

Ordinance of the City of Paterson, N.J.

No. 4 1st Reading No. 14-034

No. 2 Public Hearing
(2nd Rdg. & Final Passage)

Division

TITLE: **AN ORDINANCE OF THE CITY OF PATERSON,
COUNTY OF PASSAIC, STATE OF
NEW JERSEY AMENDING AND
SUPPLEMENTING CHAPTER 157,
ENTITLED "BUILDINGS, DANGEROUS AND UNFIT"
OF THE CITY CODE SO AS TO MODIFY ARTICLE IV
ENTITLED "ABANDONED PROPERTIES."**


Date JULY 29, 2014

Date to Mayor AUGUST 1, 2014

Date Returned AUGUST 4, 2014

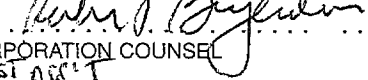
Date Submitted to
Council

Factual Contents Certified to By

 Title

Date

Approved As To Form and Legality
on Basis of Facts Set Forth

 CORPORATION COUNSEL 7/15/14
1st ASST Date

COUNCILPERSON ANDRE SAYEGH

Moved the Following Ordinance:

WHEREAS, the Municipal Council enacted Ordinance No. 09:034 which designated the Director of Community Improvements to identify abandoned properties within the City of Paterson (hereinafter referred to as "City") and place said properties on an abandoned property list set forth in N.J.S.A. 55:19-55, et. seq.; and

WHEREAS, these abandoned buildings, by virtue of their condition and their proximity to other buildings, are diminishing the value of the neighborhood and have a negative effect on the quality of life of adjacent residents and property owners, increasing the risk of property damage and discouraging neighborhood stability and revitalization; and

WHEREAS, many of these buildings or the land on which they are situated can be used for productive purposes, which will further the revitalization of the City and improve its economic and social condition; and

WHEREAS, there are currently over one thousand abandoned properties on the abandoned/vacant properties list registered with the Division of Community Improvements as set forth in Ordinance No. 09:034 and a list of those properties are attached hereto: and

WHEREAS, the overwhelming number of abandoned properties throughout the City affects the public's health, safety and welfare by the increased crime throughout the City; and

WHEREAS, the Municipal Council wishes to amend the City Code, Chapter 157 "Buildings, Dangerous and Unfit," Article IV "Abandoned Properties," to

NOW, THEREFORE BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF PATERSON AS FOLLOWS:

Section I.

The Municipal Code of the City of Paterson is hereby amended and supplemented so as to amend Chapter 157, entitled "Buildings, Dangerous and Unfit" so as to amend Article IV, entitled "Abandoned Properties," so as to read in its entirety as follows:

§157-30. Abandoned Property List

The Director of the Division of Community Improvements, as public officer designated by the Mayor pursuant to N.J.S.A. 55:19-80, is hereby directed to identify abandoned properties within the municipality, place said properties on an abandoned property list established as provided in Section 36 of P.L. 1996, c.62 (N.J.S.A. 55:19-55) as amended by Section 28 of P.L. 2003, c.210, and provide such notices and carry out such other tasks as are required to effectuate an abandoned property list as provided by law.

§157-31. Applicability

The abandoned property list shall apply to the City of Paterson as a whole.

§157-32. Responsibilities and powers of public officer

AN ORDINANCE OF THE CITY OF PATERSON,
COUNTY OF PASSAIC, STATE OF
NEW JERSEY AMENDING AND
SUPPLEMENTING CHAPTER 157,
ENTITLED "BUILDINGS, DANGEROUS AND UNFIT"
OF THE CITY CODE SO AS TO MODIFY ARTICLE IV,
ENTITLED "ABANDONED PROPERTIES."

Page 2 of 14

The Director of the Division of Community Improvements, designated by the Mayor as the public officer, shall carry out the responsibilities established by this article and shall have all the related responsibilities and powers provided by law.

§157-33. Report to Mayor and Council

The public officer shall provide a report to the Mayor and Municipal Council every six months with respect to the number and location of properties on the abandoned property list, the status of those properties, and any actions taken by the municipality or by any qualified rehabilitation entity designated pursuant to the authority granted the public officer with respect to any property on the list or any other abandoned property within the City of Paterson.

§157-34. Definitions

For purpose of this chapter, the following terms are defined as set forth herein:

"Abandoned property" shall include any property that is determined to be abandoned pursuant to the "Abandoned Properties Rehabilitation Act." N.J.S.A. 55:19-78.

