

**LAFAYETTE TOWNSHIP
SUSSEX COUNTY, NEW JERSEY**

ORDINANCE 2015-04

AN ORDINANCE GOVERNING PROPERTY MAINTENANCE
OF COMMERCIAL AND INDUSTRIAL PROPERTIES

WHEREAS, there are properties, including improvements on those properties, located in the Township's commercial and industrial zones which are presently in substandard condition or which may become so in the future;

WHEREAS, the substandard conditions that are addressed by this Ordinance include: exterior structural deficiencies, unkempt and overgrown yards, trees in need of trimming or removal, the presence of garbage, structures where the exterior is not properly maintained, infestations of rodents and unmaintained walkways, stairs and parking areas;

WHEREAS, the failure to properly maintain the properties that are covered by this Ordinance endangers the public health, safety and welfare;

WHEREAS, the failure to properly maintain these properties has a deleterious effect on neighboring property values;

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Lafayette, County of Sussex, State of New Jersey:

Section 1. Property Maintenance Code Established. This ordinance hereby establishes certain minimum standards for the maintenance and upkeep of all Covered Properties.

Section 2. Terms. Some terms used in this ordinance are defined in Section 7. These terms are to be given the meaning provided by this ordinance even if it varies from the terms ordinary meaning. All other terms shall be given their ordinary meaning and definition as the context implies.

Section 3. Property Maintenance Standard: A violation of this Ordinance occurs when a Prohibited Condition is present on a Covered Property. A Prohibited Condition consists of one or more of the following:

(1) Prohibited Conditions located on the exterior of a Covered Property are:

- (a) The non-trivial presence of garbage or rubbish;
- (b) The presence of any discarded appliances or major component of a building's mechanical system;
- (c) The presence of downed trees or tree limbs for more than 10 days;
- (d) The presence of trees that are in whole or in part dead or dying and need to be trimmed or removed;
- (e) The presence of lawns, hedges and shrubs that are overgrown from lack of maintenance;
- (f) The presence of any infestation of rodents or vermin;
- (g) The presence of motor vehicles, motor cycles, trailers and boats that are inoperable or have been abandoned;

- (h) The presence of any parts for motor vehicles, motorcycles, or boats; and/or
- (i) Parking areas, walkaways and stairs that are broken, cracked or have pot-holes to the extent the use of the area by pedestrians or vehicles would represent a safety hazard.

(2) Prohibited Conditions that are part of an exterior structure on a Covered Property are:

- (a) Exterior foundation walls, piers or columns that are unsafe, unsound or dilapidated;
- (b) Exterior stairs, walkways, fire escapes or chimneys that are: (i) unsafe or unsound; (ii) deteriorating, rotting, crumbling so as to be in an unsafe or dangerous condition; and/or (iii) not properly maintained or missing pieces or elements as to be in an unsafe or dangerous condition.
- (c) Exterior doors and door frames that are broken, non-functional, rotted, deteriorating or dilapidated;
- (d) Exterior windows that are broken, cracked or missing;
- (e) Exterior window frames that are rotted, deteriorating or dilapidated;
- (e) Roof flashing that is not tight and sound or that has defects that admit rain;
- (f) Roof drains, gutters and downspouts that are non-maintained in good repair or that have obstructions;
- (g) Exterior wood surfaces other than decay resistant wood that is not protected from the elements by painting or other treatments or where the paint is flaking and chipped;
- (h) Exterior decorative features such as cornices, corbels, moldings and similar elements that are not maintained in good repair; and/or
- (g) Exterior structures that are not maintained structurally sound and in good repair.

(3) Any condition that would be considered a nuisance under New Jersey law.

Section 4. **Inspections for Violations.** Township Officials are authorized to conduct inspections and observations of all Covered Properties that are reasonably necessary to determine if there is a violation of this ordinance. In the first instance this shall be carried out by the Township's Zoning Officer. In the event the Zoning Officer believes it would be helpful or necessary to have the benefit of the expertise of another Township Official in order to evaluate or assess a condition on a Covered Property, the Zoning Officer shall have the right to request the assistance of that official who is also authorized by this ordinance to inspect and observe the property in question and to make recommendations to the Zoning Officer as to whether a violation exists.

Section 5. **Enforcement:** If after an inspection or observation of a Covered Property, one or more Township Officials determines there is violation of this ordinance the Zoning Officer shall proceed as set forth below. However, if the Township Zoning Officer has reason to believe the prohibited condition is actively being remediated or cured, he shall have the discretion to withhold enforcement action for a reasonable time to allow the condition to be remediated.

