed or repaid pursuant to this section; and

- (d) Any costs remaining to complete rehabilitation and reuse of the property, as determined by the Public Officer, which payment shall be placed in escrow with the Clerk of the Court, County of Cumberland, pending disposition of the petition.

§ 11-52. Obligations of owner prior to grant of petition.

- A. Prior to the granting of a petition on the part of the owner by the court pursuant to § 11-51, the owner may be required to post a bond or other security in an amount determined by the court, after consultation with the Public Officer, as likely to ensure that the owner will continue to maintain the property in sound condition. That bond or other security shall be made available to the City to make any repair on the property in the event of a code violation which is not corrected in timely fashion by the owner.
- B. The owner may seek approval of the court to be relieved of this requirement after five years, which shall be granted if the court finds that the owner has maintained the property in good repair during that period, that no material violations affecting the health and safety of the tenants have occurred during that period, and that the owner has remedied other violations in a timely and expeditious fashion.

§ 11-53. Procedure of City seeking to gain title to property; authorization to sell; proceeds.

- A. If the owner fails to petition for the reinstatement of control and possession of the property within 30 days after the City has filed a notice of completion or in any event within two years after the initial grant of possession, or if the owner fails to meet any conditions that may be set by the court in granting a reinstatement petition, upon petition from the City, the court may grant the City title or authorize the City to sell the property, subject to the provisions of N.J.S.A. 55:19-96.
- B. Where the City 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 the sale in escrow with the court.
- C. The court may authorize the City 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 N.J.S.A. 55:19-97.
- D. The City 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.
- E. Upon approval by the court, the City 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 shall order a distribution of the proceeds of sale after paying court costs in the order of priority set forth in N.J.S.A. 55:19-97. The proceeds paid pursuant to N.J.S.A. 55:19-96 shall be distributed in the following order of priority:
 - (1) The costs and expenses of sale;
 - (2) Other governmental liens;
 - (3) Repayment of principal and interest on any borrowing or indebtedness incurred by the City and granted priority lien status pursuant to Subsection a. of N.J.S.A. 55:19-98;
 - (4) A reasonable development fee to the City 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;
 - (5) Other valid liens and security interests, in accordance with their priority; and
 - (6) The owner.

§ 11-54. Authority of Public Officer to place lien on property; remedies.

The Public Officer, with the approval of the court, may place a lien on the property to cover any costs of the City in connection with a proceeding under this article incurred prior to the grant by the court of an order of possession, which may include costs incurred to stabilize or secure the property to ensure that it can be rehabilitated in a cost-effective manner.

§ 11-55. Eminent domain proceedings; establishment of fair market value.

- A. With respect to any eminent domain proceeding carried out under section 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:
- (1) 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;
 - (2) The realistic market value of the reused property after rehabilitation or new construction, taking into account the market conditions particular to the neighborhood or subarea of the City in which the property is located; and
 - (3) 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.
- B. 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.

**SECTION 3
ARTICLE V**

**Vacant Property Registration
and Maintenance Requirements**

§ 11-55.1 Statements of Findings; Purpose and intent.

- A. The City of Millville has experienced an increase in vacant and abandoned properties within its borders, due to a variety of reasons, including an increase in mortgage foreclosure, tax foreclosure, and lack of proper property maintenance.
- B. Vacant and abandoned properties are having a detrimental effect on the public health, safety and welfare because:
- (1) Many structures that are vacant, whether secured or not, are a blight on their neighborhoods due to improper maintenance and their unsightly appearance, causing deterioration and instability in their neighborhoods, and resulting in an adverse impact upon adjacent and nearby properties;
 - (2) Structures that are vacant and not properly secured are dangerous and unsafe in that they are extremely vulnerable to being set on fire by unauthorized persons;
 - (3) Structures that are vacant and not properly secured attract vagrants and criminals and are prime locations to conduct illegal activities, including vandalism, theft, arson and drug use;
 - (4) Structures that are vacant and not properly secured pose

- dangers to inquisitive minors from unsecured pools; abandoned wells, shafts, excavations; abandoned appliances; any structurally unsound fences or structure, lumber, trash, debris; or vegetation such as poison ivy, oak, or sumac; and
- (5) Poorly maintained yards, particularly tall grass, can attract rodents, snakes and undesirable insects such as ticks and fleas, creating unsanitary conditions for the community.
- C. The filing of a complaint in foreclosure is often a precursor to a property becoming vacant or abandoned.
 - D. Communication between owners of vacant and abandoned buildings and the City is essential for effective allocation of public resources and the maintenance of public health, welfare, and safety in regard to such structures. Curtailment and elimination of these blighting conditions are necessary for the protection of the public health, safety and welfare of the community.
 - E. Participation in the countywide registration program will also assist the City in identifying properties that would be eligible for inclusion on the abandoned properties list created pursuant to § 54-11 of the City Code.