"Lien holder or mortgage holder" shall include any person or entity holding a note, mortgage or other interest secured by the building or any part thereof.

"Owner" shall include the holder or holders to the title of an abandoned property.

"Property" shall include any building or structure and the land appurtenant thereto.

"Public Officer" shall include the person designated by the municipality pursuant to N.J.S.A. 40:48-2.5 or any other officer of the municipality qualified to carry out the responsibilities set forth in the Abandoned Property Rehabilitation Act and designated by the Mayor.

"Qualified rehabilitation entity" shall include any entity organized and authorized to do business under the State of New Jersey which shall have as one of its purposes be the construction or rehabilitation of residential or non-residential buildings, the provisions of affordable housing, the restoration of abandoned property, the revitalization and improvement of urban neighborhoods, or similar purpose, and which shall be well qualified by virtue of its staff, professional consultants, financial resources, and prior activities set forth in N.J.S.A. 55:19-78 et seq. to carry out the rehabilitation of vacant buildings in urban areas.

§157-35. Inventory of Abandoned property; list to be maintained; notice to owner; challenge by owner.

The City of Paterson may direct the public officer to identify abandoned properties for the purpose of establishing an abandoned property list throughout the City. Each abandoned property so identified shall include the block and lot, the name of the owner of record, the street address of the lot, and the basis for the determination that the property is abandoned.

AN ORDINANCE OF THE CITY OF PATERSON,
COUNTY OF PASSAIC, STATE OF
NEW JERSEY AMENDING AND
SUPPLEMENTING CHAPTER 157,
ENTITLED "BUILDINGS, DANGEROUS AND UNFIT"
OF THE CITY CODE SO AS TO MODIFY ARTICLE IV,
ENTITLED "ABANDONED PROPERTIES."

Page 3 of 14

A. The public officer shall establish and maintain a list of abandoned properties, to be known as the "Abandoned Property List." The City of Paterson may add properties to the list at any time, and may delete properties at any time when the public officer finds that the property no longer meets the definition of an abandoned property, as set forth in §157-36.

B. Any 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.

§157-36. Abandoned Property, criteria.

A. 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 an 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 determination by the public officer pursuant to this section;
3. At least one installment of property taxes remains unpaid and delinquent on that property in accordance with N.J.S.A. 54:4-1, et. seq. as of the date of determination of 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 N.J.S.A. 55:19-82 for one or more of the following reasons:
 - a. The property has been found to be unfit for human habitation, occupancy or use pursuant to N.J.S.A. 40:48-2.3.
 - b. The condition and vacancy of the property materially increases the risk of fire to the property and adjacent properties.
 - c. 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 City has secured the property in order to prevent such hazards after the owner has failed to do so;
 - d. The presence of vermin or the accumulation of debris, uncut vegetation or physical deterioration of the structure or grounds have created potential health and safety hazards and the owner has failed to take reasonable and necessary measures to remove the hazards; or
 - e. The dilapidated appearance or other condition of the property materially affects the welfare, including the economic welfare, of the residents of the area in close proximity to the property, and the owner has failed to take reasonable and necessary measures to remedy the conditions.

AN ORDINANCE OF THE CITY OF PATERSON,
COUNTY OF PASSAIC, STATE OF
NEW JERSEY AMENDING AND
SUPPLEMENTING CHAPTER 157,
ENTITLED "BUILDINGS, DANGEROUS AND UNFIT"
OF THE CITY CODE SO AS TO MODIFY ARTICLE IV,
ENTITLED "ABANDONED PROPERTIES."

Page 4 of 14

B. Exceptions.

1. A property which contains both residential and non-residential space may be considered abandoned pursuant to N.J.S.A. 55:19-78, et. seq. so long as two-thirds or more of the total net square footage of the buildings 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.
2. A property used on a seasonal basis shall be abandoned only if it meets any two of the additional criteria set forth in N.J.S.A. 55:19-81.

§157-37. Establishment of abandoned property list.

