

**AN ORDINANCE TO AMEND AND SUPPLEMENT THE REVISED GENERAL  
ORDINANCES OF THE CITY OF NEW BRUNSWICK  
TITLE 15, "BUILDINGS AND CONSTRUCTION"**

**BE IT ORDAINED** by the City Council of the City of New Brunswick:

**SECTION I**

Property Maintenance Code Title 15, entitled "Buildings and Construction, shall be amended to add a new Chapter 15.60, entitled "*The Abandoned Properties Rehabilitation Ordinance.*"

**SECTION II**

**15.60.010 Findings and Declarations**

In accordance with the provisions of *N.J.S.A. 55:19-79*, the New Brunswick City Council finds and declares that:

(a) Abandoned properties, particularly those located within urban areas or in close proximity to occupied residences and businesses, create a wide range of problems for the communities in which they are located, fostering criminal activity, creating public health problems and otherwise diminishing the quality of life for residents and business operators in those areas.

(b) Abandoned properties diminish the property values of neighboring properties and have a negative effect on the quality of life of adjacent property owners, increasing the risk of property damage through arson and vandalism and discouraging neighborhood stability and revitalization.

(c) For these reasons, abandoned properties are presumptively considered to be nuisances, in view of their negative effects on nearby properties and the residents or users of those properties.

(d) The responsibility of a property owner to maintain a property in sound condition and prevent it from becoming a nuisance to others extends to properties which are not in use and 'demolition by neglect', leading to the deterioration and loss of the property, or failure by an owner to comply with legitimate orders to demolish, stabilize or otherwise repair his or her property creates a presumption that the owner has abandoned the property.

(e) Many abandoned buildings still have potential value for residential and other uses and such buildings should be preserved rather than demolished, wherever feasible, particularly buildings that have historic or architectural value, or contribute to maintaining the character of neighborhoods or streetscapes, or both, as the case may be.

**15.60.020 Definitions**

As used in this Chapter:

"Abandoned Property" shall mean any property that is determined to be abandoned pursuant to the provisions of Section 15.60.040.

"Abandoned Property List" shall mean a list of properties identified by the Public Officer, designated pursuant to *N.J.S.A. 40:48-2.5*, to establish and maintain a list of properties that contains the tax block and lot number, the name of the owner of record, if known, and the street address of the lot, pursuant to the provisions of *N.J.S.A. 55:19-55*.

"Department" means the New Jersey Department of Community Affairs.

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

"Municipality" means the City of New Brunswick and shall include a Qualified Rehabilitation Entity that may be designated by the City of New Brunswick pursuant to Section 15.60.130 herein to act as its agent to exercise any of the City of New Brunswick's rights pursuant thereto.

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

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

“Public Officer” means the person designated by the Mayor of the City of New Brunswick, pursuant to section *N.J.S.A. 40:48-2.4*, or any officer of the City of New Brunswick qualified to carry out the responsibilities set forth under the provisions of this Ordinance and as designated by the Mayor.

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

“Vacant Property” means any building used or to be used as a residence 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; provided, however, that any property that contains all building systems in working order and is being actively marketed by its owner for sale or rental shall not be deemed vacant.

**15.60.030 Designation and Power of Public Officer; Abandoned Properties Report; Establishment, Notice and Updates to Abandoned Property List.**

A. Pursuant to the provisions of *N.J.S.A. 55:19-55*, the Public Officer is hereby directed to identify abandoned properties within the City of New Brunswick, and provide such notices and carry out such tasks as are required to effectuate an Abandoned Property List as provided by law.

B. The Public Officer shall provide a report to the Mayor every six (6) months with respect to the number and location of properties on the Abandoned Property List, the status of those properties, and any actions taken by the City of New Brunswick or by any Qualified Rehabilitation Entity, designated pursuant to the authority granted the Public Officer, with respect to any property on the list or any other abandoned property with the City of New Brunswick.

C. The Public Officer shall establish the Abandoned Property List or any additions thereto by publication in the official newspaper of the City of New Brunswick, which publication shall constitute public notice and, within 10 days after publication, shall send a notice, by certified mail, return receipt requested, and by regular mail, to the owner of record of every property included on the list. The published and mailed notices shall identify property determined to be abandoned setting forth the owner of record, if known, the tax lot and block number and street address. The Public Officer, in consultation with the tax collector, shall also send out a notice by regular mail to any mortgagee, servicing organization, or property tax processing organization that receives a duplicate copy of the tax bill pursuant to subsection (d) of *N.J.S.A. 54:4-64*. When the owner of record is not known for a particular property and cannot be ascertained by the exercise of reasonable diligence by the tax collector, notice shall not be mailed but instead shall be posted on the property in the manner as provided in *N.J.S.A. 40:48-2.7*. The mailed notice shall indicate the factual basis for the Public Officer's finding that the property is abandoned property as that term is defined in *N.J.S.A. 55:19-54* and the rules and regulations promulgated thereunder, specifying the information relied upon in making such finding. In all cases a copy of the mailed or posted notice shall also be filed by the Public Officer in the office of the county clerk or register of deeds and mortgages, as the case may be, of the county wherein the property is situate. This filing shall have the same force and effect as a notice of lis pendens under *N.J.S.A. 2A:15-6*. The notice shall be indexed by the name of the property owner as defendant and the name of the City of New Brunswick as plaintiff, as though an action had been commenced by the City of New Brunswick against the owner.

D. The City of New Brunswick 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. An interested party may request that a property be included on the abandoned property list following that procedure set forth in Section 15.60.270.

**15.60.040 Abandoned Property; Criteria**

Except as provided in 15.60.050, any property that has not been legally occupied for a period of six (6) months and which meets any one of the following additional criteria may be deemed to be abandoned property upon a determination by the Public Officer that:

(a) The property is in need of rehabilitation in the reasonable judgment of the Public Officer, and no rehabilitation has taken place during that six-month period;

(b) Construction was initiated on the property and was discontinued prior to completion, leaving the building unsuitable for occupancy, and no construction has taken place for at least six months as of the date of a determination by the Public Officer pursuant to this section;

(c) At least one installment of property tax remains unpaid and delinquent on that property in accordance with Chapter 4 of Title 54 of the Revised Statutes as of the date of a determination by the Public Officer pursuant to this section; or

(d) The property has been determined to be a nuisance by the Public Officer in accordance with 15.60.050.

A property which contains both residential and non-residential space may be considered abandoned pursuant the criteria set forth in this Ordinance so long as two-thirds or more of the total net square footage of the building was previously legally occupied as residential space and none of the residential space has been legally occupied for at least six months at the time of the determination of abandonment by the Public Officer and the property meets the criteria of either subsection (a) subsection or (d) of this section.

**15.60.050 Nuisance Property; Criteria**

A property may be determined to be a nuisance if:

(a) The property has been found to be unfit for human habitation, occupancy or use pursuant to *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 City of New Brunswick has secured the property in order to prevent such hazards after the owner has failed to do so;

(d) The presence of vermin or the accumulation of debris, uncut vegetation or physical deterioration of the structure or grounds have created potential health and safety hazards and the owner has failed to take reasonable and necessary measures to remove the hazards; or

(e) The dilapidated appearance or other condition of the property materially affects the welfare, including the economic welfare, of the residents of the area in close proximity to the property, and the owner has failed to take reasonable and necessary measures to remedy the conditions.

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

**15.60.060 Property Deemed Not Abandoned; Criteria; Certification of Abandonment Provided Upon Request**

If an entity other than the City of New Brunswick has purchased or taken assignment from the City of New Brunswick of a tax sale certificate on a property that has not been legally occupied for a period of six (6) months, that property shall not be deemed abandoned and placed on the abandoned property if: (1) the owner of the certificate has continued to pay all municipal taxes and liens on the property in the tax year when due; and (2) the owner of the certificate takes action to initiate foreclosure proceedings within six (6) months after the property is eligible for foreclosure pursuant to the provisions of *N.J.S.A. 54:5-86*, as appropriate, and diligently pursues foreclosure proceedings in a timely fashion thereafter.

(b) A property which is used on a seasonal basis shall be deemed to be abandoned only if the property meets any two of the additional criteria set forth in Section 15.60.040.

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

(d) Upon the request of a purchaser or assignee of a tax sale certificate seeking to bar the right of redemption on an abandoned property pursuant to *N.J.S.A. 54:5-86*, the Public Officer or the tax collector shall, in a timely fashion, provide the requester with a certification that the property fulfills the definition of abandoned property according to the criteria set forth in Sections 15.60.040 and 15.60.050.

**15.60.070 Action to Transfer Possession and Control of Abandoned Property**

A summary action or otherwise to transfer possession and control of abandoned property in need of rehabilitation to the City of New Brunswick may be brought by the City of New Brunswick or its designee in the Superior Court Law Division. If the court shall find that the property is abandoned pursuant to the provisions of 15.60.040 and the owner or party in interest has failed to submit and initiate a rehabilitation plan, then the Court may authorize the City of New Brunswick to take possession and control of the property and develop a rehabilitation plan.

Upon the court granting possession and control of the property to the City of New Brunswick, the City may thereafter commence and maintain those further proceedings for the conservation, protection or disposal of the property or any part thereof that are required to rehabilitate the property, necessary to recoup the cost and expenses of rehabilitation and for the sale of the property; 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 section 15.60.150.

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

**15.60.080 Filing of Complaint; Required Information**

A complaint filed pursuant to Section 15.60.070 shall include the following:

(A) Documentation that the property is on the City of New Brunswick's Abandoned Property List or a certification by the Public Officer that the property is abandoned; and

(B) 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.

**15.60.090 Filing of Complaint; Notice Requirements; Entry to Secure, Stabilize, Repair or Inspect the Property**

A. Within ten (10) days of filing a complaint pursuant to the provisions of this Ordinance, the plaintiff shall file a notice of lis pendens with the county recording officer of the county within which the building is located.

B. At least thirty (30) days before filing the complaint, the City of New Brunswick 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 Section 15.60.040.

C. The notice shall provide that unless the owner or a party in interest prepares and submits a rehabilitation plan to the appropriate City of New Brunswick officials, the City of New Brunswick or its designee will seek to gain possession of the building to rehabilitate the property and the associated cost shall be a lien against the property, which may be satisfied by the sale of the property, unless the owner applies to the court for reinstatement of control of the property as provided in Section 15.60.150. After the complaint is filed, the complaint shall be served on the parties in interest in accordance with the New Jersey Rules of Court.

D. After serving the notice of intent pursuant to subsection B of this Section, the City of New Brunswick or its designee may enter upon that property after written notice to the owner by certified mail, return receipt requested, in order to secure, stabilize or repair the property, or in order to inspect the property for purposes of preparing the plan to be submitted to the court pursuant to Section 15.60.120.

**15.60.100 Property Owner's Defense against Complaint; Requirements.**

A. Any owner may defend against a complaint filed pursuant to Section 15.60.070 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 one hundred and twenty-five (125%) percent of the amount determined by the Public Officer or the court to be the projected cost of rehabilitation. Any plan submitted by an owner to defend against a complaint shall be submitted within sixty (60) days after the complaint has been filed, unless the court provides the owner with an extension of time for good cause shown.

B. A plan submitted by an owner pursuant to this Section shall include, but not be limited to the following:

- (1) 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;
- (2) 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;
- (3) 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

- (4) 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.

C. Approval of Plan

- (1) The court may 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.
- (2) 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 of New Brunswick may apply to the court to have the owner's bond forfeited, possession of the building transferred to the City of New Brunswick to complete the rehabilitation plan and authorization to use the bond proceeds for rehabilitation of the property.
- (3) The owner shall provide quarterly reports to the City of New Brunswick 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.

D. 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.

**15.60.110 Owner Unsuccessful in Defending Against Complaint; Mortgage or Lien Holders to be Designated in Possession of Property**

A. If an owner is unsuccessful in defending against a complaint filed pursuant to Section 15.60.070, 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 Section 15.60.100. The plan shall be submitted within sixty (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.

B. The mortgage holder or lien holder, as the case may be, shall provide quarterly reports to the court and the City of New Brunswick on its activities and progress toward rehabilitation and reuse of the property.

C. 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 of New Brunswick possession of the property, and authorize the City of New Brunswick to use the proceeds of the bond for rehabilitation of the property.

D. 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 subsection A of 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.

**15.60.120 City of New Brunswick to be Designated in Possession of Property; Submission of Plan to Court**

A. Pursuant to the provisions of *N.J.S.A. 55:19-89*, if no mortgage holder or lienholder meets the conditions of Section 15.60.110, then the City of New Brunswick shall submit a plan to the court which conforms with the provisions of Section 15.60.100. The plan shall designate the entity which shall implement the plan, which may be the City of New Brunswick or that entity designated in accordance with the provisions of Section 15.60.130.

B. The court may grant the City of New Brunswick possession of the property if it finds that:

- (1) The proposed rehabilitation and reuse of the property is appropriate and beneficial;
- (2) The City of New Brunswick is qualified to undertake the rehabilitation and reuse of the property; and

- (3) The plan submitted by the City of New Brunswick represents a realistic and timely plan for the rehabilitation and reuse of the property.

C. The City of New Brunswick 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.

D. Where either a redevelopment plan, pursuant to *N.J.S.A. 40A:12A-1 et seq.*, or a neighborhood revitalization plan, pursuant to *N.J.S.A. 52:27D-490, et seq.*, has been adopted or approved by the Department of Community Affairs, as appropriate, encompassing the property which is the subject of a complaint, the court may make a further finding that the proposed rehabilitation and reuse of the property are not inconsistent with any provision of either plan.

**15.60.130 Exercise of Rights to Further Rehabilitation and Reuse of Property; Designation of Qualified Rehabilitation Entity**

A. The City of New Brunswick may exercise its rights under the provisions of this Ordinance, directly, or may designate a Qualified Rehabilitation Entity to act as its designee for the purpose of exercising its rights where that designation will further the rehabilitation and reuse of the property consistent with municipal plans and objectives. This designation shall be made by the Mayor of the City of New Brunswick, who may delegate this authority to the Public Officer.

B. Regardless of whether the City of New Brunswick exercises its rights directly or designates a Qualified Rehabilitation Entity pursuant to this Section, while in possession of a property pursuant to the provisions of this Ordinance, the City of New Brunswick shall maintain, safeguard, and maintain insurance on the property. Notwithstanding the City of New Brunswick's possession of the property, nothing in this Ordinance 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.

**15.60.140 City of New Brunswick Deemed Possessor of Property; Borrowing of Funds; Reporting and Filing Requirements**

A. If the City of New Brunswick has been granted possession of a property pursuant to Section 15.60.120, 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.

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.

Notwithstanding the granting of possession to the City of New Brunswick, nothing in this Ordinance 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 municipal liens and charges, or mortgages or liens to any party, whether those taxes, charges or liens are incurred before or after the granting of possession.

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.

B. Pursuant to the provisions of *N.J.S.A. 55:19-91*, the court may approve the borrowing of funds by the City of New Brunswick to rehabilitate the property and may grant a lien or security interest with priority over all other liens or mortgages other than municipal liens. Pursuant to the provisions of *N.J.S.A. 55:19-91*, prior to granting this lien priority, the court may find the following:

- (1) that the City of New Brunswick sought to obtain the necessary financing from the senior lienholder, which declined to provide such financing on reasonable terms;
- (2) that the City of New Brunswick sought to obtain a voluntary subordination from the senior lienholder, which refused to provide such subordination; and
- (3) that lien priority is necessary in order to induce another lender to provide financing on reasonable terms.

(4) Pursuant to the provisions of *N.J.S.A. 55:19-91*, no lien authorized by the court shall take effect unless recorded in the Middlesex County Clerk's Office. For the purposes of this Section, the cost of rehabilitation shall include reasonable non-construction costs, including, but not limited to legal fees,

engineering fees, architectural fees or construction permit fees customarily included in the financing of the rehabilitation of residential property.

C. Pursuant to the provisions of *N.J.S.A. 55:19-91*, where the City of New Brunswick has been granted possession by the court in its name, the City of New Brunswick may seek the approval of the court to assign its rights to another entity, which approval may be granted by the court when it finds that: (1) the entity to which the City of New Brunswick's rights will be assigned is a Qualified Rehabilitation Entity; and (2) the assignment will further the purposes of this section.

D. Pursuant to the provisions of *N.J.S.A. 55:19-91*, where the City of New Brunswick has designated a Qualified Rehabilitation Entity to act on its behalf, the Qualified Rehabilitation Entity shall provide quarterly reports to the City of New Brunswick on its activities and progress toward rehabilitation and reuse of the property. The City of New Brunswick or Qualified Rehabilitation Entity, as the case may be, shall provide such reports to the court as the court determines to be necessary. If the court finds that the City of New Brunswick or its designee have failed to take diligent action toward rehabilitation of the property within one year from the grant of possession, then the court may request the City of New Brunswick to designate another Qualified Rehabilitation Entity to exercise its rights, or if the City of New Brunswick fails to do so, may terminate the order of possession and return the property to its owner.

E. Pursuant to the provisions of *N.J.S.A. 55:19-91*, the City of New Brunswick 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 of New Brunswick 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.

#### **15.60.150 Petition for Reinstatement of Control and Possession by Owner**

Pursuant to the provisions of *N.J.S.A. 55:19-92*, 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 thirty (30) days after the City of New Brunswick 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 thirty (30) days after the City of New Brunswick has filed notice.

Pursuant to the provisions of *N.J.S.A. 55:19-92*, 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 of New Brunswick, or affect any of the terms or conditions under which the City of New Brunswick has applied for or received financing for the rehabilitation of the property.

#### **15.60.160 Contents of Petition; Filing and Payment Requirements**

Any petition for reinstatement of the owner's control and possession of the property filed pursuant to Section 15.60.150 of this Ordinance shall:

- (a) Include a plan for completion of the rehabilitation and reuse of the property consistent with the plan previously approved by the court;
- (b) Provide legally binding assurances that the owner will comply with all conditions of any grant or loan secured by the City of New Brunswick or repay those grants or loans in full, at the discretion of the maker of the loan or grant; and
- (c) Be accompanied by payment equal to the sum of (1) all municipal liens outstanding on the property; (2) all costs incurred by the City of New Brunswick in bringing action with respect to the property; (3) any costs incurred by the City of New Brunswick not covered by grants or loans to be assumed or repaid pursuant to this section; and (4) 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 pending disposition of the petition.

#### **15.60.170 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 Section 15.60.150, pursuant to the provisions of *N.J.S.A. 55:19-94*, 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 of New Brunswick to make any repair on the property in the event of a code violation which is not corrected in timely fashion by the owner. The bond or other security may be forfeited in

full in the event that the owner fails to comply with any requirement imposed as a condition of the reinstatement petition filed pursuant to Section 15.60.150.

B. Pursuant to the provisions of *N.J.S.A. 55:19-94*, the owner may seek approval of the court to be relieved of this requirement after five (5) 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.

**15.60.180 Failure of Owner to Petition for Reinstatement of Control and Possession of Property; Granting of Title to City of New Brunswick; Authority to Sell**

Pursuant to the provisions of *N.J.S.A. 55:19-95*, if the owner fails to petition for the reinstatement of control and possession of the property within thirty (30) days after the entity in possession has filed a Notice of Completion or in any event within two (2) 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 filed pursuant to Section 15.60.150, upon petition from the entity in possession, the court may grant the City of New Brunswick title or authorize the City of New Brunswick to sell the property, subject to the provisions of Section 15.60.190.

**15.60.190 Procedure of City of New Brunswick Seeking to Gain Title to Property; Authorization to Sell; Proceeds**

A. Pursuant to the provisions of *N.J.S.A. 55:19-96*, where the City of New Brunswick seeks to gain title to the property, it shall purchase the property for fair market value on such terms as the court shall approve, and may place the proceeds of sale in escrow with the court.

B. The court may authorize the City of New Brunswick to sell the building free and clear of liens, claims and encumbrances, in which event all such liens, claims and encumbrances shall be transferred to the proceeds of sale with the same priority as existed prior to resale in accordance with the provisions of this section, except that municipal liens shall be paid at settlement. The proceeds of the purchase of the property shall be distributed as set forth in Section 15.60.200.

C. The City of New Brunswick may seek approval of the court to sell the property to a third party when the court finds that such conveyance will further the effective and timely rehabilitation and reuse of the property.

D. Upon approval by the court the City of New Brunswick shall sell the property on such terms and at such price as the court shall approve, and may place the proceeds of sale in escrow with the court. The court may order a distribution of the proceeds of sale after paying court costs in the order of priority set forth in Section 15.60.200.

**15.60.200 Distribution of Proceeds**

The proceeds paid pursuant to Section 15.60.190 shall be distributed in the following order of priority:

- (a) The costs and expenses of sale;
- (b) Other governmental liens;
- (c) Repayment of principal and interest on any borrowing or indebtedness incurred by the City of New Brunswick and granted priority lien status pursuant to Section 15.60.210.
- (d) A reasonable development fee to the City of New Brunswick consistent with the standards for development fees established for rehabilitation programs by the New Jersey Department of Community Affairs or the New Jersey Housing and Mortgage Finance Agency;
- (e) Other valid liens and security interests, in accordance with their priority; and
- (f) The owner.

**15.60.210 Public Officer; Authority to Place Lien on Property; Remedies**

A. Pursuant to the provisions of *N.J.S.A. 55:19-98*, the Public Officer, with the approval of the court, may place a lien on the property to cover any costs of the City of New Brunswick in connection with a proceeding under the provisions of this Ordinance incurred prior to the grant by the court of an order of possession under this Ordinance, which may include costs incurred to stabilize or secure the property to ensure that it can be rehabilitated in a cost-effective manner. Any such lien shall be considered a municipal lien for the purposes of *N.J.S.A. 54:5-9* with the rights and status of a municipal lien pursuant thereto.

B. With the exception of the holding of special tax sales pursuant to Section 15.60.240 of this Ordinance, the remedies available under this Ordinance shall be available to the City of New Brunswick with respect to any abandoned property, whether or not the City of New Brunswick has established an Abandoned Property List as provided in *N.J.S.A. 55:19-55* and whether or not the property has been included on any such list.

**15.60.220 The Court's Denial of Rights and Remedies to Lienholders and Mortgage Holders**

Notwithstanding any provision to the contrary in this Ordinance, pursuant to the provisions of *N.J.S.A. 55:19-99*, a court may, in its discretion, deny a lienholder or mortgage holder of any or all rights or remedies afforded lienholders and mortgage holders under the provisions of this Ordinance if the court finds that the owner of a property subject to any of the provisions of this Ordinance owns or controls more than a fifty (50%) percent interest in, or effective control of, the lienholder or mortgage holder, or that the familial or business relationship between the lienholder or mortgage holder and the owner precludes a separate interest on the part of the lienholder or mortgage holder.

**15.60.230 Recourse of The City of New Brunswick Against Individuals or Corporations**

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

**15.60.240 Properties Eligible for Tax Sales; Requirements of the City of New Brunswick; Notice**

The City of New Brunswick may hold special tax sales with respect to those properties eligible for tax sale pursuant to *N.J.S.A. 54:5-19* which are also on an Abandoned Property List established by the City of New Brunswick pursuant to section *N.J.S.A. 55:19-55*. Any such special tax sale shall be subject to the following provisions:

(a) The City of New Brunswick shall establish criteria for eligibility to bid on properties at the sale, which may include, but shall not be limited to: documentation of the bidder's ability to rehabilitate or otherwise reuse the property consistent with municipal plans and regulations; commitments by the bidder to rehabilitate or otherwise reuse the property, consistent with municipal plans and regulations; commitments by the bidder to take action to foreclose on the tax lien by a date certain; and such other criteria as the City of New Brunswick may determine are necessary to ensure that the properties to be sold will be rehabilitated or otherwise reused in a manner consistent with the public interest;