§ 11-55.2. Statutory authority.

This article is being adopted pursuant to N.J.S.A. 40:48-2 generally and pursuant to N.J.S.A. 40:48-2.53; N.J.S.A. 46:10B-51; N.J.S.A. 40:48-2.12a; N.J.S.A. 40:48-2.12e; N.J.S.A. 40:48-2.12f; N.J.S.A. 40:48-2.12s; N.J.S.A. 40:48-2.13; N.J.S.A. 40:48-1(4); and N.J.S.A. 40:49-5.

§ 11-55.3. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this article, except where the context clearly indicates a different meaning.

ACCESSIBLE PROPERTY/STRUCTURE

A property that is accessible through a compromised/breached gate, fence, wall, etc., or a structure that is unsecured and/or breached in such a way as to allow access to the interior space by unauthorized persons.

APPLICABLE CODES

Includes, but shall not be limited to, Zoning Code, Code of Ordinances of the City of Millville, and the New Jersey Building Code.

CREDITOR

A state-chartered bank, savings bank, savings-and-loan association or credit union, any person required to be licensed under the provisions of the New Jersey Residential Mortgage Lending Act, Sections 1 through 39 of P.L. 2009, c. 53 (N.J.S.A. 17:11C-51 et seq.), and any entity acting on behalf of the creditor named in the debt obligation, including, but not limited to, servicers.

ENFORCEMENT OFFICER

Any law enforcement officer, building official, zoning inspector, code enforcement officer, fire inspector or building inspector, or other person authorized by the City of Millville to enforce the applicable code(s). More than one enforcement officer may be designated by the City of Millville.

GRAFFITI

Any drawing, painting or marking of any mark or inscription on public or private real or personal property without the prior written permission of the owner of the property.

NOTICE TO ABATE

The notice required to be provided pursuant to § 54-36B.

OWNER

Any person, legal entity or other party having any ownership interest, whether legal or equitable, in real property. This term shall also apply to any person,

legal entity or agent responsible for the construction, maintenance or operation of the property involved.

REGISTERED PROPERTY

Any real property required to be registered pursuant to § 11.55-5 herein.

REGISTRANT

A person or legal entity who has registered or who is required to register a registered property pursuant to this article.

STREET ADDRESS

The address at which the person resides or the legal entity maintains an office, which shall include a street name or rural delivery route in addition to any postal office box number which may be provided.

VACANT

Any building or structure that is not legally occupied.

§ 11-55.4. Applicability.

This article shall be considered cumulative and not superseding or subject to any other law or provision for same but rather be an additional remedy available to Millville above and beyond any other state, county or local provisions for same.

§ 11-55.5. Establishment of registry.

Millville shall create a registration program cataloging each registered property within Millville containing the information required by this article.

§ 11-55.6. Registration of real property.

- A. Registration. The following real property located in the City shall be registered annually with the City Clerk:
 - (1) Residential real property in which a summons and complaint has been filed in foreclosure by a creditor, whether or not vacant;
 - (2) Real property which is non- owner-occupied commercial property and which is vacant; and
 - (3) Real property which is non- owner-occupied residential property and which is:
 - (a) Vacant; or
 - (b) Occupied, but not registered as a rental property pursuant to the Millville City Code.
- B. Initial registration.
 - (1) Property required to be registered pursuant to § 11-55.6A(1) shall be required to be registered by the creditor within 10 days of the service of the summons and complaint in an action to foreclose, or if a summons and complaint has already been served as of the effective date of this article and the property has not previously registered as registered property, registration shall occur within 10 days of the effective date of this article.
 - (2) Property required to be registered pursuant to § 11-55.6A(2) shall be required to be registered by the owner within 10 days from the date the property becomes vacant, or if the property is vacant as of the effective date of this article and has not previously registered as registered property, registration shall occur within 10 days of the effective date of this article.
 - (3) Property required to be registered pursuant to § 11-55.6A(3) shall be required to be registered by the owner as follows:
 - (a) Within ten (10) days of the effective date of this article, if the property is occupied by a nonowner as of the effective date of this article;
 - (b) Within ten (10) days of the date that the property becomes vacant; or
 - (c) Within ten (10) days of the date that the property

ceases to be owner-occupied.