- A. The public officer shall identify abandoned properties within the City of Paterson for the purpose of establishing an abandoned property list. 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 Public Officer may add properties to the abandoned property list at any time, and may delete properties at any time when he or she find that the property no longer meets the definition of an abandoned property.
- B. An abandoned property shall not be included on the abandoned property list if the rehabilitation is being performed in a timely manner, as evidenced by building permits issued and diligent pursuant of rehabilitation work authorized by those permits. A property on which an entity other than the City of Paterson has purchased or taken assignment form the City of a tax sale certificate which has been placed on the abandoned list may be removed if the owner of the certificate pays all municipal taxes an liens due on the property within 30 days after the property is placed on the list; provided, however, that if the owner and the certificate fails to initiate foreclosure proceedings within six months after the property was first placed on the list, the property shall be restored to the abandoned property list in accordance with the provisions of N.J.S.A. 55:19-103.
- C. The Public Officer shall establish the abandoned property list and any additions or deletions thereto by authorizing the publication of the list in the official newspaper of the City of Paterson, which publication shall include 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 noticed 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 or posted notice shall indicate the factual basis for the Public Officer's finding that the property is abandoned as that term is defined herein and 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

AN ORDINANCE OF THE CITY OF PATERSON,
COUNTY OF PASSAIC, STATE OF
NEW JERSEY AMENDING AND
SUPPLEMENTING CHAPTER 157,
ENTITLED "BUILDINGS, DANGEROUS AND UNFIT"
OF THE CITY CODE SO AS TO MODIFY ARTICLE IV,
ENTITLED "ABANDONED PROPERTIES."

Page 5 of 14

shall also be filed by the Public Officer in the Office of the Passaic County Clerk. This filing shall have the same force and effect as a formal notice under N.J.S.A. 2A:15-6. The notice shall be captioned with the name of the City of Paterson and "Plaintiff" and the name of the property owner as "Defendant," as though an action had been commenced by the City against the owner.

- D. 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. Within 30 days of receipt of a request for an appeal of the findings contained in the notice, the Public Officer shall schedule a hearing for redetermination of the matter. Any property included on the list shall be presumed to be an abandoned property unless the owner, through his submission of an affidavit or certification asserting that the property is not an abandoned property, 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, 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 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 reasons therefor.
- E. The property owner may challenge an adverse determination of an appeal with the Public Officer pursuant to Subsection D of this section by instituting, in accordance with the New Jersey Court Rules, a summary trial proceedings in the Superior Court, Passaic County. Such action shall be instituted within 20 days of the date of notice of decision mailed by the Public Officer. The sole ground for appeal and new hearing before the Superior Court shall be that the property in question is not an 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.
- F. The Public Officer shall promptly remove any property from the abandoned property list that has been determined by the Public Officer or on appeal not to be abandoned and may, in his discretion, remove properties from said list whenever he deems such removal appropriate under the circumstances.
- G. The abandoned property list shall become effective, and the City of Paterson shall have the right to pursue any legal remedy with respect to the properties on the list, at any time after at least one property has been placed on the list and following the expiration of the period for appeal with respect to that first property or upon the denial of an appeal brought by the property owner of that first property.

§157-38. Removal of property from abandoned property list.

AN ORDINANCE OF THE CITY OF PATERSON,
COUNTY OF PASSAIC, STATE OF
NEW JERSEY AMENDING AND
SUPPLEMENTING CHAPTER 157,
ENTITLED "BUILDINGS, DANGEROUS AND UNFIT"
OF THE CITY CODE SO AS TO MODIFY ARTICLE IV,
ENTITLED "ABANDONED PROPERTIES."

Page 6 of 14

A. An owner may request removal of his or her property from the Abandoned Properties List prior to the sale of the tax sale certificate by paying all taxes and City 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 N.J.S.A. 55:19-54 and by posting cash or a bond to cover the cost of any environmental cleanup required on that 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;
2. By demonstrating to the satisfaction of both the Public Officer and the City Council 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 the property was determined to be abandoned 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 proceedings will be taken against the property owner.

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 required a remediation of any known or suspected or threatened contaminants, if the owner has failed to enter into a memorandum of agreement with the New Jersey Department of Environmental Protection or an administrative consent order, as the case may be, or if an agreement or order is in effect but the owner has failed to perform the remediation in conformance with the agreement or order, then the cash or bond shall be forfeited to the City 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.

§157-39. Sale of Restricted tax liens.

- A. Notwithstanding the provisions of N.J.S.A. 54:5-19 or the provisions of any other law to the contrary, if a property is included on the abandoned property list and the property taxes or other City liens due on the property are delinquent for six or more quarters as of the date of expiration of the right to appeal the property's inclusion on the list, or, if an appeal has been filed, as of the date that all opportunities for appeal of inclusion on the list have been exhausted, then the tax lien on the property may be sold in accordance with the procedures of the Tax Sale Law, N.J.S.A. 54:5-1, et. seq. or on the 90th day following the expiration of that time of appeal or final determination on an appeal.
- B. The City of Paterson may, at its option, require that the sale of tax sale certificates or any subsequent assignment or transfer of a tax sale certificate held by the City be subject to the express condition that the purchaser or assignee shall be obliged to perform and conclude any rehabilitation or repairs necessary to remove the property from the abandoned property list pursuant to N.J.S.A.

