

## **ORDINANCE NO. 19-2022**

### **AN ORDINANCE AMENDING THE CODE OF THE TOWNSHIP OF ABERDEEN, CHAPTER XII ENTITLED “BUILDINGS, CONSTRUCTION AND HOUSING” SECTION 12-7 ENTITLED “VACANT/ABANDONED PROPERTY LIST; REGISTRATION” AND SECTION 12-8 ENTITLED “MAINTENANCE OF VACANT AND ABANDONED RESIDENTIAL PROPERTIES DURING FORECLOSURE”**

**WHEREAS**, on January 18, 2022, P.L. 2021, c. 444 was enacted to standardize municipal programs regarding creditors’ duties with respect to blight prevention in foreclosure actions; and

**WHEREAS**, the Township of Aberdeen currently maintains an abandoned property list and requires registration of residential properties subject to foreclosure; and

**WHEREAS**, municipalities with existing vacant property registration ordinances must amend them to conform to new requirements for such ordinances set by P.L. 2021, c. 444; and

**WHEREAS**, the Township of Aberdeen has determined that the municipal code concerning the abandoned property list and residential foreclosure procedures needs to be amended in accordance with P.L. 2021, c. 444.

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Township of Aberdeen hereby amend and supplement the Code of the Township of Aberdeen section 12-7 entitled “VACANT/ABANDONED PROPERTY LIST; REGISTRATION” and section 12-8 entitled “MAINTENANCE OF VACANT AND ABANDONED RESIDENTIAL PROPERTIES DURING FORECLOSURE” as follows:

#### **SECTION 1**

Section 12-7 of the Municipal Code of the Township of Aberdeen is hereby amended and supplemented as follows:

##### **§ 12-7 VACANT/ABANDONED PROPERTY LIST; REGISTRATION.**

- (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 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 public officer, within 10 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.
- (g) The owner or party in interest of the abandoned property will be required to file a registration statement for such vacant property with the Housing Inspector on forms provided by the Township for such purposes within 60 days of notice or within 30 days after assuming ownership of a vacant property. The registration

will be valid for one year and the owner or parties in interest will be required to annually renew the registration.

(h) The registration fee schedule **for each property on the abandoned property list** is as follows:

Initial registration	\$500
First renewal	\$1,000
<b><u>Second and later renewals</u></b>	<b><u>\$2,000</u></b>

(i) 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 30 days of the owner's receipt of the certified notice or 40 days from the date upon which the notice was sent. An owner whose identity was not known to the public officer shall have 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.

(j) Within 30 days of receipt of a request for an appeal of the findings contained in the notice pursuant to Subsections 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 **Subsection o of this section**. The public officer shall decide any timely filed appeal within 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.

(k) The property owner may challenge an adverse determination as the result of an appeal with the public officer pursuant to Subsections 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 **Subsection o of this section**. 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.

- (l) 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.
- (m) 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 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.
- (n) 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 20 days' notice of any such hearing. The party shall provide the public officer with notice at least 10 days before the hearing of its intention to participate, and the nature of the testimony or other information that is proposed to submit at the hearing.
- (o) **Abandoned property shall be defined as property that is not legally occupied by a mortgagor or tenant, which is in such condition that it cannot be legally reoccupied, because of the presence or finding of at least two of the following:**
  - (1) **overgrown or neglected vegetation;**
  - (2) **the accumulation of newspapers, circulars, flyers, or mail on the property;**
  - (3) **disconnected gas, electric, or water utility services to the property;**
  - (4) **the accumulation of hazardous, noxious, or unhealthy substances or materials on the property;**
  - (5) **the accumulation of junk, litter, trash, or debris on the property;**
  - (6) **the absence of window treatments such as blinds, curtains, or shutters;**
  - (7) **the absence of furnishings and personal items;**
  - (8) **statements of neighbors, delivery persons, or government employees indicating that the property is vacant and abandoned;**

