

INTRODUCED BY: Councilman Porter

AN ORDINANCE AMENDING CHAPTER 94, PROPERTY MAINTENANCE, THE TOWN OF DENTON CODE REGARDING ABANDONED PROPERTIES AND ADDING A NEW CHAPTER 29, ENTITLED "ABANDONED PROPERTIES" OF THE DENTON TOWN CODE.

WHEREAS, Article XI-E, Constitution of the State of Maryland; Section 4-103(b)(3), Subtitle 1, Title 4, Division II, Local Government Article, Annotated Code of Maryland; and the Charter and Code of the Town of Denton provide the authority under which the Town Council may adopt, repeal, and/or amend the ordinances of the Town of Denton; and,

WHEREAS, the presence of vacant, abandoned, and foreclosed properties can lead to neighborhood decline, can create an attractive public nuisance, contribute to lower property values, discourage potential buyers from purchasing a property adjacent to or in neighborhoods with the aforementioned properties; and,

WHEREAS, the Town of Denton has an obligation to protect its nonresidential and residential neighborhoods from decline and devaluation; and,

WHEREAS, The Town of Denton incurs disproportionate costs in order to address the problems of vacant, abandoned, and foreclosed properties, including but not limited to excessive police calls, fire calls, and property maintenance complaint calls; and,

WHEREAS, the Town Council has determined that it is desirable and in the public interest to amend provisions of the Denton Town Code Chapter 94, and to adopt regulations and standards for vacant and abandoned, properties in a new Chapter 29, imposing a fee and registration of abandoned and vacant properties in consideration of the disproportionate costs imposed on the Town by the presences of these properties; and,

NOW, THEREFORE, BE IT ENACTED, the Denton Town Council hereby ordains as follows:

SECTION 1: The Code of the Town of Denton, Chapter 94, Property Maintenance, is hereby amended by adding the following subsection (7) to Chapter 94.2.1(D):

(7) Chapter 29 of the Denton Town Code for all references to and regulation of “abandoned,” or “vacant,” properties.

SECTION 2: The Code of the Town of Denton, Chapter 94, Property Maintenance, is hereby amended by repealing the provisions, “Unsafe, Abandoned, Vacant, and Foreclosed Properties”, Section 310.1 through 310.12.

SECTION 3: The Code of the Town of Denton is amended by adding a new Chapter 29 entitled “Abandoned Properties” which shall provide as follows:

Article I: SCOPE AND ADMINISTRATION

§ 29-1 Title. These provisions shall be known as the Denton Abandoned Properties Code.

§ 29-2 Purpose. It is the intent of the Town of Denton through the adoption of this code to protect residential and nonresidential neighborhoods from becoming blighted through the lack of maintenance and security of abandoned properties, becoming a nuisance to the community. It is the obligation of the responsible parties to prevent these properties and buildings from becoming a burden to the neighborhood and community and a threat to public health, safety, and welfare.

§ 29-3 Applicability. Where there is a conflict between a general requirement and specific requirement, the specific and most restrictive requirement shall be applicable.

§ 29-4 Other Laws. The provisions of this code shall not be deemed to supercede any provisions of the Denton Town Code, State, or Federal Law.

§ 29-5 Partial Invalidity. In the event any part or provision of this code is held to be illegal or void, this shall not have the effect of making void or illegal any other provision of this code.

Article II: TERMS DEFINED.

§ 29-6.1 Definitions.

ABANDONED PROPERTY. *Real property which is vacant and meets the criteria of § 29-8.1 of this Article.*

ACCESSIBLE PROPERTY. *A property that is accessible through a compromised/breached gate, fence, wall, etc.*

ACCESSIBLE STRUCTURE. *A structure or building that is unsecured and/or breached in such a way as to allow access to the property or interior space by unauthorized persons.*

AGREEMENT. *Any agreement or written instrument which provides that title to a property shall be transferred or conveyed from one owner to another owner after the sale, trade, transfer, or exchange.*

BENEFICIARY. *A lender under a note secured by a mortgage or deed of trust.*

BOARDED-UP BUILDING. *Any building or structure the exterior openings of which are closed by extrinsic devices or some other manner designed or calculated to be permanent, giving the building the appearance of non-occupancy or non-use.*

BOARDING STANDARD. *Securing and boarding of building or building premises according to Chapter 94, Property Maintenance, of the Denton Town Code.*