AN ORDINANCE OF THE CITY OF PATERSON,
COUNTY OF PASSAIC, STATE OF
NEW JERSEY AMENDING AND
SUPPLEMENTING CHAPTER 157,
ENTITLED "BUILDINGS, DANGEROUS AND UNFIT"
OF THE CITY CODE SO AS TO MODIFY ARTICLE IV,
ENTITLED "ABANDONED PROPERTIES."

Page 7 of 14

55:19-55 and to post a bond in favor of the City to guarantee the rehabilitation or repair of the property. The Public Officer may waive a requirement to post a bond imposed by the City for any purchaser, assignee or transferee of a tax sale certificate that provides the documentation acceptable to the Public Officer that the purchaser, assignee or transferee is a qualified rehabilitation entity as defined in N.J.S.A. 55:19-80. The cost of rehabilitation and repairs and the cost of the bond shall be added to the amount required to be paid by the owner for redemption of the property. The purchaser, assignee or transferee of the tax sale certificate who is required to rehabilitate and repair the property shall be required to file the appropriate affidavits with the tax collector, pursuant to N.J.S.A. 54:5-62, representing the amounts of monies expended periodically toward the rehabilitation or repair of the property. A purchaser, assignee or transferee shall be entitled to interest on the amounts expended, as set forth in the affidavits, at the delinquent rate of interest for delinquencies in excess of \$1,500 in effect for the time period when the amounts were expended, pursuant to N.J.S.A. 54:4-67. The tax sale certificate purchaser, assignee or transferee, with the authority of the City of Paterson, shall be permitted to enter in and upon the property for the purposes of appraising the costs of rehabilitation and repair and to perform all other acts required to guarantee the completion of the rehabilitation or repair of the property. No rehabilitation or repair works shall be commenced, however, until proof of adequate liability insurance and an indemnification agreement, holding the City of Paterson harmless, has been filed with the Public Officer.

- C. If the City of Paterson acquired the tax sale certificate for a property on the abandoned property list, then, upon 10 days written notice to the property owner and any mortgagee as of the date of the filing the notice pursuant to N.J.S.A. 55:19-55, the City shall be permitted to enter upon the property and remediate any conditions that caused the property to be included on the abandoned property list. No remediation shall be commenced, however, if within that ten-day period the owner or mortgagee has elected to perform that remediation itself, it shall be required to post bond in favor of the City in order to ensure performance. The amount and conditions of the bond shall be determined by the Public Officer.
- D. The cost of remediation incurred by the City of Paterson, as so certified by the entity incurring the cost upon completion of the remediation, shall constitute a lien upon the property first in time and right to any other lien, whether the other lien was filed prior to or after the filing of any lien by the City, except for City taxes, liens and assessments and any lien imposed pursuant to the Spill Compensation and Control Act N.J.S.A. 58:10-23.11, et. seq. together with any interest thereon. The certification of the cost shall be filed and recorded as a lien by the entity incurring the cost with the Passaic County Clerk.
- E. The clearance, development, redevelopment, or repair of the property being maintained as an abandoned property pursuant to this chapter shall be considered a public purpose and public use for which the power of eminent domain may be lawfully exercised.

§157-39. Special tax sale and criteria for bidders

- A. The City of Paterson may hold special tax sales with respect to those properties eligible for tax sale pursuant to N.J.S.A. 54:5-19 which are also on the abandoned property list.

AN ORDINANCE OF THE CITY OF PATERSON,
COUNTY OF PASSAIC, STATE OF
NEW JERSEY AMENDING AND
SUPPLEMENTING CHAPTER 157,
ENTITLED "BUILDINGS, DANGEROUS AND UNFIT"
OF THE CITY CODE SO AS TO MODIFY ARTICLE IV,
ENTITLED "ABANDONED PROPERTIES."

