

Chapter 313

PROPERTY MAINTENANCE

GENERAL REFERENCES

Uniform construction codes — See Ch. 133. **Stormwater management — See Ch. 365.**
Construction debris removal — See Ch. 139. **Vehicle parking and storage — See Ch. 424.**
Fire prevention — See Ch. 179. **Water and sewer — See Ch. 430.**
Land use and development — See Ch. 245.

ARTICLE I

Adoption of Property Maintenance Code
[Adopted 6-26-1997 by Ord. No. 97-010 (Sec. 12-2 of the 1996
Revised General Ordinances)]

§ 313-1. Adoption of Property Maintenance Code. [Amended by Ord. No. 98-014; 6-14-2010 by Ord. No. 10-012]

A certain document, three copies of which are on file in the office of the Township Clerk of the Township of Manchester, being marked and designated as "The International Property Maintenance Code, 2006 Edition," as published by the International Code Council, be and is hereby adopted as the Property Maintenance Code of the Township of Manchester, in the State of New Jersey; for the control of buildings and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of said Property Maintenance Code are hereby referred to, adopted, and made a part hereof, as if fully set out in this article, with the additions, insertions, deletions and changes prescribed in § 313-2 of this article.

§ 313-2. Additions, insertions and changes. [Amended by Ord. No. 03-002; 6-14-2010 by Ord. No. 10-012]

- A. Section 101.1 (page 1, line 2). Insert: "Township of Manchester."
- B. Section 103.5 (page 2, line 22). Insert: "The fee for a housing inspection shall be \$35."
- C. Section 106.4 (page 3, line 17). Insert: "Any person who shall violate any provisions of this article shall, upon conviction, be subject to the penalties included in Chapter 1, Article II, General Penalty, of the Township Code. Each day that a violation continues after due notice has been served shall be deemed a separate offense. The Municipal Court of the Township of Manchester shall have jurisdiction to enforce the violation of this article and to impose such penalties as set forth hereinabove, and to collect any costs as set forth hereinabove."
- D. Section 107, Notices and Orders, Subsection 107.2(5) (page 3) of the International Property Maintenance Code. Delete this item in its entirety.
- E. Section 111, Means of Appeal (page 5). Delete this section in its entirety.
- F. Section 304.14 (page 10, line 32). Insert: "May 15 to October 15."
- G. Section 602.3 (page 17, line 24). Insert: "October 15 to May 15."
- H. Section 602.4 (page 17, line 40). Insert: "October 15 to May 15."
- I. Chapter 8, Codes (page 21). Insert: Codes to be referenced will be:

- (1) (Line 13). "NJ International Building Code, 2006 Edition."
- (2) (Line 14). "NJ International Fire Prevention Code, 2006 Edition."

§ 313-3. Effect on proceedings. [Amended by Ord. No. 98-014]

Nothing in this article or in the Property Maintenance Code hereby adopted shall be construed to affect any suit or proceeding in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in this article; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this article.

**§ 313-4. Failure to comply with order; abatement of violation.
[Amended 6-14-2010 by Ord. No. 10-012]**

If an owner or agent fails to comply with an order to repair or improve a structure or to demolish same if required by an order of removal or fails to rectify conditions existing on land, either vacant or occupied, that constitute a violation of this article within the time period set forth in an order issued by the Construction Official, then the Construction Official may cause such building to be repaired, improved or demolished or cause such conditions existing on land to be corrected by the Township and certify the cost thereof to the Township Council, which, after examination of the certificate and determination of its accuracy, shall cause the cost thereon to be charged against the lot or land on which the violation exists. The amount so charged shall become a lien upon such lot or land and shall be added to and become and form part of the taxes next to be assessed and levied upon such lot or land, the same to bear interest at the same rate as taxes, and to be collected and enforced by the same officers responsible for the collection of taxes and in the same manner as taxes.

ARTICLE II

Screening of Equipment and Machinery

[Adopted by Ord. No. 01-020 (Sec. 12-3 of the 1996 Revised General Ordinances)]

§ 313-5. Purpose.

The purpose of this article is to block or screen from public view machinery, motors, generators, large propane tanks used for residential or commercial heating or similar devices for cooling, heating or generating purposes.

§ 313-6. Screening of equipment required.

When the effective operation of any residence, building or structure, including heating and cooling of such structure, necessitates placing machinery, motors, generators, large propane tanks used for heating or other similar devices for cooling, heating or generating purposes which are located outside of any residence, building or structure, the aforesaid equipment shall be screened from public view.