DAYS. *Consecutive calendar days.*

EVIDENCE OF VACANCY. *Any condition that on its own, or combined with other conditions present, would lead a reasonable person to believe that the property has not been legally occupied or in use for a period of one (1) calendar year or more. Such conditions include, but are not limited to, overgrown and/or dead vegetation, accumulation of newspapers, circulars, flyers and/or mail, past due utility notices and/or disconnected utilities, accumulation of trash, junk, and/or debris, the absence of window coverings such as curtains, blinds and/or shutters, the absence of furnishings and/or personal items consistent with residential habitation, boarded-up buildings, statements by neighbors, passersby, delivery agents, and government employees that the property is not legally occupied or in use.*

OWNER. *Person or persons, or legal entity, shall include the title holder, any agent of the title holder, foreclosing entity, or any entity having authority to act with respect to an abandoned property as defined in this Code.*

PROPERTY. *Any unimproved or improved real property or portion thereof, and includes the buildings or structures located on the property regardless of condition.*

PROPERTY, RESIDENTIAL. *Any real property, or portion thereof, designed or permitted to be used for dwelling purposes, and shall include the buildings and structures located on such improved real property. This includes any real property being offered for sale, trade, transfer, or exchange as "residential" whether or not it is legally permitted and/or zoned for such use.*

PROPERTY, NONRESIDENTIAL. *Any real property, or portion thereof, designed or permitted to be used for purposes as defined by the use and occupancy classification in Chapter 38, Building Construction, of the Denton Town Code and shall include the buildings and structures located on such improved real property. This includes any real property being offered for sale, trade, transfer, or exchange as "nonresidential" or "commercial" whether or not it is legally permitted and/or zoned for such use.*

RETURN TO SERVICE. *Rehabilitated property that has obtained all required zoning and building approvals, and that has functional use and is legally occupiable.*

SECURING. *Such measures that assist in rendering the property inaccessible to unauthorized persons, including but not limited to the repairing of fences and walls, chaining or locking of gates, the repair or boarding of door, window, and/or other openings.*

SUBSTANDARD BUILDING. *Any building or structure, or portion thereof, or the premise on which same is located, there exists any substandard conditions to the extent that endangers the life, health, property, safety or welfare of the public or occupants thereof.*

UNREASONABLE TIME. Any portion of time exceeding the period for full compliance with the provisions of this Article as established by the official responsible for enforcement in accordance with § 29-7.2.

VACANT. Building or premise, or portion thereof, unoccupied and unsecured and having one or more of the conditions in accordance with § 29-8.

Article III: ADMINISTRATION AND ENFORCEMENT.

§ 29-7.1 Responsibility of Enforcement. The Department of Planning and Codes of the Town of Denton shall administer and enforce the provisions of this code, and maintenance of records thereof.

§ 29-7.2 Official. The enforcement of this code shall be the duty of the Director, or his or her designee, of the Department of Planning and Codes of the Town of Denton.

§ 29-7.3 Notification to Owner. The owner of property subject to this Code shall be notified in writing of the requirement to register abandoned or substandard property as provided herein.

§ 29-7.4 Public Notification. The names and addresses of owners of properties subject to the provisions of this code, shall be made publicly available.

§ 29-7.5 Forms. The Department of Planning and Codes of the Town of Denton shall provide the forms for registration and waivers and exceptions.

§ 29-7.6 Records. The Department of Planning and Codes of the Town of Denton shall maintain all records pursuant to this code for a time period pursuant to the records retention policy of the Town of Denton.

Article IV: STANDARDS FOR DETERMINATION, EXCEPTIONS, AND WAIVERS.

§ 29-8.1 Determination of Abandonment. Except as provided in § 29-8.3, property with one or more of the following conditions shall be subject to the provisions of this code:

- a. *The property is determined to be substandard in accordance with § 29-8.2.*
- b. *Construction on the property was initiated under approved permits which have expired and construction has been discontinued for at least six (6) months prior to completion for any reason, leaving the building unsuitable for occupancy.*
- c. *The property, whether secured or unsecured, containing buildings or structures damaged by fire, flood, or disrepair and maintained in such condition for a period of ninety (90) days or longer.*

§ 29-8.2 Determination of Substandard Building and Premises. A property determined to be a nuisance in accordance with the provisions of Chapter 94, Denton Property Maintenance, of the Denton Town Code, or having one or more of the following conditions shall be subject to the provisions of this code:

- a. *Property is unoccupied and boarded.*
- b. *Improper or inadequate sanitation, including but not limited to, disconnected or faulty water and sewer service or equipment, infestation of insects, rodents, or vermin.*
- c. *Hazardous or unsanitary materials maintained on the property that cause, create, or contribute to offensive odors or is a fire hazard.*
- d. *Inadequate or disconnected fire protection features, including but not limited to, defective equipment, disconnected water and electrical services, and alarms.*
- e. *Inadequate, defective, or hazardous mechanical equipment.*
- f. *Structural hazards, including but not limited to, deteriorated or defective foundations, supports, beams,*

floor or roof support, damaged or inadequately constructed chimney.