Page 8 of 14

- B. The Public Officer, with the advice and consent of the City Council, shall establish criteria for eligibility to bid on properties at the sale, which may include, but need not be limited to:
1. Documentation of the bidder's ability to rehabilitate or otherwise reuse the property consistent with the City's plans and regulations; commitments by the bidder to rehabilitate or otherwise reuse the property, consistent with the City's plans and regulations;
 2. Commitments by the bidder to take action to foreclose on the tax lien by a date certain; and
 3. Such other criteria as the Public Officer, with the advice and consent of the City Council, may determine are necessary to ensure that the properties to be sold will be rehabilitated or otherwise reused in a manner consistent with the public interest.
- C. The Public Officer, with advice and consent of the City Council, may establish minimum bid requirements for a special tax sale that are less than the full amount of the taxes, interest and penalties due, to help ensure that the properties will be rehabilitated or otherwise utilized in a manner consistent with the public interest.
- D. The Public Officer, with advice and consent of the City Council, may combine properties in said special tax sale into bid packages, and require that bidders place a single bid on each package, rejecting any and all bids on individual properties that are submitted.
- E. The Public Officer, with advice and consent of the City Council, may sell said properties subject to the provision that, if the purchaser fails to carry out any commitment that has been set forth as a condition of sale or misrepresents any material qualification that has been established as a condition of eligibility to bid pursuant thereto, then the properties and any interest thereto acquired by the purchaser shall revert to the City, and any amount paid by the purchaser at the special tax sale shall be forfeited to the City.
- F. In the event there are two or more qualified bidders for any property or bid package in a special tax sale, the City may designate the unsuccessful qualified bidder whose bid was closest to the successful bid as an eligible purchaser. In the event that the selected purchaser of that property or bid package fails to meet any of the conditions of sale established by the City pursuant to this section and his or her interest in the property or properties reverts to the City, the City may subsequently designate the entity previously designated as an eligible purchaser as the winning bidder for the property or properties, and assign the tax sale certificates to that entity on the basis of that entity's bid at the special tax sale, subject to the terms and conditions of the special tax sale.
- G. The City of Paterson shall provide notice of a special tax sale pursuant to N.J.S.A. 54:5-26. The notice shall include any special terms of sale established by the City pursuant to this section. Nothing shall prohibit the City from holding a special tax sale on the same day as a standard or accelerated tax sale.

§157-41. Expedited action to foreclose right of redemption.

AN ORDINANCE OF THE CITY OF PATERSON,
COUNTY OF PASSAIC, STATE OF
NEW JERSEY AMENDING AND
SUPPLEMENTING CHAPTER 157,
ENTITLED "BUILDINGS, DANGEROUS AND UNFIT"
OF THE CITY CODE SO AS TO MODIFY ARTICLE IV,
ENTITLED "ABANDONED PROPERTIES."

Page 9 of 14

- A. When a person or entity other than the City of Paterson acquires a tax sale certificate for a property on the abandoned property list tax sale, the purchaser may institute an action to foreclose the right of redemption at any time after the expiration of just six months following the date of the sale of the tax sale certificate.
- B. When the City of Paterson is the purchaser at tax sale of any property on the abandoned property list pursuant to N.J.S.A. 54:5-34, an action to foreclose the right of redemption may be instituted in accordance with the provisions of N.J.S.A. 54:5-157(b).
- C. After the foreclosure action is instituted, the right to redeem shall exist and continue to exist until barred by the judgment of the Superior Court; provided, however, that no redemption shall be permitted except where the owner:
 - 1. Posts cash or bond equal to the cost of remediating the conditions because of which the property was determined to be abandoned pursuant to N.J.S.A. 55:19-36, as determined by the Court; or
 - 2. Demonstrates to the Court that the conditions because of which the property was determined to be abandoned have been remediated in full.

§157-42. Abandoned property status during expedited foreclosure.

- A. If an entity other than the City of Paterson has purchased or taken assignment from the City 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 added to the abandoned property list under the following limited circumstances:
 - 1. The owner of the certificate has continued to pay all City taxes and liens on the property in the tax year when due.
 - 2. The owner of the certificates takes action to initiate foreclosure proceedings within six months after the property is eligible for foreclosure pursuant to either N.J.S.A. 54:5-86(a) or (b), as appropriate, and diligently pursues foreclosure proceedings in a timely fashion thereafter.
- B. A determination that a property is abandoned under the provisions of this chapter and N.J.S.A. 55:19-78, et. seq. shall not constitute a finding that the use of the property has been abandoned for the purposes of municipal zoning or land use regulation.
- C. Upon the request of a purchaser or assignee of a tax sale certificate seeking to bar the right of redemption on an abandoned property pursuant to N.J.S.A. 54:5-86(b), the Public Officer or the tax collector shall, in a timely fashion, provide the requestor with a certification that the property fulfills the definition of an abandoned property according to the criteria established in N.J.S.A. 55:19-81 and N.J.S.A. 55:19-82.
- D. Nothing in this chapter shall preclude the City from addressing concerns regarding the condition of the property through the City of Paterson property maintenance hearing process, established by Chapter 157 of the City Code, irrespective of any ongoing foreclosure proceedings.