§ 313-7. Definitions.

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

PUBLIC VIEW — A site line of vision from which visual access can be gained from public property such as streets or thoroughfares.

§ 313-8. Design standards.

The equipment described in this article must be screened or obstructed from view by planted evergreen shrubs which will grow to not less than one foot above the equipment referred to in this article after one growing season; a solid and uniform fence of the same height surrounding the equipment or any similar type of solid or uniform visual screening which would prevent the view of such equipment to public observation.

§ 313-9. Identification labels for propane tanks.

Upon an application for a permit to install a propane tank, the Township shall issue an identification label which the applicant must display in a prominent and visible location on the front side of the property facing the street between five feet and 10 feet above ground level.

§ 313-10. Violations and penalties. [Amended 6-14-2010 by Ord. No. 10-012]

The failure to comply with the provisions of this article will subject the landowner to the penalties included in Chapter 1, Article II, General Penalty, of the Township Code. If the violation of this article is of a continuing nature,

each and every day during which it continues shall constitute a separate and distinct offense.

ARTICLE III
Remediation of Property
[Adopted 9-26-2011 by Ord. No. 11-020]

§ 313-11. Purpose.

The purpose of this article is to provide for the preservation of public health, safety and welfare on a property that is in a condition that is hazardous to the health, safety and welfare of the Township.

§ 313-12. Duty of landowners and tenants.

It is the duty of landowners and tenants to keep lands in condition and repair that is not detrimental to the public health, safety and welfare. This includes keeping lands free of brush, weeds, dead and dying trees, stumps, roots, obnoxious growths, filth, garbage, rubbish, including disrepair and deterioration of property which is inimical to the preservation of public health, safety or general welfare of the Township, or which may become a fire hazard.

§ 313-13. Notice of violation.

Whenever any Township inspector, construction official, or police officer deems it necessary and expedient for the preservation of public health, safety and welfare or the elimination of the fire hazard based upon an investigation or a complaint from any resident, officer or employee of the Township, the Fire Marshal, Construction Official or police officer may issue a notice of violation to the owner, tenant or person in possession of the property where such a condition is found to exist. The notice of violation shall order the owner, tenant or person in possession of the property to remove the same within 10 days of the service of the order.

§ 313-14. Cost of abatement.

In the event the owner, tenant or person in possession of lands in question does not abate or remedy the condition complained of within the ten-day period after receipt of the notice, the Township, through the Business Administrator or the Business Administrator's designee, shall serve a notice by certified and regular mail to the owner, tenant or person in possession of the property that the cost of the abating or remedy of the property was provided to the property owner by an agent of the Township.

§ 313-15. Lien on property.

In the event that the Township is caused to abate or remedy the condition of the property, the cost to the Township shall be certified to the Township's Tax Collector wherein the cost shall be a lien upon the property and lands and shall be added to and become a part of the taxes next to be assessed and levied upon such lands, the same to bear interest at the same rate as delinquent taxes shall be collected and enforced by the Tax Collector in the

same manner as taxes. The cost for the abatement and remediation shall be in addition to any penalties imposed for a violation of this section.

ARTICLE IV

Vacant and Abandoned Properties
[Adopted 11-10-2014 by Ord. No. 14-021]**§ 313-16. Purpose.**

The purpose of this article is for the Township of Manchester to regulate the care, maintenance, security and upkeep of the exterior of vacant or abandoned residential properties on which a summons and complaint in a foreclosure action has been filed.

§ 313-17. Definition; applicability.

For the purposes of this article, "vacant and abandoned" residential property means residential real estate with respect to which the mortgagee proves, by clear and convincing evidence, that the mortgaged real estate is vacant and has been abandoned. Real property shall be deemed "vacant and abandoned" if the court finds that the mortgaged property is not occupied by a mortgagor or tenant as evidenced by a lease agreement entered into prior to the service of a notice of intention to commence foreclosure according to Section 4 of the Fair Foreclosure Act, P.L. 1995, c. 244 (N.J.S.A. 2A:50-56), and at least two of the following conditions exist:

- A. Overgrown or neglected vegetation;
- B. The accumulation of newspapers, circulars, flyers or mail on the property;
- C. Disconnected gas, electric or water utility services to the property;
- D. The accumulation of hazardous, noxious, or unhealthy substances or materials on the property;
- E. The accumulation of junk, litter, trash or debris on the property;
- F. The absence of window treatments such as blinds, curtains or shutters;
- G. The absence of furnishings and personal items;
- H. Statements of neighbors, delivery persons or government employees indicating that the residence is vacant and abandoned;
- I. Windows or entrances to the property that are boarded up or closed off or multiple window panes that are damaged, broken and unrepaired;
- J. Doors to the property that are smashed through, broken off, unhinged, or continuously unlocked;
- K. A risk to the health, safety or welfare of the public, or any adjoining or adjacent property owners, exists due to acts of vandalism, loitering, criminal conduct, or the physical destruction or deterioration of the property;

- L. An uncorrected violation of a municipal building, housing or similar code during the preceding year, or an order by municipal authorities declaring the property to be unfit for occupancy and to remain vacant and unoccupied;
- M. The mortgagee or other authorized party has secured or winterized the property due to the property being deemed vacant and unprotected or in danger of freezing;
- N. A written statement issued by any mortgagor expressing the clear intent of all mortgagors to abandon the property;
- O. Any other reasonable indicia of abandonment.

§ 313-18. Exceptions.

For the purposes of this article, a residential property shall not be considered "vacant and abandoned" if, on the property:

- A. There is an unoccupied building which is undergoing construction, renovation, or rehabilitation that is proceeding diligently to completion, and the building is in compliance with all applicable ordinances, codes, regulations, and statutes;
- B. There is a building occupied on a seasonal basis, but otherwise secure; or
- C. There is a building that is secure, but is the subject of a probate action, action to quiet title, or other ownership dispute.

§ 313-19. Foreclosure procedures.

In addition to the residential mortgage foreclosure procedures set out in the Fair Foreclosure Act, P.L. 1995, c. 244 (N.J.S.A. 2A:50-53 et seq.), a summary action to foreclose a mortgage debt secured by residential property that is vacant and abandoned may be brought by a lender in the Superior Court. In addition, a lender may, at any time after filing a foreclosure action, file with the court, in accordance with the rules governing the courts of the State of New Jersey, an application to proceed in a summary manner because the residential property that is the subject of the foreclosure action is believed to be "vacant and abandoned"; provided, however, that this section shall not apply to a foreclosure of a timeshare interest secured by a mortgage.

§ 313-20. Creditor responsibility for maintenance.

- A. There is hereby adopted a requirement that creditors of vacant and abandoned residential properties on which a summons and complaint in a foreclosure action has been filed to maintain the care, security and upkeep of the exterior of vacant or abandoned residential properties.
- B. The creditor filing the summons and complaint in an action to foreclose on vacant or abandoned property shall be responsible for the care,

maintenance, security and upkeep of the exterior of the vacant or abandoned residential properties.

- C. If the property creditor who institutes a foreclosure action or is the creditor of a foreclosure action is located outside of the State of New Jersey, that creditor shall appoint an in State New Jersey representative or agent to act for the foreclosing creditor.

§ 313-21. Notice to creditor.

- A. The Zoning Officer, Construction Official or law enforcement officer responsible for the administration of the property maintenance or public nuisance ordinances of the Township of Manchester shall issue a notice to the creditor filing the summons and complaint in an action of foreclosure, if the Construction Official, Zoning Official or law enforcement agency determines that the creditor has violated Township ordinances by failing to provide for the care, maintenance, security and upkeep of the exterior of the property subject to the foreclosure action.
- B. The notice shall require the creditor or its agent to correct the violation within 30 days of receipt of the notice or within 10 days of receipt of the notice of violation if the violation presents an imminent threat to public health and safety.
- C. The construction official, zoning official or law enforcement agency shall determine if the violation of the Township ordinances presents an imminent threat to public health and safety.
- D. The issuance of a notice pursuant to this section shall constitute clear and convincing proof that the property is vacant or abandoned.

§ 313-22. Violations and penalties.