- C. Annual registration. The registration term shall commence on the date of filing of the initial registration or the new registration and shall be valid for a calendar year, at which time it shall expire and a new registration shall be required. Properties subject to the registration requirements shall remain under the annual registration requirement and the security and maintenance standards of this Chapter 11, Article V, as long as they meet the conditions requiring registration.
- D. Contents of registration. Registration pursuant to this article shall be on forms which shall be provided for that purpose and which shall be obtained from the City Clerk, or through website registration, and shall contain the following information:
 - (1) For persons:
 - (a) The street address, lot and block number of the registered property;
 - (b) The full name and street address at which the owner resides; and
 - (c) The owner's telephone number, facsimile number and e-mail address.
 - (2) For legal entities who are not creditors:
 - (a) The street address, lot and block number of the registered property;
 - (b) The full name and street address at which the owner maintains an office;
 - (c) The owner's telephone number, facsimile number and e-mail address; and
 - (d) The name, telephone number, facsimile number and e-mail address of an in-state representative of the legal entity who is responsible for receiving complaints of property maintenance and code violations and/or who is responsible for the security and maintenance of the registered property.
 - (3) For in-state creditors:
 - (a) The street address, lot and block number of the registered property;
 - (b) The full name and street address at which the creditor maintains an office;
 - (c) The creditor's telephone number, facsimile number and e-mail address;
 - (d) The name, telephone number, facsimile number and e-mail address of a representative of the creditor who is responsible for receiving complaints of property maintenance and code violations and/or who is responsible for the security and maintenance of the property;
 - (e) The full name and contact information of an individual located within the state who is authorized to accept service on behalf of the creditor; and
 - (f) A statement of whether the property is vacant or not, and if not vacant, the name or names of the persons legally occupying the property.
 - (4) For out-of-state creditors:
 - (a) The street address, lot and block number of the registered property;
 - (b) The full name and street address at which the creditor maintains an office;
 - (c) The creditor's telephone number, facsimile number and e-mail address;
 - (d) The name, telephone number, facsimile number and e-mail address of a representative of the creditor who is responsible for receiving complaints of property maintenance and code violations and/or who is responsible for the security and maintenance of the property;
 - (e) The full name and contact information of an

- individual located within the state who is authorized to accept service on behalf of the creditor;
- (f) The full name and contact information of an in-state representative or agent appointed by the creditor who shall be responsible for the care, maintenance, security, and upkeep of the exterior of the property if it becomes vacant; and
 - (g) A statement of whether the property is vacant or not, and if not vacant, the name or names of the persons legally occupying the property.
- E. Registration fee. At the time of the initial registration and at each annual registration, a nonrefundable registration fee in the amount of \$400 per property shall accompany the initial and each annual registration form or website registration. All registration fees must be paid directly from the registrant. Third-party registration fees are not allowed without the consent of the Bureau of Permits and Inspections. The registration fees paid hereunder shall be for the purposes of covering the cost of registering the properties through the countywide registration program, as well as costs incurred for periodic inspections and administrative costs associated with ensuring compliance with the property maintenance and security requirements mandated under this article.
- F. Exceptions.
- 1. Purchases of Tax Sale Certificates. No fee shall be required for the registration of a vacant or abandoned property on which a judgment has been entered pursuant to N.J.S.A. 54:5-87 or 54:5-104.64 for the one-year period following the entry of that judgment or the one-year period following the date on which the plaintiff gains possession of the property that is the subject of the judgment, whichever occurs later, provided that a copy of the judgment is recorded in the office of the Cumberland County Clerk and that all conditions set forth in N.J.S.A. 55:19-83 are satisfied. No payment for such fee shall be required from such plaintiff following the effective date of this paragraph, notwithstanding that plaintiff's obligation for such payment may have arisen prior to such date.
 - 2. Exception of Fannie Mae and Freddie Mac. Notwithstanding the aforesaid sections to the contrary, Fannie Mae, Freddie Mac and any loan servicer acting on their behalf shall be exempt from the payment of registration fees for any property registered under Chapter 11, Article II, as well as the payment of any fines or penalties otherwise permitted to be assessed by Chapter 11, Article II, or other ordinance that addresses vacant property. Any form used to register a property subject to Chapter 11, Article II, shall provide a place for Fannie Mae, Freddie Mac or any loan servicer acting on their behalf to indicate their exempt status. Failure to indicate exempt status will not waive the right to grant an exempt status but may require the registering party to re-register the property to indicate the exempt status.
- G. Amended registration. If at any time the information contained in the initial registration and/or annual registration is no longer valid or has changed, the property owner shall file a new registration containing the corrected information, within 10 days of said change. Any person or legal entity who acquires title to a registered property that continues to meet the requirements for registration under this article shall amend the registration filed by the prior registrant within 10 days of the transfer of title. No registration fee shall be required for an amended registration.