AN ORDINANCE OF THE CITY OF PATERSON,
COUNTY OF PASSAIC, STATE OF
NEW JERSEY AMENDING AND
SUPPLEMENTING CHAPTER 157,
ENTITLED "BUILDINGS, DANGEROUS AND UNFIT"
OF THE CITY CODE SO AS TO MODIFY ARTICLE IV,
ENTITLED "ABANDONED PROPERTIES."

Page 10 of 14

§157-43. Summary action for control and possession of abandoned property

- A. A summary action or other action to transfer possession and control of abandoned property in need of rehabilitation to the City of Paterson may be brought by the City in the Superior Court, Passaic County. If the Court shall find that the property is abandoned and that the owner or party in interest has failed to submit and initiate a rehabilitation plan, then the Court may authorize the City to take possession and control of the property and to develop its own rehabilitation plan for the property.
- B. Where the City has been granted possession and control, the City may commence and maintain those further proceedings for the conservation, protection or disposal of the property, or any part thereof, that required to rehabilitate the property, recoup the cost and expenses of rehabilitation and for the sale of the property; provided, however, that the Court shall not direct the sale of the property if the owner applies to the Court for reinstatement of control and possession of the property pursuant to N.J.S.A. 55:19-92.
- C. Failure by the owner, mortgage holder or lien holder to submit a plan for rehabilitation to the City, obtain appropriate construction permits or, in the alternative, submit formal applications for funding the cost of rehabilitation to local, state or federal agencies providing that such funding within the initial six-month period shall be deemed clear evidence that the owner has failed to take any action to further rehabilitation of the property.
- D. An owner may defend against a complaint filed pursuant to N.J.S.A. 55:19-84 by submitting a plan for the rehabilitation and reuse of the property which the subject of the complaint and by posting a bond equal to 125% of the amount determined by the Public Officer or the Court to be the projected cost of rehabilitation.
- E. Any plan submitted by an owner to defend against a complaint shall be submitted within 60 days after the complaint has been filed, unless the court provides the owner with an extension of time for good cause shown. A plan submitted by an owner pursuant to this section shall include, but not be limited to:
 - 1. A detailed financial feasibility analysis, including documentation of the economic feasibility of the proposed reuse including operating budgets or resale prices, or both, as appropriate;
 - 2. A budget for the rehabilitation of the property, including sources and uses of funds, based on the terms and conditions of realistically available financing, including grants and loans;
 - 3. A timetable for the completion of rehabilitation and reuse of the property, including milestones for performance of major steps leading to and encompassing the rehabilitation and reuse of the property; and
 - 4. Documentation of the qualifications of the individuals and firms that will be engaged to carry out the planning, design, financial packaging, construction, and marketing or rental of the property.
- F. Where the Court approves the rehabilitation plan of the owner or other party in interest, then it may appoint the Public Officer to act as monitor of compliance

AN ORDINANCE OF THE CITY OF PATERSON,
COUNTY OF PASSAIC, STATE OF
NEW JERSEY AMENDING AND
SUPPLEMENTING CHAPTER 157,
ENTITLED "BUILDINGS, DANGEROUS AND UNFIT"
OF THE CITY CODE SO AS TO MODIFY ARTICLE IV,
ENTITLED "ABANDONED PROPERTIES."

Page 11 of 14

and progress. If the owner fails to carry out any step in the approved plan, then the City may apply to the Court to have the posted bond forfeited, to transfer possession of the building to the City to complete the rehabilitation plan, and to grant authorization to use the bond proceeds for the rehabilitation. The owner or other party in interest shall provide quarterly reports to the Public Officer on its activities and progress toward rehabilitation and reuse the property.

G. If an owner is unsuccessful in defending against a complaint filed pursuant to N.J.S.A. 55:19-84, the mortgage holder or lien holder may seek to be designated in possession of the property by submitting a plan and posting bond meeting the same condition as set forth in N.J.S.A. 55:19-87. Their plan must be submitted within 60 days following the Court's rejection of the owner's plan, unless the Court provides the mortgage holder or lien holder with an extension of time for good cause shown. If the Court approves any such mortgage holder or lien holder's plan, it shall designate that party to be in possession of the property for purposes of ensuring its rehabilitation.

