

TOWNSHIP OF WASHINGTON
BERGEN COUNTY, NEW JERSEY

ORDINANCE NO. 18-20

**AN ORDINANCE AUTHORIZING THE IDENTIFICATION OF
ABANDONED PROPERTIES AND THE ESTABLISHMENT OF AN
ABANDONED PROPERTY LIST WITHIN THE TOWNSHIP OF WASHINGTON**

BE AND IT IS HEREBY ORDAINED by the Township Council of the Township of Washington that Chapter 360 of the Code of the Township of Washington (“Property Maintenance”) is hereby amended by creating Article VII to be entitled “Abandoned Properties” which shall provide as set forth below, and Chapter 212-14 (“Property Maintenance”) prescribing fees in connection therewith is amended as set forth below:

1.
“

ARTICLE VII

Abandoned Properties

§ 360-26 Purpose, rights and obligations.

The purpose of this chapter is to notify property owners, lienholders and other interested parties of property within the Township of Washington (the “Township”) of the intent of the Township to implement the Abandoned Properties Rehabilitation Act (N.J.S.A. 55:19-78 et seq., hereunder, the “Act”), its provisions, procedures, authority and lawful remedies, empowering the Township and its officials to act under the authority of same. This chapter modifies the Abandoned Properties Rehabilitation Act only for purposes of notification, order and context and preserves all substantive rights and obligations of the Act.

§ 360-27 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ABANDONED PROPERTY

Any property which meets the criteria set forth in Section 360-28 of this chapter.

PUBLIC OFFICER

Any person designated or appointed by the Township to exercise the powers

and authority prescribed by this chapter. Unless another person is designated or appointed by the Township to exercise the powers and authority prescribed by this chapter, the Code Enforcement Official shall be deemed to be the public officer hereunder.

§ 360-28 Abandoned property; criteria (N.J.S.A. 55:19-81).

A. Except as provided in Section 6 of P.L. 2003, c. 210 (N.J.S.A. 55:19-83), any property that has not been legally occupied for a period of six months and which meets any one of the following additional criteria may be deemed to be abandoned property upon a determination by the public officer that:

- (1) The property is in need of rehabilitation in the reasonable judgment of the public officer, and no rehabilitation has taken place during that six-month period;
- (2) Construction was initiated on the property and was discontinued prior to completion, leaving the building unsuitable for occupancy, and no construction has taken place for at least six months as of the date of a determination by the public officer pursuant to this section;
- (3) At least one installment of property tax remains unpaid and delinquent on that property in accordance with Chapter 4 of Title 54 of the Revised Statutes (N.J.S.A. 54:4-1 et seq.) as of the date of a determination by the public officer pursuant to this section; or
- (4) The property has been determined to be a nuisance by the public officer in accordance with Section 5 of P.L. 2003, c. 210 (N.J.S.A. 55:19-82).

B. A property which contains both residential and nonresidential space may be considered abandoned pursuant to P.L. 2003, c. 210 (N.J.S.A. 55:19-78 et seq.), so long as two-thirds or more of the total net square footage of the building was previously legally occupied as residential space and none of the residential space has been legally occupied for at least six months at the time of the determination of abandonment by the public officer and the property meets the criteria of either Subsection A(1) or (4) of this section.

§ 360-29 Nuisance property; criteria (N.J.S.A. 55:19-82).

A. A property may be determined to be a nuisance if:

- (1) The property has been found to be unfit for human habitation, occupancy or use pursuant to Section 1 of P.L. 1942, c. 112 (N.J.S.A. 40:48-2.3);

- (2) The condition and vacancy of the property materially increases the risk of fire to the property and adjacent properties;
 - (3) The property is subject to unauthorized entry leading to potential health and safety hazards; the owner has failed to take reasonable and necessary measures to secure the property; or the Township has secured the property in order to prevent such hazards after the owner has failed to do so;
 - (4) The presence of vermin or the accumulation of debris, uncut vegetation or physical deterioration of the structure or grounds has created potential health and safety hazards and the owner has failed to take reasonable and necessary measures to remove the hazards; or
 - (5) The dilapidated appearance or other condition of the property materially affects the welfare, including the economic welfare, of the residents for the area in close proximity to the property, and the owner has failed to take reasonable and necessary measures to remedy the conditions.
- B. A public officer who determines a property to be a nuisance pursuant to Subsection A(2) through (5) of this section shall follow the notification procedures set forth in P.L. 1942, c. 112 (N.J.S.A. 40:48-2.3 et seq.).

§ 360-30 Inventory of abandoned property; list to be maintained; publication in official newspaper; notice to owner of record; challenge by owner (N.J.S.A. 55:19-55).