§ 29-8.3 Exceptions and Waivers. *Properties shall be exempt from the provisions of this code, provided the owner satisfactorily demonstrates one or more of the following:*

- a. An active listing agreement for sale to the general public or pending foreclosure proceedings in the Circuit Court for Caroline County, provided that the property is secured and otherwise maintained in accordance with the provisions of the Denton Town Code; or,*
- b. A written return to service plan that includes a reasonable timeline and evidence of sufficient funding for rehabilitation as approved by the Official ~~in accordance with § 29-7.2~~; or,*
- c. A written demolition plan that includes a contract for safe demolition and removal of debris and rubble as approved by the Official ~~in accordance with § 29-7.2~~; or,*
- d. ~~Donation~~ Transfer of property to a nonprofit, such as Habitat for Humanity or other similar organization, for rehabilitation or demolition.*

Article V: REGISTRATION AND FEES.

§ 29-9.1 Registration. *Except as provided for in § 29-8.3, Exceptions and Waivers, abandoned properties shall be registered with the Department of Planning and Codes by the owner.*

- a. Registration Forms. The registration shall contain the name of the owner, whether beneficiary/trustee (corporation or individual), person, or legal entity (corporation or individual) the direct street/office mailing address of the owner (no P. O. Boxes), a direct contact name, email address, and phone number for the owner or authorized owner representative and, in the case of a corporation or out of area owner, the local property*

management company responsible for the security, maintenance, and marketing of the property.

- b. Properties subject to this chapter shall remain under the annual registration requirement, security and maintenance standards pursuant to this code as long as the property remains vacant or abandoned, or in accordance with the provisions of § 29-8.3.*
- c. Any person, firm or corporation that has registered a property under this code must report any change of information contained in the registration within thirty (30) days of the change.*

§ 29-9.2 Fees. An annual registration fee shall accompany the registration form to be determined a complete application. The fee and registration shall be valid for one (1) calendar year. Fees paid for registered properties subsequently approved for a waiver or exemption pursuant to § 29-8.3 shall not be refunded.

§ 29-9.3 Fee Schedule.

Abandoned Property Fee Schedule.

<i>Initial Registration</i>	<i>\$300.00</i>
<i>First Renewal (2nd Year)</i>	<i>\$600.00</i>
<i>Second Renewal (3rd Year)</i>	<i>\$1,200.00</i>
<i>Subsequent Renewal (4th Year or More)</i>	<i>\$3,000.00</i>

Article VI: GENERAL REQUIREMENTS.

§ 29-10.1 Requirements of the Owner of an Abandoned Property. The owner shall be responsible for compliance with the following requirements:

- a. The owner of any vacant or abandoned property shall, within thirty (30) days after the building becomes abandoned or within thirty (30) days after assuming ownership of the abandoned property shall submit a registration form and fee for each such property on forms*

in accordance with § 29-9.1. The owner shall be required to renew the registration annually, no later than thirty (30) days from the initial registration date, for as long as the property remains abandoned and shall pay a registration or renewal fee in the amount established by § 29-9.3; and,

- b. The owner of any abandoned property shall provide access to the interior and exterior upon registration of the property to the Director, or his or her designee upon reasonable request and notice, or for cause, such as receipt of a property maintenance or police complaint; and,*
- ~~*c. Upon registration, the owner of any abandoned property shall post a sign affixed in a location visible from a public way, indicating the name, address, email address, and telephone number of the owner, the owner's authorized agent for purpose of service of process, and the authorized person or agent responsible for day to day supervision and management of the property. The sign shall be of a size and dimension and placed in a location visible and legible from the nearest public way; and,*~~
- c. The owner of any abandoned property shall enclose and secure all structures against unauthorized entry. The owner shall also maintain the sign required under § 29-10.1 (c) until the building is demolished, repaired, or rehabilitated, and legally occupiable; and,*
- d. The owner of any abandoned property shall regularly maintain the interior and exterior of all structures pursuant to Chapter 94, Property Maintenance, of the Denton Town Code, including regular lawn maintenance; and,*
- e. The owner of any abandoned property shall make provisions for winterizing the property and cessation of all services, such as water, sewer, and electrical in buildings other than buildings with fire sprinkler systems; and,*
- f. The owner of any abandoned property shall make provisions for the cessation of the delivery of mail, newspapers and circulars to the property.*

Article VII: VIOLATIONS AND PENALTIES.