H. The mortgage holder or lien holder, as the case may be, shall provide quarterly reports to the Court and the Public Officer on its activities and progress toward rehabilitation and reuse of the property. If the mortgage holder or lien holder fails to carry out any material step in the approved plan, then the Public Officer shall notify the Court, which may order the posted bond forfeit, grant the City possession of the property, and authorize the City to use the proceeds of the bond for rehabilitation of the property.

I. Any sums incurred or advanced for the purpose of rehabilitation the property by a mortgage holder or lien holder granted possession of a property, including Court costs and reasonable attorney's fees, may be added to the unpaid balance due to that mortgage holder or lien holder, with interest calculated at the same rate set forth in the note or security agreement; or in the case of a tax lien holder, at the statutory interest rate for subsequent liens.

J. If no mortgage holder or lien holder meets the conditions of N.J.S.A. 55:19-88, then the City may submit a plan to the Court which conforms to the provisions of N.J.S.A. 55:19-87. Such plan shall designate whether the City or a qualified rehabilitation entity shall undertake the rehabilitation plan in accordance with the provisions of N.J.S.A. 55:19-90.

§157-44. City rehabilitation or designation of qualified rehabilitation entity

A. The Public Officer, with advice and consent of the City Council, may designate a qualified rehabilitation entity for the purpose of exercising the City's rights, where that designation will further the rehabilitation of reuse of the property consistent with the City's plans and objectives.

B. Regardless of whether the City exercises its rights directly or the Public Officer designates a qualified rehabilitation entity pursuant to this section, while in possession of a property, the City shall maintain, safeguard, and maintain insurance on the property. Notwithstanding the City's possession of the property, the owner of the property shall not be relieved of any civil or criminal liability or any duty imposed by reasons of acts or omissions of the owner.

C. The Court may approve the borrowing of funds by the City of Paterson to rehabilitate the property and may grant a lien or security interests with priority

AN ORDINANCE OF THE CITY OF PATERSON,
COUNTY OF PASSAIC, STATE OF
NEW JERSEY AMENDING AND
SUPPLEMENTING CHAPTER 157,
ENTITLED "BUILDINGS, DANGEROUS AND UNFIT"
OF THE CITY CODE SO AS TO MODIFY ARTICLE IV,
ENTITLED "ABANDONED PROPERTIES."

Page 12 of 14

over all other liens or mortgages other than municipal liens. Prior to granting this lien priority, the Court must find as follows:

1. The City sought to obtain the necessary financing from the senior lien holder which declined to provide such financing on reasonable terms;
 2. The City sought to obtain a voluntary subordination from the senior lien holder, which refused to provide such subordination;
 3. Lien priority is necessary in order to induce another lender to provide financing on reasonable terms. No lien authorized by the Court shall take effect unless records with the Clerk of Passaic County.
- D. Where the City has designated a qualified rehabilitation entity to act on its behalf, the qualified rehabilitation entity shall provide quarterly reports to the Public Officer on its activities and progress toward rehabilitation and reuse of the property. The City or qualified rehabilitation entity, as the case may be, shall provide such reports to the Court as the Court determines to be necessary. If the Court finds that the City or its designee has failed to take diligent action toward rehabilitation of the property within one year from the grant of possession, then the Court may request the City to designate another qualified rehabilitation entity to exercise its rights, or if the City fails to do so, may terminate the order of possession and return possession and control of the property to its owner.
- E. The City of Paterson shall file notice of completion with the Court, and shall also service a copy on the owner and any mortgage holder or lien holder, at such time as the City has determined that no more than six months remain to the anticipated date on which rehabilitation will be complete. This notice shall include an affidavit of the Public Officer, attesting that the rehabilitation is anticipated to be completed within six months, and a statement setting forth the actions as it plans to undertake consistent with the plan.