- A. The Township Administrator may direct the public officer to identify “abandoned property” for the purpose of establishing an abandoned property list throughout the Township, or within those parts of the Township as the Administrator may designate. Each parcel so identified shall include the tax lot and block number, the name of the owner of record, if known, and the street address of the lot.
- B. The public officer may add properties to the abandoned property list at any time and alternatively may delete or remove properties from the list at any time when the public officer finds that the property no longer meets the criteria of an abandoned property. The abandoned property list shall be maintained by the public officer and shall be available to the Township Administrator and Township Clerk.
- C. An 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 the permits. Removal of certain properties from the

abandoned property list may be performed in accordance with any and all provisions of the Abandoned Properties Rehabilitation Act, N.J.S.A. 55:1-78 et seq.

- D. The public officer shall establish the abandoned property list by publication in an official newspaper of the Township, which publication shall constitute public notice, and, within 10 days after publication, the public officer shall send a notice, by regular and certified mail, return receipt requested, to the record owner of each and every property as reflected on the official tax records of the Township included on the published list. The publication shall include the name of the record owner, tax lot and block number and street address. The public officer, in consultation with the Tax Assessor, shall also send out notice by regular mail to any known mortgagee, servicing organization, or property tax processing organization that regularly receives a duplicate copy of the tax bill for the property. The mailed notice shall indicate the factual basis for the public officer's determination that the property is abandoned property, specifying the rules and regulations promulgated and the information relied upon in making such finding. The public officer is further required to satisfy all other prescribed notices and filings pursuant to the Abandoned Properties Rehabilitation Act and entitled to all other remedies and available procedures afforded by same.
- E. An owner or lienholder may challenge the inclusion of his/her property on the abandoned property list as authorized above by appealing that determination to the public officer within 30 days of the owner's receipt of the certified or regular mailed 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 the later, to challenge the inclusion of the property on the abandoned property list. For good cause shown to the public officer, a late challenge shall be accepted by the public officer. Within 30 days of receipt of a challenge, the public officer shall schedule a hearing for a redetermination of the inclusion. Any property included on the list is presumed to have satisfied the criteria for inclusion, and the burden is on the property owner to submit the proper paperwork and/or testimony that can demonstrate that the property was erroneously included on the list. The affidavit or certification shall be accompanied by supporting documentation, which may include but not be limited to photographs and repair invoices, bills and construction contracts. The sole ground for appeal shall be the property in question is not abandoned property. The public officer shall promptly, by certified mail, return receipt requested, and by regular mail notify the property owner of the decision and the reasons therefor.

- F. The owner or lienholder may challenge an adverse determination of an appeal with the public officer pursuant to Subsection E of this section by instituting, in accordance with the New Jersey Court Rules, a summary proceeding in the Superior Court, Law Division, sitting in the county in which the property is located, 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 E 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 Section 35 of P.L. 1996, c. 62 (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.

§ 360-31 Property deemed not abandoned; criteria; certification of abandonment provided upon request (N.J.S.A. 55:19-83).

- A. If an entity other than the Township has purchased or taken assignment for the Township of a tax sale certificate on a property that has not been legally occupied for a period of six months, that property shall not be placed on the abandoned property list pursuant to Section 36 of P.L. 1996, c. 62 (N.J.S.A. 55:19-55) if 1) the owner of the certificate has continued to pay all Township taxes and liens on the property in the tax year when due; and 2) the owner of the certificate takes action to initiate foreclosure proceedings within six months after the property is eligible for foreclosure pursuant to either Subdivision a or b of N.J.S.A. 54:5-86, as appropriate, and diligently pursues foreclosure proceedings in a timely fashion thereafter.
- B. A property which is used on a seasonal basis shall be deemed to be abandoned only if the property meets any two of the additional criteria set forth in Section 4 of P.L. 2003, c. 210 (N.J.S.A. 55:19-81).
- C. A determination that a property is abandoned property under the provisions of P.L. 2003, c. 210 (N.J.S.A. 55:19-78 et seq.), shall not constitute a finding that the use of the property has been abandoned for purposed of municipal zoning or land use regulation.
- D. Upon request of a purchaser or assignee of a tax sale certificate seeking to bar the right of redemption on an abandoned property pursuant to Subdivision b of N.J.S.A. 54:5-86, the public officer or the tax collector shall, in a timely fashion, provide the requester with a certification that the property fulfills the definition of abandoned according to the criteria set forth in Sections 4 and 5 of P.L. 2003, c. 210 (N.J.S.A. 55:19-81 and 55:19-82).

§ 360-32 Removal of property from list of abandoned properties; remediation (N.J.S.A. 55:19-57).

