

**ORDINANCE NO. 23-2016**

**AN ORDINANCE AMENDING THE CODE OF THE TOWNSHIP OF ABERDEEN,  
CHAPTER XII ENTITLED "BUILDINGS, CONSTRUCTION AND HOUSING"  
SECTION 12-7.4 ENTITLED  
"ESTABLISHMENT OF ABANDONED PROPERTY LIST."**

**WHEREAS**, pursuant to the Abandoned Property Rehabilitation Act (N.J.S.A. 55:19-78 et seq.), the Mayor and Council of the Township of Aberdeen has the power to establish an Abandoned Property List and to establish and adopt specific municipal powers that are authorized to municipalities under the New Jersey Abandoned Property and Rehabilitation Act, N.J.S.A. 55:19-78 et seq., (the "Act"); and

**WHEREAS**, the Mayor and Council of the Township strongly agree with the Act that it is the responsibility of the property owner to maintain his/her property in sound condition and prevent it from becoming a nuisance, that this responsibility extends to properties which are not in use, and failure of a property owner to comply with legitimate orders to pay his/her property taxes, demolish, stabilize or otherwise repair his or her property after due notice and the passage of the requisite time period, creates a presumption that the owner has abandoned the property; and

**WHEREAS**, the Township incurs disproportionate costs in order to deal with problems resulting from vacant and abandoned structures including, but not limited to, excessive police calls, fire calls and property inspections; and

**WHEREAS**, it is in the public interest for the Township to establish minimum standards of accountability on the owners or other responsible parties of vacant and abandoned structures in order to protect the health, safety and general welfare of the residents of the Township;

**WHEREAS**, it is in the public interest for the Township to impose a fee in conjunction with inspections of vacant and abandoned structures in light of the disproportionate costs imposed on the Township by the presence of these structures.

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Township of Aberdeen that the Code of the Township of Aberdeen is hereby amended to establish and adopt the municipal powers authorized by the Act, N.J.S.A. 55:19-78 et seq., and

related statutory provisions, by amending section 12-7.4 entitled "ESTABLISHMENT OF ABANDONED PROPERTY LIST" as follows:

**§12-7.4. ESTABLISHMENT OF ABANDONED PROPERTY LIST.**

**A.** The Township hereby directs the Public Officer to identify Abandoned Property and to establish an Abandoned Property List throughout the Township or within those parts of the Township as the Governing Body may, from time to time, designate. The Abandoned Property List shall include, for each Abandoned Property identified, the tax block and lot number, the name of the owner of record, if known, and the street address of the lot. The Township, by resolution, may add properties to the Abandoned Property List at any time.

**B.** An Interested Party may request that a property be included on the Abandoned Property List following that procedure set forth in N.J.S.A. 55:19-105.

**C.** Abandoned Property shall not be included on the Abandoned Property List if rehabilitation is being performed in a timely manner, as evidenced by building permits issued and diligent pursuit of rehabilitation work authorized by those permits.

**D.** A property on which an entity other than the Township of Aberdeen has purchased or taken assignment from the Township of a tax sale certificate which has been placed on the Abandoned Property List may be removed in accordance with the provisions of Section 29 of N.J.S.A. 55:19-103.

**E.** The Public Officer shall establish the Abandoned Property List or any additions thereto by publication in the official newspaper of the Township, which publication shall constitute public notice, and, within ten (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 N.J.S.A. 54:4-64(d). 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 shall

specify 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 Monmouth County Clerk. 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 Township as plaintiff, as though an action had been commenced by the Township against the Owner.

**F.** The owner or party in interest of the Abandoned Property will be required to pay a \$50 inspection fee to the Township for each time that the property needs to be inspected by Township officials.

**G.** The Public Officer, within ten days of establishment of the Abandoned Property List, or any additions thereto, shall send, by regular mail, facsimile, or electronic mail, a copy of the Abandoned Property List to the Electric and Gas Utilities serving the Township.

**H.** An Owner or Lien Holder may challenge the inclusion of his property on the Abandoned Property List by appealing that determination to the Public Officer within thirty (30) days of the Owner's receipt of the certified notice or forty (40) days from the date upon which the notice was sent. An Owner whose identity was not known to the Public Officer shall have forty (40) days from the date upon which notice was published or posted, whichever is later, to challenge the inclusion of a property on the Abandoned Property List. For good cause shown, the public officer shall accept a late filing of an appeal.

**I.** Within thirty (30) days of receipt of a request for an appeal of the findings contained in the notice pursuant to Paragraphs E. and F. of this Section, the Public Officer shall schedule a hearing for redetermination of the matter. Any property included on the list shall be presumed to be Abandoned Property unless the Owner, through the submission of an affidavit or certification by the property Owner averring that the property is not abandoned and stating the reasons for such averment, can demonstrate that the property was erroneously included on the list. The affidavit or certification shall be accompanied by supporting documentation, such as but not limited to photographs, and repair invoices, bills and construction contracts. The sole ground for appeal shall be that the property in question is not Abandoned Property as that term is defined in N.J.S.A. 55:19-54. The Public Officer shall decide any timely filed appeal within ten (10) days of the hearing on the appeal and shall promptly, by certified mail, return receipt requested, and by regular mail, notify the Property Owner of the decision and the reasons therefore.

**J.** The Property Owner may challenge an adverse determination as the result of an appeal with the Public Officer pursuant to Paragraphs G. and H. of this section, by instituting, in accordance with the New Jersey Court Rules, a summary proceeding in the Superior Court, Law Division, Monmouth County, which action shall be tried de-novo. Such action shall be instituted within 20 days of the date of the notice of decision mailed by the Public Officer pursuant to Subsection 'H' of this section. The sole ground for appeal shall be that the Property in question is not Abandoned Property as that term is defined in N.J.S.A. 55:19-54. The failure to institute an action of appeal on a timely basis shall constitute a jurisdictional bar to challenging the adverse determination, except that, for good cause shown, the court may extend the deadline for instituting the action. The Public Officer shall promptly remove any property from the Abandoned Property List that has been determined not to be abandoned on appeal.

**K.** The Abandoned Property List shall become effective, and the Township shall have the right to pursue any legal remedy with respect to properties on the Abandoned Property List at such time as any one Property has been placed on the list in accordance with the provisions of this section, upon the expiration of the period for appeal with respect to that Property or upon the denial of an appeal brought by the Property Owner.

**L.** Any Interested Party may submit a written request to the Public Officer asserting that any property within the Township of Aberdeen should be included on the Abandoned Property List. The written request must specify 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 or, if not, the reasons for not adding the property.

**M.** Any Interested Party may participate in a redetermination hearing regarding the inclusion of a property on the Abandoned Property List. Upon written request by any interested party, the Public Officer shall provide that 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 is proposes to submit at the hearing.