

## OVERVIEW OF “MESSY YARDS” DRAFT ORDINANCE FURTHER ENUMERATING PUBLIC NUISANCES

This amendment to Chapter 26 – *Health and Sanitation*, of the Aberdeen City Code, seeks to improve the Code Enforcement officer’s ability to address “messy yards” as public nuisances. The amendment passed first reading by the City Council on November 26, 2018, and is scheduled for second reading at the December 3, 2018, Council meeting.

Section 26-118 is the general nuisance ordinance but the proposed changes begin with the addition of comprehensive definitions of “disused” and “junk” at Sec. 26-117. “Disused” as defined then replaces limiting words and phrases in those nuisances specifically enumerated at Sec. 26-118(c).

Section 26-118(c) identifies additional conditions visible to neighbors and passersby that would be deemed a public nuisance. Significant changes include:

- Subsection (2): Scrap landscaping materials, like piles of dirt and pavers, may be abated.
- Subsection (5): Campers and watercraft are specifically included with disused, junk, inoperable, and unlicensed vehicles.
- Subsection (12): Voluntary trees are defined in the category of weeds and may be abated.
- Subsection (15): Detached and loose roof components are included with exterior building maintenance.
- Subsection (18): The new provision was amended by the Council at first reading and prohibits parking and storing of vehicles, trailers, and boats in the grass or dirt of a yard adjacent to a street. A definition of “yard area adjacent to a street” is also provided. At the first reading, the Council struck out language that would have limited parking to 4 vehicles outside of a residence, and prohibited storing certain structures within 100 feet of the yard adjacent to the street.

### **Included for residents to review are the following items:**

1. Ordinance No. 18-11-01, as amended at first reading.
2. Drawings showing yards adjacent to streets

You may provide your comments to a councilmember in your district (<http://www.aberdeen.sd.us/74/City-Council>), Planning & Zoning Director ([brett.bill@aberdeen.sd.us](mailto:brett.bill@aberdeen.sd.us) (605-626-7013)), City Manager ([lynn.lander@aberdeen.sd.us](mailto:lynn.lander@aberdeen.sd.us) (605-626-7025)), or City Attorney ([ron.wager@aberdeen.sd.us](mailto:ron.wager@aberdeen.sd.us) (605-626-7025)).

**ORDINANCE NO. 18-11-01**

**AN ORDINANCE AMENDING THE ABERDEEN  
CITY CODE REGARDING CHANGES TO  
CHAPTER 26 – HEALTH AND SANITATION**

**WHEREAS**, the City Council of the City of Aberdeen is charged with protecting the health, safety, and property of its citizens; and

**WHEREAS**, the City Council has determined that the following ordinances will protect the health, safety, and property of its citizens.

**BE IT ORDAINED BY THE CITY OF ABERDEEN THAT THE FOLLOWING CHANGES AND ADDITIONS SHALL BE MADE TO THE ABERDEEN CITY CODE:**

1. Chapter 26 – *Health and Sanitation* is hereby amended as follows:

**Secs. 26-88—26-116447. - Reserved.**

**Sec. 26-117. - Definitions.**

The following words, terms, and phrases when used in this article shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Disused* means an item which reasonably appears to have been abandoned, discarded, let go, cast aside, or thrown away by its owner or possessor or is not being used for its intended purpose by its owner or possessor.

*Junk* means an item which is near the end or at the end of its useful life, is extensively damaged or is missing parts, is apparently inoperable, does not have a valid, current registration if it is the type of item that requires registration, or has an approximate fair market value equal only to the approximate value of the scrap in it.

**Sec. 26-118. - Nuisance defined and prohibited.**

(a) It is unlawful for any person, owner, occupant or person in charge of any house, building, lot or premises, to create, maintain, commit, or permit to be created, maintained or committed any public nuisance as defined in subsection (b) of this section, or as enumerated in subsection (c) of this section.

(b) Within the meaning of this section, the term "public nuisance" consists of doing an act without lawful authority, or omitting to perform a duty, within the corporate limits of the city, or within one mile of the corporate limits of the city not within another municipality, or in any public grounds, or parts belonging to the city, which act or omission either:

- (1) Annoys, injures or endangers the comfort, repose, health or safety of others;
  - (2) Offends contemporary community moral standards;
  - (3) Does or tends to lower the value of adjacent real estate because of unsightliness;
  - (4) Unlawfully interferes with, obstructs or tends to obstruct, or renders dangerous for passage any lake or river, bay, stream, canal or basin, or any public park, square, street, alley, right-of-way or highway; or
  - (5) In any way renders other persons insecure in life, or in the use of property and which affects at the same time an entire community or neighborhood or any considerable number of persons, although the extent of the annoyance or damage inflicted upon the individuals may be unequal.
- (c) Nuisances shall include, but are not limited to, the following enumerations;
- (1) *Wastes and other disused items*~~such as papers, rags, aluminum cans.~~ Disused items, including, but not limited to, ~~discarded items such as~~ waste, paper, rags, trash, garbage, clothing, tin cans, aluminum cans, batteries of any kind, used motor oil, boxes, plastic containers, glass containers, plastic wrap, cardboard, ~~discarded household fixtures and furnishings, and any like~~ other unsightly items when such items are stored, collected, piled or kept on private or public property and are not stored inside a building;
  - (2) *Building and scrap materials*~~and wastes.~~ Building and landscaping materials and waste, including, but not limited to, such items as lumber, lath, pallets, plaster, old iron or other metal, concrete, brick and tile, piles of rock, sand, dirt or gravel when not used for landscaping purposes, doors, windows, and scrap or salvage building materials, boxes, barrels, or other containers, when such items are stored, collected, piled or kept and are not stored inside a building; except for building materials that are temporarily stored for work on the premises authorized by a valid building permit obtained for the premises provided that such building materials expiration of the building permit; and except for lumber neatly stacked on a platform at least 18 inches off the ground;
  - (3) *Appliances, fixtures and furniture.* Appliances, fixtures and furniture including, but not limited to, items such as stoves, refrigerators, freezers, sinks, cabinets and other kitchen appliances, bedroom furniture, mattresses, tables, chairs, clothes washing and drying machines, bathroom appliances and fixtures, light fixtures, washtubs, lawn mowers, tillers, chainsaws, snow blowers, and garden equipment when such items are stored, collected, piled or kept and are not stored inside a building; except that patio furniture and other furniture designed for outdoor use shall not constitute a nuisance, when kept in any district;