- (9) windows or entrances to the property that are boarded up or closed off, or multiple window panes that are damaged, broken, and unrepaired;
- (10) doors to the property that are smashed through, broken off, unhinged, or continuously unlocked;
- (11) a risk to the health, safety, or welfare of the public or any adjoining or adjacent property owners due to acts of vandalism, loitering, criminal conduct, or the physical destruction or deterioration of the property;
- (12) an uncorrected violation of a municipal building, housing, or similar code during the preceding year, or an order by municipal authorities declaring the property to be unfit for occupancy and to remain vacant and unoccupied;
- (13) the mortgagee or other authorized party has secured or winterized the property due to the property being deemed vacant and unprotected or in danger of freezing;
- (14) a written statement issued by a mortgagor expressing the clear intent of all mortgagors to abandon the property; or
- (15) any other reasonable indicia of abandonment.

(p) All registration fees assessed in accordance with this section shall be due immediately upon registration of the property to the abandoned property list and annually thereafter on the date of renewal pursuant to Subsection g of this section.

(q) No less than 20 percent of any money collected pursuant to this section shall be utilized for municipal code enforcement purposes.

## SECTION 2

Section 12-8.1 of the Municipal Code of the Township of Aberdeen is hereby amended and supplemented 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 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 following information:
  - (1) the property's street address, lot, and block number;

- (2) the date of the summons and complaint in the foreclosure action, the court in which it was filed, and the docket number of the filing;
- (3) the full name, address, and telephone number 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;
- (4) the full name, address, and telephone number for any person or entity retained by the creditor or a representative of the creditor to be responsible for any care, maintenance, security, or upkeep of the property;
- (5) whether the property is abandoned as defined in Chapter 12, § 12-7 of this Code.

(b) A creditor in an action to foreclose on a mortgage on residential property within the Township shall, within 10 days of a change in any of the information to be provided as set forth in Subsection a of this section, notify the Township Clerk of such change.

(c) 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.

(d) 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 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.

### **SECTION 3**

Section 12-8.4 of the Municipal Code of the Township of Aberdeen is hereby amended and supplemented as follows:

§ 12-8.4 Failure to Designate Representative of Out-of-State Creditor; Violation.

- (a) 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 for each day of the violation commencing on the day after the ten-day period set forth in paragraph one of N.J.S.A. 46:10B-51 and § 12-8.1 of this Code with respect to notifying the Township clerk that an action to foreclose on the property has been filed.
- (b) **No less than 20 percent of any money collected pursuant to this section shall be utilized for municipal code enforcement purposes.**

#### **SECTION 4**

Section 12-8.5 of the Municipal Code of the Township of Aberdeen is hereby amended and supplemented as follows:

##### **§ 12-8.5 Violations and Penalties.**

- (a) Except as set forth in § 12-7.4 and herein, any person, firm, corporation or entity violating any provision of this section 12, § 12-8, or Chapter 12, § 12-7 of this Code shall, upon conviction, be punishable as provided in Chapter 1, § 1-5, of this Code. A creditor required to care, maintain, secure and keep up a property under this section, cited in a notice issued pursuant to § 12-8.3, shall be subject to a fine of \$1,500 for each day of the violation **starting on the day immediately following the 30-day remediation period, or 10-day remediation period for imminent threats to public health and safety, as set by Chapter 12, § 12-8.3 of this Code.**
- (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.
- (c) **No less than 20 percent of any money collected pursuant to this section shall be utilized for municipal code enforcement purposes.**

**BE IT FURTHER ORDAINED** by the Mayor and Council that should any section, paragraph, sentence, clause, or phrase of this ordinance be declared unconstitutional or invalid

for any reason, the remaining portion of this ordinance shall not be affected thereby and shall remain in full force and effect, and to that end the provisions of this ordinance are hereby declared to be severable.

**BE IT FURTHER ORDINAED** by the Mayor and Council that all ordinances or parts of ordinances inconsistent with this amending ordinance are hereby repealed to the extent of their inconsistencies only.

**BE IT FURTHER ORDAINED** by the Mayor and Council that this ordinance shall be in full force and take effect after final passage and publication, as required by law.

Introduced: November 3, 2022

Adopted: November 29, 2022

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Fred Tagliarini, Mayor

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Melissa Pfeifer, Township Clerk