A. An owner may remove a property from the list of abandoned properties prior to sale of the tax sale certificate by paying all taxes and Township liens due, including interest and penalties, and:

(1) By posting cash or a bond equal to the cost of remediating all conditions because of which the property has been determined to be abandoned pursuant to Section 36 of P.L. 1996, c. 62 (N.J.S.A. 55:19-55) and depositing cash or a bond to cover the cost of any environmental cleanup required on the property, evidenced by a certification by a licensed engineer retained by the owner and reviewed and approved by the public officer stating that the cash or bond adequately covers the cost of the cleanup; or

(2) By demonstrating to the satisfaction of the public officer that the conditions rendering the property abandoned have been remediated in full; provided, however, that where the public officer finds that the owner is actively engaged in remediating the conditions because of which that property was determined to be abandoned pursuant to Section 36 of P.L. 1996, c. 62 (N.J.S.A. 55:19-55), as evidenced by significant rehabilitation activity on the property, the public officer may grant an extension of time of not more than 120 days for the owner to complete all work, during which time no further proceeding will be taken against the owner or the property.

B. If the owner has posted cash or a bond in order to have a property removed from the abandoned property list and the conditions because of which the property was determined to be abandoned have not been fully remediated within one year of the date of posting the cash or bond, or, in the case of a property which requires a remediation of any known, suspected or threatened release of contaminants, if the owner has failed to enter into a memorandum of agreement with the Department of Environmental Protection or an administrative consent order, remediation in conformance with the agreement or order, then the cash or bond shall be forfeited to the Township, which shall use the cash or bond and any interest which has accrued thereon for the purpose of demolishing or rehabilitating the property or performing the environmental remediation. Any funds remaining after the property has been demolished, rehabilitated or cleaned up shall be returned to the owner.

§ 360-33 Registration requirements.

The owner and/or creditor of any abandoned property as defined herein shall: 1) within 30 calendar days after the property becomes abandoned property; or 2) within 30 calendar days after assuming ownership of the

abandoned property; or 3) within 30 calendar days of receipt of notice by the Township that the property has been added to the list of abandoned properties; file a registration statement for such abandoned property with the public official on forms provided by the Township for such purposes in the manner set forth below. Failure to receive notice by the Township shall not constitute grounds for failing to register the property as abandoned property.

A. Each property having a separate block and lot number as designated in official records of the Township shall be registered separately.

B. The registration statement shall include the name, street address, telephone number and e-mail address of a person 21 years of age or older, designated by the owner or creditor or owners or creditors as the authorized agent for receiving notices of code violations and for receiving process in any court proceeding or administrative enforcement proceeding on behalf of such owner or owners or creditors in connection with the enforcement of any applicable code; and the name, street address, telephone number and e-mail address of the firm and the actual name(s) of the firm's individual principal(s) responsible for maintaining the property. The individual or a representative of the firm responsible for maintaining the property shall be available by telephone or in person on a twenty-four-hour-per-day, seven-day-per-week basis. The two entities may be the same or different persons. Both entities shown on the statement must maintain offices in the State of New Jersey or reside within the State of New Jersey.

C. The registration shall remain valid for one year from the date of registration.

D. The owner or creditor of an abandoned property shall notify the public official within 30 calendar days of any change in the registration information by filing an amended registration statement on a form provided by the Township for such purpose.

E. The registration statement shall be deemed prima facie proof of the statements therein contained in any administrative enforcement proceeding or court proceeding instituted by the Township against the owner, owners or creditor of the abandoned property.

F. The registration statement may include any additional information that the public official may reasonably require.

G. There shall be due and payable a registration fee for each abandoned property added to the Township's list of abandoned properties in accordance with the schedule set forth in Section 212-14. If any registration fee is not paid

within 30 days of notification, a lien will be placed on the abandoned property for the amount of same.

§ 360-34 Access to abandoned properties.

The owner and/or creditor of any abandoned property registered under this chapter shall provide access to the Township to conduct exterior and interior inspections of the building or other structures and improvements on the property to determine compliance with municipal codes, upon reasonable notice to the property owner or creditor or the designated agent. Such inspections shall be carried out, except in case of emergent circumstances, on weekdays during the hours of 9:00 a.m. and 5:00 p.m., or such other time as may be mutually agreed upon between the owner or creditor and the Township. If the Township cannot contact the owner and/or creditor, the public officer shall send a notice, by regular and certified mail, return receipt requested, to the record owner of such property as reflected on the official tax records of the Township advising of the date and time the public officer and/or any other Township official will appear at the property to conduct inspections. Failure or refusal of the owner and/or creditor of the property to provide access to the property shall constitute authorization for the public officer and other Township officials to enter upon the property to conduct any inspections of the building or other structures and improvements on the property to determine compliance with municipal codes. The right to enforce all municipal codes, state law, and all other applicable laws, rules and regulations is expressly reserved by the Township.

