

ORDINANCE NO. 21-2015

AN ORDINANCE AMENDING THE CODE OF THE TOWNSHIP OF ABERDEEN  
CHAPTER XII ENTITLED "BUILDINGS, CONSTRUCTION AND HOUSING" TO  
ADD A NEW SECTION 12-8 ENTITLED "MAINTENANCE OF VACANT AND  
ABANDONED RESIDENTIAL PROPERTIES DURING FORECLOSURE"

BE IT ORDAINED by the Mayor and Council of the Township of Aberdeen that the Code of the Township of Aberdeen is hereby supplemented and amended to establish and adopt the municipal powers authorized by the Public Laws of 2014, Chapter 35, N.J.S.A. 40:48-2.12, and related statutory provisions, by adopting a new section 12-8 entitled "Maintenance of Vacant and Abandoned Residential Properties During Foreclosure" as follows:

**§12-8.1. NOTICE OF FORECLOSURE ACTION.**

- A. A creditor serving a summons and complaint in an action to foreclose on a mortgage on residential property within the Township shall, within ten (10) days of serving the summons and complaint, notify the Township Clerk that a summons and complaint in an action to foreclose on a mortgage has been filed against the subject property and provide the name and contact information for the representative of the creditor who is responsible for receiving complaints of property maintenance and code violations pursuant to paragraph one of N.J.S.A. 46:10B-51.
- B. An out-of-State creditor that serves a summons and complaint in an action to foreclose on a residential property within the Township must include the full name and contact information of an in-State representative or agent who shall be responsible for the care maintenance, security and upkeep of the exterior of the property if it becomes vacant and abandoned pursuant to paragraph one of N.J.S.A. 46:10B-51.
- C. In the event a property being foreclosed on is an affordable unit pursuant to the "Fair Housing Act," (N.J.S.A. 52:27D-301 et seq.), the creditor shall provide notice to the Township Clerk within ten (10) days of service of a summons and complaint in an action to foreclose on the mortgage advising the property is subject to the "Fair Housing Act", include the street address, lot and block number of the property, and the full name and contact information of an individual located within the State who is authorized to accept service on behalf of the creditor pursuant to paragraph one of N.J.S.A. 46:10B-51.

**§12-8.2. CREDITOR RESPONSIBILITY.**

Pursuant to the provisions of the Public Laws of 2014, Chapter 35, a creditor filing a summons and complaint to foreclose a lien on an residential property that is vacant and abandoned, whether the filing of the summons and complaint is made prior to or after the determination that the property is vacant and abandoned, shall be responsible for the care, maintenance, security and upkeep of the exterior of the residential property. This obligation applies whether the determination that the property is vacant and abandoned is made by the Public Officer, as defined in Chapter XII, Section 12-7, pursuant to the provisions of this Chapter XII, Section 12-8 of this Code, pursuant to the provisions of N.J.S.A. 2A:50-73, or otherwise.

**§12-8.3. NOTICE TO CREDITOR; TIME TO CORRECT VIOLATIONS.**

If the Public Officer, or other authorized Township official, determines that a creditor obligated to care, maintain, secure and keep up a vacant and abandoned property has failed to do so in violation of the provisions of this Chapter XII, Section 12-8 or Chapter XII, Section 12-7 of this Code, the Public Officer or other authorized Township official shall issue a notice of violation to the creditor that has filed a summons and complaint to foreclose on the property in question. The notice shall require the person or entity to correct the violation within thirty (30) days of receipt of the notice. If the violation presents an imminent threat to public health and safety, then remedial action must be completed within ten (10) days of receipt of notice. The issuance of this notice shall constitute (prima facie) evidence that a property is "vacant and abandoned" for purposes of N.J.S.A. 2A:50-73.

**§12-8.4. FAILURE TO DESIGNATE REPRESENTATIVE OF OUT-OF-STATE CREDITOR; VIOLATION.**

An out-of-State creditor found by a court of competent jurisdiction to have violated paragraph one of N.J.S.A. 46:10B-51 shall be subject to a fine of \$2,500.00 for each day of the violation commencing on the day after the ten (10) day period set forth in paragraph one of N.J.S.A. 46:10B-51 and Section 12-8.1 of this Code with respect to notifying the Township clerk that an action to foreclose on the property has been filed.

**§12-8.5. VIOLATIONS AND PENALTIES.**

- A. Except as set forth in Section 12-7.4 and herein, any person, firm, corporation or entity violating any provision of this Chapter XII, Section 12-8, or Chapter XII, Section 12-7 of this Code shall, upon conviction, be punishable as provided in Chapter 1, Section 5 of this Code. A creditor required to care, maintain, secure and keep up a property under this Chapter, cited in a notice issued pursuant to Section 12-8.3, shall be subject to a fine of \$1,500.00 for each day of the violation.
- B. The Township shall have the same recourse against any creditor as it would against the title owner of the property if the Township, as a matter of public necessity or safety, unilaterally decides to expend public funds in order to abate a nuisance or correct a violation on a property in situations in which the creditor was given notice, but failed to abate the nuisance or correct the violation pursuant to N.J.S.A. 46:10B-51 or pursuant to any other statutory or common law authority.

**§12-8.6. ADDITIONAL NOTICE REQUIRED.**

Notice of violations of property maintenance, building or other property codes for any property declared vacant and abandoned pursuant to this Chapter shall be given to a foreclosing creditor pursuant to the procedures of Section 12-8.3 of this Code as required by P.L. 2014, c. 35.

**§12-8.7. STATUTORY CONSISTENCY.**

All sections hereof arising from or citing a specific statutory reference shall be deemed as automatically adopting any amendment to such statute(s) as may be consistent with the Township's purposes in enacting this ordinance.

**§12-8.8. SEVERABILITY AND REPEALER.**

If any provision or portion of a provision of this ordinance is held to be unconstitutional, preempted by Federal or State law, or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the ordinance shall not be invalidated. All prior ordinances or parts of ordinances, which are inconsistent with any provisions of this ordinance, are hereby

repealed as to the extent of such inconsistencies.

**§12-8.9. EFFECTIVED DATE.**

This ordinance shall take effect following adoption and publication in accordance with the laws of the State of New Jersey.

**§12-8.10. NO WAIVER OF OTHER OR ADDITIONAL REMEDIAL RIGHTS.**

Nothing contained in this ordinance shall be interpreted to waive, limit or interfere with any other or additional rights the Township or private individual may have or acquire, with regard to the condemnation, remediation, injunctive relief, damages and fees, from other regulations, statutes, common law or ordinances concerning remedial or enforcement actions against properties (their owners, occupiers and interest holders) which are abandoned, vacant, a public nuisance or constitute some threat or impediment to the public's interest, health or safety.

**ATTEST:**

**TOWNSHIP OF ABERDEEN**

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Karen Ventura, Township Clerk

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Fred Tagliarini, Mayor