§ 11-55.7. Maintenance requirements.

A registrant shall maintain his/her/its registered property as follows:

- A. Registered property shall be kept free of weeds, overgrown brush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspapers, circulars, flyers, notices, except those required by federal, state or local law, discarded personal items, including, but not limited to, furniture, clothing, large and small appliances, printed material or any other items that give the appearance that the property is vacant or

abandoned. All registrants shall comply with the provisions of Chapter 11, Article I and Article VI of the City Code.

- B. Registered property shall be maintained free of graffiti by removal or painting over with an exterior grade paint that matches the color of the exterior structure.
- C. Front, side, and rear yards, including landscaping, of registered property shall be maintained in accordance with Chapter 11, Article VI of the City Code, and the property maintenance standards adopted pursuant to Chapter 11, Article I of the City Code.
- D. Registered property shall comply with all other applicable codes.

§ 11-55.8. Security requirements.

- A. Registered property shall be maintained in a secure manner so as not to be accessible to unauthorized persons.
- B. A "secure manner" shall include, but not be limited to, the closure and locking of windows, doors, gates and other openings of such size that may allow a child to access the interior of the property or structure. There shall be no unsecured openings in the walls. Broken windows, doors, gates and other openings of such size that may allow a child to access the interior of the property or structure must be repaired. Broken windows shall be secured by reglazing of the window. All doors shall be without openings, or such openings shall be securely covered. "Locking" includes measures that require a key, keycard, tool or special knowledge to open or gain access.
- C. Particle board shall not be used as a means of securing any registered property.
- D. Immediate action shall be taken to secure any registered property that becomes an accessible property/structure.
- E. Additional security measures must be taken immediately if signs of vandalism or unauthorized entry begin to appear. Such additional security measures must be reasonably designed to provide adequate and long-term protection against future vandalism and/or authorized access and shall include, at minimum, weekly inspections or monitoring to alert the registrant of future vandalism and/or unauthorized access.

§ 11-55.9. Public nuisance.

All registered property, which is not maintained as required in § 11-55.7 and/or not secured as required by § 11-55.8, is hereby declared to be a public nuisance, the abatement of which, pursuant to the police power, is hereby declared to be necessary for the health, welfare and safety of the residents of Millville. In addition, the Enforcement Officer may declare any vacant and/or abandoned real property a nuisance if it meets one or more of the criteria set forth in N.J.S.A. 55:19-82.

§ 11-55.10. Enforcement; liens; penalties.

- A. Enforcement measures. The provisions of this article shall be enforced by the Public Office. The Public Officer is hereby authorized to conduct all inspections as may be necessary to ensure compliance. Adherence to this article does not relieve any person, legal entity or agent from any other obligations set forth in any applicable code which may apply to the registered property.
- B. Notice to abate. Where any Public Officer duly designated shall have determined that any registered property is in violation of this article, the Enforcement Officer shall issue a notice to abate directing the registrant to correct the violation and abate the nuisance within the time set forth in the notice to abate. The time for abatement shall not be less than 30 days from the registrant's receipt of the notice to abate, except that if the violation presents an imminent threat to public health and safety, the time for abatement shall be within 10 days of the registrant's receipt of the notice to abate.
- C. Service of notice. Service of the notice to abate shall be made by regular mail and certified mail, return receipt requested to the address set forth in the registration for receipt of complaints of property maintenance and code violations.
- D. Failure to comply. If the registrant fails to comply with the notice to abate within the time set forth in the notice to abate for compliance, the

Public Officer shall be permitted to enter upon said lands for the purposes of correcting the violation and abating the nuisance, take the necessary action to ensure compliance with the notice to abate and place a lien on the registered property for the cost of the work performed to benefit the registered property and bring it into compliance.