§ 29-11.1 Violations and Penalties. Any owner who is not in full compliance or violates any provision of this code shall be subject to a penalty fee, pursuant to Chapter 94, Property Maintenance, Section 108, Unsafe Structures and Equipment, of the International Property Maintenance Code, as locally amended and subject to fine as established in the Town of Denton Penalty Schedule, that may be amended time to time by resolution of the Town Council of the Town of Denton.

Article VIII: APPEALS.

§ 29-12.1 Means of Appeal. Any person directly affected by a decision of the Director or his or her designee in the enforcement of the provisions of this code, or notice or order issued under this code shall have the right to appeal in accordance with the provisions of Chapter 94, Property Maintenance, Section 111 of the International Property Maintenance Code, local amendment.

SECTION 4: All ordinances or parts of ordinances of Town of Denton inconsistent herewith are repealed to the extent of such inconsistency.

SECTION 5: Severability. Should any provision, section, paragraph, sentence or word of this section be determined unconstitutional, such decision shall not affect the validity of the remaining portions of the Denton Town Code.

SECTION 6: This ordinance and the rules, regulations, provisions, and matters established and adopted hereby shall take effect and be in full force and effect seven (7) days from and after the date of its final passage and adoption.

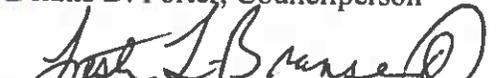
ENACTED THIS 7th DAY OF July, 2016.

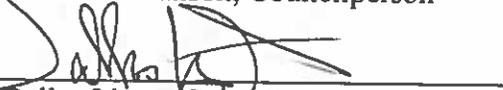
DENTON TOWN COUNCIL:


Abigail McNinch, Mayor


Robert L. Clendaniel, Vice Mayor


Dennis D. Porter, Councilperson


Lester L. Branson, Councilperson


Dallas Lister, Councilperson

ATTEST:


Karen L. Monteith

Approved for legal sufficiency this 7th day of July, 2016.


Christopher F. Drummond

Date Introduced 6-2-2016
Date Amendments Introduced _____
Date Passed 7-7-2016
Effective Date 7-14-2016

Text that is stricken reflects language omitted from the Town Code
Text in **bold** and *italicized* reflects additions to the Town Code



TITLE: ORDINANCE CHAPTER 29, "ABANDONED PROPERTIES" HIGHLIGHTS
FROM: Thomas Batchelor, Senior Code Official
DATE: 23 MAY 2016

Town Code Chapter 29, "Abandoned Properties" (Amendment to existing regulations): abandoned properties are a nuisance to the Community - the key characteristics of abandoned properties (as defined by this Code) are properties in disrepair or substandard and unlivable, AND permanently vacated by the Owner. Affects residential and nonresidential properties.

DESCRIPTION

- Abandoned properties are a nuisance to the community by:
 1. Creating blight, an attractive nuisance, and reducing property values in the neighborhood;
 2. Creating a burden to Town resources, i.e. increased Police and Fire services; and,
 3. Creating a burden to Department resources, i.e. increased Property Maintenance complaints.
- Current provisions of abandoned properties are in Chapter 94, Property Maintenance, Section 310.
- This Ordinance amends the provisions of Town Code Chapter 94, Property Maintenance, by establishing:
 1. Clarifies the standards that classifies a property as an "Abandoned" property;
 2. Amends the standards that allow Waivers and Exceptions from the Code; and,
 3. Establishes escalating fees for length of time an abandoned property remains.

KEY DETAILS OF THE CODE AND THIS AMENDMENT

- Conditions of a property that defines a property as abandoned:
 1. Properties that are boarded, damaged by fire or other event, and in these conditions for 90-days AND remains unlivable by law.
 2. Construction on properties abandoned AND in a condition that remains unlivable by law.
 3. Life safety features deactivated or made nonfunctioning - i.e., sprinklers shutoff, or alarms deactivated.
 4. Properties in disrepair or substandard AND permanently vacated.
- Waivers amended:
 1. Demolish or repair to habitable conditions;

2. Donate to charitable organization for demolition or repair to habitable conditions;
 3. Foreclosed properties required to secure and maintain (for sale).
- Abandoned properties require Annual Registration, Posting of Owner and Preservation Service Information, and Payment of Fees (Escalates upon renewal).
 - Abandoned properties require maintenance of the properties: discontinuing mail circulars, removal of trash and rubbish, and providing landscape maintenance.
 - Foreclosed properties require maintenance of the properties to preserve habitability: discontinuing mail circulars, removal of trash and rubbish, maintaining buildings in livable conditions, providing landscape maintenance, and securing the property.
 - Primary goal is to remove abandoned properties by demolition or repair to habitable condition (put into service).