- A. Any creditor found to be in violation of this article or any rule or regulation adopted pursuant to this article shall be subject to a fine of \$2,500 for each day of the violation.
- B. If the Township expends public funds in order to abate a nuisance or correct a violation on a residential property in situations which the creditor was given notice, but failed to abate the nuisance or correct the violation as directed, the municipality shall have the same recourse against the creditor as it would have against the title owner of the property, including but not limited to the recourse provided under Section 23 of P.L. 2003, c. 210 (N.J.S.A. 55:19-100).
- C. Any out-of-state creditor who fails to appoint an in-state agent or representative shall be subjected to a fine of \$2,500 for each day of the violation. The violation shall commence on the day after the ten-day period set forth for the correction of the violation.
- D. Any creditor found to be liable for the violation of the requirement to correct the care, maintenance, security or upkeep violation shall be

subject to a fine of \$1,500 for each day of the violation. Fines imposed pursuant this section shall commence 31 days following receipt of the notice except if the violation presents an imminent risk to public health and safety, in which case any fine shall commence 11 days following receipt of the notice.

§ 313-23. Notice to Clerk of action to foreclose.

Any creditor serving a summons and complaint in an action to foreclose on a mortgage on residential property in the Township of Manchester shall within 10 days of the service of the summons and complaint of foreclosure notify the Municipal Clerk. The notice shall contain the name and contact information for the representative of the creditor who is responsible for receiving complaints of property maintenance and code violations. If the creditor is located out of state, the notice shall also contain the full name and contact information of the in-state representative or agent who is responsible for the care, maintenance, security and upkeep of the exterior of the property if it becomes vacant or abandoned.

§ 313-24. Effect on other provisions.

Nothing in this article shall be construed to affect the rights of a tenant to possession of a leasehold interest under the Anti-Eviction Act, P.L. 1974, c. 49¹ (N.J.S.A. 2A:50-69 et seq.), or any other applicable law.

§ 313-25. Registration of properties. [Added 2-8-2016 by Ord. No. 16-001]

- A. Definitions. As used in this section, the following terms shall have the meanings indicated:

OWNER — Shall mean and include the title holder, any agent of the title holder having authority to act with respect to a vacant property, any foreclosing entity subject to the provisions N.J.S.A. 46:10B-51 (P.L. 2008, c. 127, § 17, as amended by P.L. 2009, c. 296), or any other entity determined by the Township of Manchester to have authority to act with respect to the property.

VACANT/ABANDONED PROPERTY — Any building used or to be used as a residence, commercial or industrial structure which is not legally occupied or at which substantially all lawful construction operations or residential occupancy has ceased, and which is in such condition that it cannot legally be reoccupied without repair or rehabilitation, including but not limited to any property meeting the definition of "abandoned property" in N.J.S.A. 55:19-80 et seq.; provided, however, that any property where all building systems are in working order, where the building and grounds are maintained in good order, or where the building is in habitable condition, and where the building is being

1. Editor's Note: See N.J.S.A. 2A:18-61.1 et seq.

actively marketed by its owner for sale or rental, shall not be deemed a vacant property for purposes of this section.

- B. Registration requirements. Effective _____ 1, 2015,² the owner of any vacant property as defined herein shall, within 30 calendar days after the building becomes vacant property or within 30 calendar days after assuming ownership of the vacant property, whichever is later, or within 10 calendar days of receipt of notice by the municipality, file a registration statement for such vacant property with the Code Enforcement Officer on forms provided by the Township for such purposes. Failure to receive notice by the municipality shall not constitute grounds for failing to register the property.
- (1) Each property having a separate block and lot number as designated in official records of the municipality shall be registered separately.
 - (2) The registration statement shall include the name, street address, telephone number and e-mail address (if applicable) of a person 21 years or older, designated by the owner or owners as the authorized agent for receiving notices of code violations and for receiving process in any court proceeding or administrative enforcement proceedings on behalf of such owner or owners in connection with the enforcement of any applicable code; and the name, street address, telephone number and e-mail (if applicable) of the firm and the actual name(s) of the firm's individual principal(s) responsible for maintaining the property. The individual or representative of the firm responsible for maintaining the property shall be available by telephone or in person on a twenty-four-hour-per-day, seven-day-per-week basis. The two entities may be the same or different persons. Both entities shown on the statement must maintain offices in the State of New Jersey or reside within the State of New Jersey.
 - (3) The registration shall remain valid until December 31 of the year in which the application is made. The owner shall be required to renew the registration annually in the month of January. Deadline for registration renewal shall be January 31 as long as the building remains a vacant and/or abandoned property, and shall pay a registration or renewal fee in the amount prescribed in Subsection E of this section for each vacant property registered.
 - (4) The owner shall notify the Clerk within 30 calendar days of any change in the registration information by filing an amended registration statement on a form provided by the Clerk for such purpose.
 - (5) The registration statement shall be deemed prima facie proof of the statements therein contained in any administrative enforcement

2. Editor's Note: So in original.

proceeding or court proceeding instituted by the Township against the owner or owners of the building.