- E. Additional rights. The Public Officer shall be entitled to take any other action authorized by law to obtain compliance with this Article. Nothing in this article shall limit the rights of the Public Officer to pursue any other action permitted in the City Code or any other law against the registrant for failing to comply with any provision(s) of this article.
- F. Failure to register. Failure of any creditor, person, owner or legal entity to properly register or to modify the registration form from time to time to reflect a change of circumstances as required by this article is a violation of the article and shall be subject to enforcement.

§ 11-55.11. Opposing or obstructing Public Officer; penalty.

Whoever opposes, obstructs, or resists any Enforcement Officer or any person authorized by the enforcement office in the discharge of duties as provided in this article shall be punishable pursuant to N.J.S.A. 2C:29-1 upon conviction by a court of competent jurisdiction.

§ 54-38. Violations and penalties; schedule of civil penalties.

- A. Failure to register. Any person or legal entity who fails to register a registered property as required pursuant to this article, as it may be amended, and/or pay the required registration fee, upon conviction in the Municipal Court of the City of Millville, or such other court having jurisdiction, shall be subject to a civil penalty in an amount of \$1,000 for each unregistered registered property.
- B. Failure to appoint an in-state agent. Any out-of-state creditor who shall fail to appoint an in-state representative or agent as required in § 11-55.6, as it may be amended, upon conviction in the Municipal Court of the City of Millville, or such other court having jurisdiction, shall be subject to a civil penalty in an amount of \$2,500 per day of the violation, provided that no such penalty shall commence until the day after the ten-day period provided for the initial registration.
- C. Failure to maintain/secure property. Any registrant who shall fail to comply with a notice to abate, upon conviction in the Municipal Court of the City of Millville, or such other court having jurisdiction, shall be subject to a civil penalty in an amount of \$1,500 per day of the violation, provided that no such penalty shall commence until the day after the time for compliance set forth in the notice to abate, except that if the violation involved an imminent risk to the public health, safety and welfare, the penalty may commence 11 days following the receipt of the notice to abate.

§ 11-55.12. Additional authority.

- A. Emergency abatement. If the Public Officer has reason to believe that a registered property is posing an imminent and serious risk to the public health, safety and welfare for which immediate action is necessary to protect the public health, safety or welfare, the Public Officer may take immediate action to temporarily address the conditions of the property and shall issue a notice to abate as soon as possible thereafter. The Public Officer shall place a lien on the registered property for the costs incurred for the work performed to address the condition of the registered property.
- B. Additional security measures. If the Public Officer has reason to believe that there is evidence of unauthorized entry despite the fact that the registrant has taken measures to secure the registered property, the Public Officer shall have the authority to require the registrant to implement additional security measures to prevent such access, including, but not limited to, securing any and all doors, windows or other openings with a different material than what was used by the

registrant, employing an on-site security guard or other measures as may be reasonably required to help prevent unauthorized access. Notice of the need to take additional measures shall be given by way of a notice of violation issued pursuant to Chapter 11, Article I.

§ 11-55.13. Immunity of Public Officer.

The Public Officer shall be immune from prosecution, civil or criminal, for reasonable, good faith entry upon real property while in the discharge of duties imposed by this article, pursuant to the New Jersey Tort Claims Act (N.J.S.A. 59:1-1.1 et seq.) and any other applicable law providing for immunity.

SECTION 4

Should any provision of this ordinance be deemed invalid for any reason that invalidity shall not affect the remaining provisions of the ordinance, and the provisions and sections of the ordinance are hereby declared to be severable with respect to their validity.

SECTION 5

This ordinance shall take effect twenty (20) days after final passage, according to law.

FIRST READING: _____

Moved By: _____

Seconded By: _____

<u>VOTING</u>	<u>In Favor</u>	<u>Against</u>	<u>Abstain</u>	<u>Absent</u>
Michael Santiago				
W. James Parent				
Ashleigh Udalovas				
Joseph Pepitone				
Bruce Cooper				

SECOND READING: _____

Moved By: _____

Seconded By: _____

<u>VOTING</u>	<u>In Favor</u>	<u>Against</u>	<u>Abstain</u>	<u>Absent</u>
Michael Santiago				
W. James Parent				
Ashleigh Udalovas				
Joseph Pepitone				
Bruce Cooper				

CERTIFICATION

I certify that the foregoing is a true copy of a Resolution adopted by the Board of Commissioners, of the City of Millville in the County of Cumberland, at a meeting thereof held on _____, 2020.

Jeanne M. Hitchner, City Clerk