

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

ORDINANCE NO. 2022-21

**AN ORDINANCE REGARDING THE RESIDENCY REQUIREMENT
FOR CANDIDATES FOR ELECTION TO THE TOWNSHIP COMMITTEE,
FOR PERSONS WHO SERVE ON THE TOWNSHIP COMMITTEE, AND
FOR PERSONS WHO SERVE IN APPOINTED POSITIONS ON THE
TOWNSHIP'S VARIOUS BOARDS AND COMMISSIONS**

WHEREAS, the Township Committee of the Township of Stillwater has determined that the residency requirement for candidates for election to the Township Committee, for persons who serve on the Township Committee, and for persons who serve in appointed positions on the Township's various Boards and Commissions should be set forth in the Township Code and, further, that a local procedure to address residency concerns should be established.

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, renumbered and reorganized to add the following additional provisions:

10-__ Definitions

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 for whom a petition of nomination for election or for re-election to the Township Committee of the Township of Stillwater has been filed.

- 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. No person shall be a candidate for or shall 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 permitted by law.
- B. 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. 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 permitted by law,.

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

- A. Should any candidate for or member of the Township Committee, or should any appointed member of a Township of Stillwater Board or Commission fail to maintain residency in the Township of Stillwater, such loss of residency shall be cause for their removal from their office.
- B. The Township Committee is tasked with enforcement of this Chapter and they or their designee may investigate any candidate, elected official or appointed official if that person appears be in violation of this chapter. Any person believed to be in violation of the residency requirement established herein or otherwise required by law shall be given written “Notice of Residency Hearing” that sets forth the charge that they do not appear to be a *bona fide* resident of the Township of Stillwater and, further, notifying them of the time and place when the Committee will conduct the Residency Hearing to determine whether the person is *bone fide* resident of the Township. The Residency Hearing must be scheduled at least ten (10) days after the date that the ”Notice of Residency Hearing” has been served on the person at issue, either by hand delivery or certified mail. At the Residency Hearing, the Township Committee or their designee shall present the witnesses and evidence they have obtained related to the lack of residency. The person charged or their designee shall be permitted to present their own witnesses and evidence related to their alleged residency. Factors that may be considered at the Residency Hearing, include, but are not limited to, the following:

1. Whether the residence where that person claims to reside is owned or rented by the person or their immediate family;
2. Whether time actually spent at the claimed residence exceeds that spent at other residences;
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; and
5. If the person has children who are attending public school, whether those children are attending the public schools attended by residents of the Township of Stillwater and, if not, has a reasonable explanation been provided.

Although the above factors may be dispositive in certain cases, the decision on residency or lack thereof must ultimately be based on the totality of the circumstances, including the explanations and evidence provided by the person at issue. The Township Committee shall provide the person charged with their written decision within ten (10) days of the close of the Residency Hearing. The written decision will provide the reasoning and evidence supporting their finding. If the Commission determined that the residency requirement is not being met, the person will be immediately disqualified from service and will be deemed removed from office upon service of a Notice of Removal along with their written decision. Service shall be by either hand delivery or certified mail.

- D.** Failure to appear at the time and place of the Residency Hearing set forth in the Notice of Residency Hearing from the Township Committee shall, except under exceptional circumstances accepted by the Committee, shall be sufficient cause for removal from office, unless otherwise prohibited by law.
- E.** The Township Committee is hereby authorized, in extraordinary circumstances only and upon written application of the person charged with 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: October 4, 2022
 Adopted: October 18, 2022