- C. Access to vacant properties. The owner of any vacant property registered under this section shall provide access to the Township to conduct exterior and interior inspections of the building to determine compliance with municipal codes, upon reasonable notice to the property owner or the designated agent. Such inspections shall be carried out on weekdays during the hours of 9:00 a.m. and 4:00 p.m., or such other time as may be mutually agreed upon between the owner and the Township.
- D. Responsible owner or agent.
- (1) An owner who meets the requirements of this section with respect to the location of his or her property or workplace in the State of New Jersey may designate him or herself as agent or as the individual responsible for maintaining the property.
 - (2) By designating an authorized agent under the provisions of this section the owner consents to receive any and all notices of code violations concerning the registered vacant property and all process in any court proceeding or administrative enforcement proceeding brought to enforce code provisions concerning the registered building by service of the notice of process on the authorized agent. Any owner who has designated an authorized agent under the provisions of this section shall be deemed to consent to the continuation of the agent's designation for the purposes of this section until the owner files a new annual registration statement.
 - (3) Any owner who fails to register vacant/abandoned property under the provisions of this section shall further be deemed to consent to receive, by posting on the building, in plain view, and by service of notice at the last known address of the owner of the property on record within the Township by regular and certified mail, any and all notices of code violations and all process in an administrative proceeding brought to enforce code provisions concerning the building.
- E. Fee schedule. The initial registration fee for each property upon the 2016 adoption of these provisions shall be \$750 if registration is applicable and property qualifies before July 1, 2016. If the property meets the required registration criteria after July 1, 2016, then the fee shall be \$500. From January 1, 2017, forward, the initial registration fee hereinafter shall be \$1,000 for the first year, which initial registration shall be prorated to \$500 if qualified after July 1 of the first year. The fee for the first renewal is \$2,000 and the fee for the second renewal is \$3,000. The fee for any subsequent renewal beyond the second renewal is \$5,000.

Registration	Fee
Initial registration	\$750 (\$1,000 January 1, 2017, forward)
First renewal	\$2,000
Second renewal	\$3,000
Subsequent renewal	\$5,000

F. Requirements of owners of vacant properties. The owner of any building that has become vacant/abandoned property, and any person maintaining or operating or collecting rent for any such building that has become vacant, shall, within 30 days thereof:

- (1) Enclose and secure the building against unauthorized entry as provided in the applicable provisions of the Township Code or as set forth in the rules and regulations supplementing those codes; and
- (2) Post a sign affixed to the building indicating the name, address and telephone number of the owner, the owner's authorized agent for the purpose of service of process, and the person responsible for day-to-day supervision and management of the building, if such person is different from the owner holding title or authorized agent. The sign shall be of a size and placed in such a location so as to be legible from the nearest public street or sidewalk, whichever is nearer, but shall be no smaller than eight inches by 10 inches; and
- (3) Secure the building from unauthorized entry and maintain the sign until the building is again legally occupied or demolished or until repair or rehabilitation of the building is complete; and
- (4) Ensure that the exterior grounds of the structure, including yards, fences, sidewalks, walkways, rights-of-way, alleys, retaining walls, attached or unattached accessory structures and driveways, are well-maintained and free from trash, debris, loose litter, and grass and weed growth; and
- (5) Continue to maintain the structure in a secure and closed condition, keep the grounds in a clean and well-maintained condition, and ensure that the sign is visible and intact until the building is again occupied or demolished or until repair and/or rehabilitation of the building is complete.

G. Violations and penalties.

- (1) Any person who violates any provision of this section or the rules and regulations issued hereunder shall be fined no less than \$100 and not more than \$2,500 for each offense. Every day that a violation continues shall constitute a separate and distinct offense.

Fines assessed under this chapter shall be recoverable from the owner and shall be a lien on the property.

- (2) For purposes of this section, failure to file a registration statement within 30 calendar days after a building becomes vacant property or within 30 calendar days after assuming ownership of a vacant property, whichever is later, or within 10 calendar days of receipt of notice by the municipality and failure to provide correct information on the registration statement, or failure to comply with the provision of such provisions contained herein shall be deemed to be violations of this section.
- (3) The provisions of this section shall be enforced by Township enforcing officials, including but not limited to the Code Enforcement Office.