§360-35 Ongoing duties of owners and lienholders of abandoned properties.

In addition to all duties and responsibilities of an owner or lienholder of a property under all municipal codes, state law, and all other applicable laws, rules and regulations, the owner and/or lienholder of an abandoned property shall be required to:

- A. Board and secure the principal structure and all attached and unattached accessory structures, garages or similar structures to the end that they are free from current or potential health or safety hazards.
- B. Insure that at all times the exterior grounds of the principal structure, and all attached and unattached accessory structures, including yards, fences, sidewalks, walkways, rights-of-way, alleys, retaining walls and driveways, are well-maintained and free from trash, debris, litter, and grass and weed overgrowth.
- C. Insure that at all times the principal structure and all attached and unattached accessory structures, garages or similar structures, and exterior grounds are free from rodents and other vermin and mosquito

infestation.

- D. Insure that at all times the exterior grounds are free from the accumulation of debris, uncut vegetation or physical deterioration that has created potential health and safety hazards.
- E. Maintain all structures in a secure and closed condition, and keep the exterior grounds in a clean and well-maintained condition.

§ 360-36 Violations and penalties.

- A. Any owner or in-state creditor who violates any provision of this chapter or of the rules and regulations issued hereunder shall be subject to a fine of \$1,500 for each offense. Every day that a violation continues shall constitute a separate and distinct offense. Fines assessed under this chapter shall be recoverable from the owner or creditor and shall be a lien on the property as described in N.J.S.A. 55:19-100.
- B. Any out-of-state creditor who violates any provision of this chapter or of the rules and regulations issued hereunder shall be subject to a fine of \$2,500 for each day a separate violation of this chapter exists. Fines assessed under this chapter shall be recoverable from the owner or creditor and shall be a lien on the property as described in N.J.S.A. 55:19-100. "

2. Section 212-14 (Chapter 360, Property Maintenance) is hereby amended by adding the following provisions thereto:

§ 212-14 Fees.

"

B. Abandoned Properties (§ 360 - 33)

The registration fee for each abandoned property shall be as follows:

- (1) Initial registration fee: \$500.
- (2) First renewal fee: \$1,000.
- (3) Second and subsequent renewal fee: \$2,000.
- (4) If any registration fee is not paid within six months of notification by the Township, the registration fee shall increase by \$1,000."

3. If any section, sub-section, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid such decision shall not affect the remaining portions of this Ordinance.

4. All Ordinances or any provisions of any ordinance inconsistent with the provisions of this Ordinance are hereby repealed as to such inconsistencies and not otherwise.

5. This Ordinance shall take effect upon final passage and publication and in accordance with the Charter, and subject to such emergency resolution as may be adopted pursuant to Section 17-32 thereof. [R.S. 40:69A-181 (b)].

ATTEST:

APPROVED:

TOWNSHIP COUNCIL OF THE
TOWNSHIP OF WASHINGTON



Susan Witkowski,
Township Clerk



Michael DeSena,
Council President

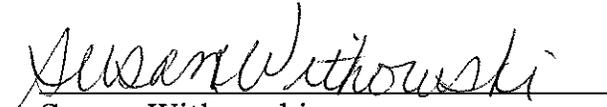
First Reading of Township Ordinance No. 18-20

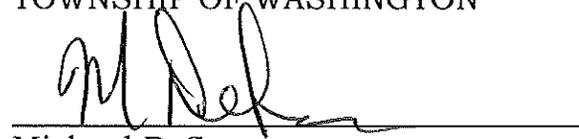
Introduction Date: December 3, 2018

MOTION		SECOND		COUNCIL	AYES	NAYES	ABSTAIN	ABSENT
Bruno		Bruno		Bruno	X			
Cascio	X	Cascio		Cascio	X			
Cumming		Cumming	X	Cumming	X			
DeSena		DeSena		DeSena	X			
Ullman		Ullman		Ullman	X			

ATTEST:

APPROVED:
TOWNSHIP COUNCIL OF THE
TOWNSHIP OF WASHINGTON


Susan Witkowski,
Township Clerk


Michael DeSena,
Council President

Second Reading of Township Ordinance No. 18-20

Adoption Date: December 17, 2018

MOTION	SECOND	COUNCIL	AYES	NAYES	ABSTAIN	ABSENT
Bruno	Bruno	Bruno	X			
Cascio	X Cascio	Cascio	X			
Cumming	Cumming	Cumming				X
DeSena	DeSena	DeSena	X			
Ullman	Ullman	X Ullman	X			