- (1) The Township Official shall issue a Notice to Cure to the Responsible Party. The Notice to Cure shall contain a description of all violations along with a citation to the appropriate section of this ordinance. The description shall be in sufficient detail so as to permit the Responsible Party to identify the violation in order to take corrective action. Except as otherwise provided in paragraph (4) below, the Notice to Cure shall also contain language advising the Responsible Party that they have 30 days to cure the violation, absent emergent conditions, and to contact the Zoning Officer for a re-inspection. The time to cure may be extended by up to an additional 30 days at the request of the Responsible Party who has agreed to make the necessary repairs at the discretion of the Township Official whose consent shall be liberally given.
- (2) If after the 30 day period to cure (along with any extension) a violation that was the subject of the Notice to Cure still exists, the Zoning Officer shall issue a summons against the Responsible Party in a manner consistent with due process.
- (3) To the extent reasonably practicable, the Township Official shall document any violation with photographs of the offending condition(s).
- (4) In the event a condition that is the subject of a Notice To Cure represents an immediate and eminent threat to the health, safety or well-being of any person, the provision permitting the Responsible Party 30 days to cure shall be eliminated and the Responsible Party shall be directed to take immediate action to remedy the condition. In the event this directive is not complied with the Township Official shall issue a summons.

Section 6. **Violations and Penalties:** In the event a person or entity is convicted for a violation of this Ordinance the violator shall be subject to the following:

- (1) For a first offense: The minimum fine shall be \$100 for each violation with a maximum fine of \$500 for each violation;
- (2) For a second offence: The minimum fine shall be \$200 for each violation with a maximum fine of \$500 for each violation;
- (3) For a third and subsequent offense: The minimum fine shall be \$500 for each violation with a maximum fine of \$1,000 for each violation.
- (4) In addition to fines provided for in paragraphs (1) through (3) above, the court may impose an additional fine for each day the violation is not cured commencing on the court date. These fines shall be in the amount of \$100 a day for each violation on a first offense; \$200 a day for a second offense; and \$500 a day for a third and subsequent offense.
- (5) The court may suspend both the fine for first offense under (1) above, the daily fine for any offense, or both, if the violation is cured within a period of time to be set by the court after the court date not to exceed 21 days.
- (6) For purposes of this Section 6, a subsequent offense shall mean a subsequent violation occurring at the same property but not necessarily for the same condition. If one year should pass without a violation occurring on a property as determined by a conviction in court, any violation after that one year period shall be considered a first offense.
- (7) For any violation that is uncured after a conviction it shall be deemed a continuing violation of the original summons and a daily fine may be imposed without the necessity of issuing a further summons.

Section 7. **Definitions:** The terms below shall have the meanings set forth in this Section:

“Covered Property” means any lot or parcel of land located within the Township of Lafayette that is within a commercial or industrial zone as established by the Township Zoning Ordinance. It includes all buildings, Structures located on the property.

“Owner” means a person, persons, entity or entities: (a) holding legal title to a property in whole or in part through a deed, devise, inheritance or a tax sale certificate; or (b) who possesses legal authority to permit the occupancy of a property including an executor, administrator, trustee or trust but who is not a tenant.

“Prohibited Condition” means one or more of the conditions listed in Section 3 of this ordinance.

“Responsible Party” means a person, persons, entity or entities that is the Owner of a Covered Property or is a tenant or lessee of a Covered Property where that tenant or lessee is responsible for the area of the leased premises where the Prohibited Condition that is the subject of the violation is located or where the lease would make the tenant or lessee responsible to cure the violation.

“Rubbish” means any waste material, garbage, refuse or litter; anything that is no longer wanted and has been discarded.

“Structure” means all or any part of a building and other improvements to real property including walls and fences.

“Township” means the Township of Lafayette, New Jersey.

“Township Official” means any person employed by the Township, either full or part time, or who works for the Township on an independent basis and whose job duties include the enforcement of any ordinance, regulation, code or statute or making inspection to ensure compliance with any ordinance, regulation, code or statute.

Section 8. **Severability.** All Ordinances and parts of Ordinances inconsistent with any part of this Ordinance are hereby repealed to the extent that they are in such conflict or inconsistent. If any section, paragraph, subparagraph, sentence, clause, or phrase of this Ordinance shall be held to be invalid by any court, such decision shall not invalidate any remaining portion of this Ordinance.

Section 9. **Codification.** This Ordinance may be renumbered for codification purposes.

Section 10. **Effective Date.** This Ordinance shall take effect upon passage and publication as soon as practicable and in the manner provided by law.

NOTICE

The above entitled Ordinance was introduced and passed at first reading by the Lafayette Township Committee at a meeting held on March 17, 2015 and after publication and a public hearing was finally adopted by the Lafayette Township Committee at a meeting held on April 7, 2015.

Mayor:

Municipal Clerk: