

**TOWNSHIP OF STILLWATER
SUSSEX COUNTY, NEW JERSEY**

ORDINANCE NO. 2022-06

**AN ORDINANCE CLARIFYING THE RESIDENCY REQUIREMENTS FOR
PERSONS WHO ARE CANDIDATES FOR ELECTION TO THE TOWNSHIP
COMMITTEE AND FOR PERSONS WHO SERVE ON THE TOWNSHIP
COMMITTEE AS WELL AS ESTABLISHING RESIDENCY REQUIREMENTS
FOR PERSONS WHO SERVE ON UNPAID APPOINTED POSITIONS WITH
THE TOWNSHIP'S VARIOUS BOARDS AND COMMISSIONS**

WHEREAS, the Township Code of the Township of Stillwater includes residency requirements for the Township Committee and certain employees of the Township; and

WHEREAS, the Governing Body of the Township of Stillwater has determined that the residency requirements for candidates for Township Committee and for elected Members serving on the Township Committee should be clarified in the Township Code; and

WHEREAS, the Governing Body of the Township of Stillwater has determined that the residency requirements should also be clarified in the Township Code to include persons who are appointed to serve in unpaid positions on the Township's various Boards and Commissions.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Stillwater as follows:

SECTION 1

Chapter 10, Article II of the Township Code of the Township of Stillwater shall be amended to by changing its Title from "Elective Officers" to "Elected/Appointed Members of the Township Committee and Unpaid Appointees to Township Boards and Commissions.

SECTION 2

Chapter 10, Article II of the Township Code of the Township of Stillwater shall be further amended add the following additional provisions:

10-__ Definitions

Pursuant to N.J.S.A. 40A:9-1.11 and as otherwise permitted by law, the following definitions shall be applicable to the residency requirements established herein:

- A. **“Resident”** means a person having, within the territorial limits of the Township of Stillwater, a place of abode, which has not been adopted for any mere special or temporary purpose, but serves as their ordinary and permanent domicile.
- B. **“Candidate”** means any person who shall file, or cause to have filed, a petition of nomination for election, or for re-election, to the Township Committee of the Township of Stillwater.
- C. **“Elected or Appointed Member of the Township Committee”** means any person elected by the general public, or appointed as otherwise permitted by law, to serve a term of office on the Township Committee of the Township of Stillwater.
- D. **“Appointed Member of a Township of Stillwater Board or Commission”** means any person duly appointed to serve a term of office as an unpaid appointed member on the various Township Boards and Commissions as may be established by the Township Committee.

10-__ Residency Requirement

- A. Pursuant to N.J.S.A. 40A:9-1.11 and as otherwise permitted by law, no person shall be a candidate for or serve as an Elected or Appointed Member of the Township Committee unless they are a resident of the Township of Stillwater. If any person nominated for, or holding, a seat on the Township Committee shall cease to be a resident of the Township of Stillwater, the nomination or office, as the case may be, shall be deemed vacant and shall be filled in the manner prescribed by law.
- B. As permitted by law, no person shall serve as an Appointed Member of a Township of Stillwater Board or Commission unless they are a resident of the Township of Stillwater unless expressly permitted by law. If any person appointed to such a Board or Commission shall cease to be a resident of the Township of Stillwater, their seat shall be deemed vacant and shall be filled in the manner prescribed by law.

10__ Failure to maintain residency; investigation; notice of hearing; failure to appear.

- A. Failure of any Candidate for or Elected or Appointed Member of the Township Committee or failure of any Appointed Member of a Township of Stillwater Board or Commission to maintain residency in the Township of Stillwater, when required to do so under the terms of this Chapter, shall be cause for immediate removal from their office.
- B. The Township Committee of the Township of Stillwater, or a duly appointed agent thereof, are hereby authorized to investigate into the residency of any Candidate for or Elected or Appointed Member of the Township Committee or any Appointed Member of a Township of Stillwater Board or Commission and to require any such person to produce proof of bona fide residence. The standards as set forth in N.J.A.C. 4A:4-2.11 shall be used to make the determination of residency and are as follows:

1. Whether the location where that person claims be a resident is owned or rented by the person or their immediate family;
2. Whether time actually spent in the claimed residence exceeds that of other locations;
3. Whether the relationship among those persons living in the claimed residence is closer than those with whom the individual lives elsewhere. If an individual claims a parent's residence because of separation from his or her spouse or domestic partner, a court order or other evidence of separation may be requested;
4. Whether the residence recorded on a driver's license, motor vehicle registration, or voter registration card and other documents is the same as the claimed legal residence. Post office box numbers shall not be acceptable; and
5. Whether the school district attended by child(ren) living with the person is the same as the claimed residence.

- C. The Township Committee is tasked with enforcement of this Chapter. Any person accused of violating the residency requirement established herein shall be given written notice from the Township Committee setting forth the charge that they are not a bona fide resident of the Township of Stillwater. The notice shall also set forth the time and place of hearing to be conducted by the Township Committee, but in no case shall that hearing be less than ten days from the provision of the notice upon the accused. At the hearing, the Township Committee or its designee shall present the witnesses and evidence they have obtained related to the lack of residency of the accused. The accused or their designee shall be permitted to present his or her own witnesses and evidence related to residency.
- D. Failure to appear at the time and place of the hearing set forth in the notice from the Township Committee or to comply with the residence requirements shall be sufficient cause for removal from service.
- E. The Township Committee is hereby authorized, in extraordinary circumstances only and upon written application of the person accused of violating the residency requirement, to extend the time for compliance with the residency requirement for a period up to but not exceeding six months. In considering whether there exists extraordinary circumstances for an extension of time, the Township Committee shall take into consideration the length of time the applicant had been a nonresident before the notice of violation was given; any objectively verifiable problems related to the sale of a home or in the purchase of a home within the Township of Stillwater that caused the violation; significant and verifiable financial problems concerning existing leases; significant verifiable difficulties in locating suitable living quarters within the Township of Stillwater; other verifiable financial hardships; and such other matters that would clearly create an undue burden on the person's family if the requested extension is denied.

SECTION 3

If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, the remainder of this Ordinance shall not be affected thereby but shall remain in full force and effect.

SECTION 4

All Ordinances or parts of Ordinances inconsistent with or contrary to the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 5

This Ordinance shall take effect immediately upon its passage.

TOWNSHIP COMMITTEE OF STILLWATER TOWNSHIP

ATTEST:

Lynda Knott, Township Clerk

George E. Scott, Mayor

DATED: Introduced: April 19, 2022

CERTIFICATION ON FIRST READING

This Ordinance was introduced for First Reading by the Mayor and Township Committee of Stillwater Township, Sussex County at their Regular Meeting held on April 19, 2022. Final Adoption at Public Hearing will be conducted at the Township Committee's Regular Meeting of May 3, 2022, at the Stillwater Township Municipal Building at 7:00 p.m., at which time the public may comment.

Date: _____

Lynda M. Knott, RMC
Township Clerk