§157-46. Procedures for the city to place liens, obtain title and sell property

- A. The Public Officer, with the approval of the Court, may place a lien on the property to cover any costs of the City in connection with any proceeding under N.J.S.A. 55:19-78, et. seq. incurred prior to the grant by the Court of an order of possession, which may include costs incurred to stabilize or secure the property to ensure that it can be rehabilitated in a cost-effective manner. Any such lien shall be considered a City lien for the purposes of N.J.S.A. 54:5-9, with the rights and status of a City lien pursuant thereto.
- B. Where the City seeks to gain title to the property, it shall purchase the property for fair market value on such terms as the Court shall approve, and may place the proceeds of the sale in escrow with the Court.
- C. The Court may authorize the City of Paterson to sell the property free and clear of liens, claims and encumbrances, in which event all such liens, claims and encumbrances shall be transferred to the proceeds of sale with the same priority as existed prior to resale in accordance with the provision of this section, except that municipal liens shall be paid at settlement. The proceeds of the purchase of the property shall be distributed as set forth in N.J.S.A. 55:19-97.
- D. Upon approval by the Court, the City shall sell the property on such terms and at such price as the Court shall approve, and may place the proceeds of the sale in escrow with the Court. The Court shall order a distribution of the proceeds of

AN ORDINANCE OF THE CITY OF PATERSON,
COUNTY OF PASSAIC, STATE OF
NEW JERSEY AMENDING AND
SUPPLEMENTING CHAPTER 157,
ENTITLED "BUILDINGS, DANGEROUS AND UNFIT"
OF THE CITY CODE SO AS TO MODIFY ARTICLE IV,
ENTITLED "ABANDONED PROPERTIES."

Page 13 of 14

the sale after paying Court costs in the order of priority set forth in N.J.S.A. 55:19-97.

- E. With exception of the holding of special tax sales pursuant to N.J.S.A. 55:19-101, the remedies available under N.J.S.A. 55:19-78, et. seq. shall be available to the City with respect to any abandoned property, whether or not the City has established an abandoned property list and whether or not the property at issue has been included on any such list.

SECTION II:

All Ordinances or portions of Ordinances inconsistent herewith are hereby repealed to the extent of their inconsistency only.

SECTION III:

If any part of this Ordinance shall be declared to be invalid or inoperative, such part shall be deemed severable and the invalidity hereof shall not affect the remaining parts of this Ordinance.

SECTION IV:

The City Clerk shall have this Ordinance codified and incorporated in the official copies of the Paterson Code.

SECTION V:

This Ordinance shall take effect upon passage, approval and publication as required by law.

SECTION VI:

The City Clerk and the Corporation Counsel may change any chapter numbers, article numbers and section numbers if codification of this Ordinance reveals a conflict between those numbers and the existing Code, in order to avoid confusion and possible accidental repealers of existing provisions.

SECTION VII:

The City Clerk and the Corporation Counsel may correct any clerical errors in the printing, publication and codification of this Ordinance, provided both concur with the correction being made and both certify the clerical correction being made in writing to the Municipal Council within seven days thereof.

AN ORDINANCE OF THE CITY OF PATERSON,
COUNTY OF PASSAIC, STATE OF
NEW JERSEY AMENDING AND
SUPPLEMENTING CHAPTER 157,
ENTITLED "BUILDINGS, DANGEROUS AND UNFIT"
OF THE CITY CODE SO AS TO MODIFY ARTICLE IV,
ENTITLED "ABANDONED PROPERTIES."

Page 14 of 14

STATEMENT OF PURPOSE

This ordinance is to amend the Code of Paterson governing buildings, dangerous and unfit, including supplementing the article on abandoned properties.

Z:\documents\Ordinances\PLD-Ordinance Amending and Supplementing Ch 157 Buildings Dangerous and Unfit-HL-07-15-2014-gj.doc

SECONDED BY COUNCILPERSON . DOMINGO A. MENDEZ / MOHAMMED AKHTARUZZAMAN / RUBY N. COTTON

Do Not Use Space Below This Line

RECORD OF COUNCIL VOTE ON FINAL PASSAGE	AYE	NAY	ABSTAIN	ABSENT
1. AKHTARUZZAMAN, MOHAMMED	X			
2. COTTON, RUBY N.	X			
3. DAVILA, MARITZA	X			
4. DAVIS, ANTHONY	X			
5. McKOY, WILLIAM C.	X			
6. MENDEZ, DOMINGO A.	X			
7. MORRIS, KENNETH	X			
8. SAYEGH, ANDRÉ	X			
9. TAVAREZ, JULIO	X			

Adopted on first reading at a meeting of the Council of the City of Paterson, N.J., on . JULY 15, 2014 Adopted on
second and final reading after hearing on JULY 29, 2014

Approved
Rejected By Reconsidered
JOSE TORRES By Council Over
Date Vote
JULIO TAVAREZ SONIA GORDON
President of the Council Deputy City Clerk