(b) The City of New Brunswick may establish minimum bid requirements for a special tax sale that may be less than the full amount of the taxes, interest and penalties due, the amount of such minimum bid to be at the sole discretion of the City of New Brunswick, in order to ensure that the properties to be sold will be rehabilitated or otherwise reused in a manner consistent with the public interest;

(c) The City of New Brunswick may combine properties into bid packages, and require that bidders place a single bid on each package, and reject any and all bids on individual properties that have been included in bid packages;

(d) The City of New Brunswick may sell properties subject to provisions that, if the purchaser fails to carry out any commitment that has been set forth as a condition of sale pursuant to subsection a. of this section or misrepresents any material qualification that has been established as a condition of eligibility to bid pursuant thereto, then the properties and any interest thereto acquired by the purchaser shall revert to the City of New Brunswick, and any amount paid by the purchaser to the City of New Brunswick at the special tax sale shall be forfeited to the City of New Brunswick;

(e) In the event there are two or more qualified bidders for any property or bid package in a special tax sale, the City of New Brunswick may designate the unsuccessful but qualified bidder whose bid was closest to the successful bid as an eligible purchaser;

(f) In the event that the purchaser of that property or bid package fails to meet any of the conditions of sale established by the City of New Brunswick pursuant to this section, and their interest in the property or properties reverts to the City of New Brunswick, the City of New Brunswick 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 of New Brunswick 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 of New Brunswick pursuant to subsection (b), (c) or (d) of this Section. Nothing herein shall prohibit the City of New Brunswick from holding a special tax sale on the same day as a standard or accelerated tax sale.

**15.60.250 Eminent Domain Proceedings; Establishment of Fair Market Value**

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

(a) The cost to rehabilitate and reuse the property for such purpose as is appropriate under existing planning and zoning regulations governing its reuse or to demolish the existing property and construct a new building on the site, including all costs ancillary to rehabilitation such as, but not limited to, marketing and legal costs;

(b) The realistic market value of the reused property after rehabilitation or new construction, taking into account the market conditions particular to the neighborhood of the City of New Brunswick in which the property is located; and

(c) The extent to which the cost exceeds or does not exceed the market value after rehabilitation, or demolition and new construction, and the extent to which any "as is" value of the property prior to rehabilitation can be added to the cost of rehabilitation or demolition and new construction without the resulting combined cost exceeding the market value as separately determined. If the appraisal finds that the cost of rehabilitation or demolition and new construction, as appropriate, exceeds the realistic market value after rehabilitation or demolition and new construction, there shall be a rebuttable presumption in all proceedings under this subsection that the fair market value of the abandoned property is zero, and that no compensation is due the owner.

**15.60.260 Removal of Property from Abandoned Property List**

If a property, which an entity other than the City of New Brunswick has purchased or taken assignment from the City of New Brunswick of a tax sale certificate, is placed on the Abandoned Property List, the property shall be removed from the list if the owner of the certificate pays all municipal taxes and liens due on the property within thirty (30) days after the property is placed on the list; provided, however, that if the owner of the certificate fails to initiate foreclosure proceedings within six (6) months after the property was first placed on the list, the property shall be restored to the Abandoned Property List.

**15.60.270 Request for Property to Be Placed on Abandoned Property List**

A Any interested party may submit in writing a request to the Public Officer that a property be included on the Abandoned Property List prepared pursuant to *N.J.S.A. 55:19-55*, specifying the street address and block and lot number of the property to be included, and the grounds for its inclusion. Within thirty (30) days of receipt of any such request, the Public Officer shall provide a written response to the party, either indicating that the property will be added to the list of abandoned properties or, if not, the reasons for not adding the property to the list. For the purposes of this section, "interested party" shall include any resident of the City of New Brunswick, any owner or operator of a business within the City of New Brunswick or any organization representing the interests of residents or engaged in furthering the revitalization and improvement of the neighborhood in which the property is located.

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

**SECTION III**

**SEVERABILITY:**

If any subsection, paragraph or provision of this Ordinance is declared to be invalid by a court of competent jurisdiction such finding shall not affect the remaining provisions hereof.