- (4) ~~Disused, Abandoned or discarded~~ refrigerators or containers. It shall be unlawful for any person to leave or permit to remain outside of any dwelling, building or other structure or within any unoccupied or abandoned building, dwelling or other structure under his or her control in a place accessible to children any ~~disused, abandoned or discarded~~ icebox, refrigerator or other container;
- (5) ~~Disused, junk, inoperable or unlicensed vehicles, etc.~~ ~~Disused, junk, inoperable, or unlicensed motor vehicles, campers, and watercraft;~~ including motor vehicle bodies and disassembled parts thereof; disused or disassembled bicycles and bicycle parts, and other mechanical machines or motors or parts thereof when such items are stored, collected, accumulated or piled and are not stored inside a building. This subsection shall not apply to any motor vehicle held in a solid fenced enclosure on the licensed premises of a licensed junk dealer or to any motor vehicle in an appropriate storage place/depository maintained in a lawful place and manner by the city;
- (6) *Carcasses of animals and hides.* All carcasses of animals remaining exposed one hour after death, excepting legally caught and tagged game, which shall be 24 hours; and all undressed hides left deposited in any open place;
- (7) *Combustible refuse.* Depositing, maintaining or permitting to be maintained or ~~be~~ accumulated upon any public or private property any combustible refuse matter such as papers, sweepings, rags, grass, tree branches, dead leaves, wood shavings, wood, magazines, cardboard, etc.;
- (8) *Liquid refuse.* All slop, foul or chemically polluted water, liquor or beer washings, all filth, refuse or offal, grease, lard, discharged through drains or spouts or otherwise thrown or deposited in or upon any street, alley, sidewalk, public way, lot, park, public square, public enclosure, or any pond or pool of water;
- (9) *Vegetables or vegetable matters emitting noxious odors.* All vegetables, vegetable matters, or other articles that emit or cause an offensive, noxious or disagreeable smell or odor; and any compost pile which is of such a nature as to spread or harbor disease, emit unpleasant odors or harmful gas, or attract rodents, vermin or other disease carrying pests, animals, or insects, except that the presence of earthworms in a compost pile shall not constitute a nuisance;
- (10) *Permitting manure, garbage, filth on street, alley, public ground.* Failure to store in a covered container or throwing or letting fall on or permit to remain on any street, alley or public ground any manure, garbage, rubbish, filth, fuel, oil, small dead animals, wood or like material;
- (11) *Manure.* The accumulation of manure unless it is in a properly constructed flyproof pit, bin, or box;

- (12) *Weeds of excess height; noxious weeds.* Permitting weeds to grow to maturity, or permitting weeds, ~~or grass, or voluntary trees,~~ to grow in excess of ten inches tall, on any property, including vacant lots. Provided, however, that these height limitations shall not apply to city-maintained parks, gardens, arboreta, or similar facilities where plants in excess of ten inches are intentionally cultivated and maintained. All noxious weeds are prohibited. A voluntary tree includes, but is not limited to, a tree not planted by a person or one that is likely to damage a nearby structure or fence as it matures;
- (13) *Dead vegetation in devices adjacent to public rights-of-way.* The accumulation of dead branches, twigs, leaves, grass and other dead vegetation other than when in a proper compost device, dead trees, when in view of any adjacent properties or public rights-of-way;
- (14) *Rodent harborage and infestation.* All property shall be kept free from severe rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by approved processes not injurious to human health. After extermination, proper precautions shall be taken to eliminate rodent harborage and prevent reinfestation;
- (15) *Failure to maintain exterior building appearance.* All buildings' exterior surfaces, other than decay resistant ~~wood~~ surfaces, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement. Windows and doors must be maintained intact and in good repair. Roof coverings, eave trim, fascia, soffits, gutters, and downspouts must be affixed, intact, and in good repair;
- (16) *Parking livestock trucks or trailers in residential districts.* Parking or permitting a livestock truck or trailer to remain on any street, area of public ground in a residential district when such truck or trailer gives off an offensive odor or is contaminated with manure or other filth;
- (17) *Excavations or containers with stagnant or polluted water.* Any excavation, depression, container or object in which stagnant or polluted water is permitted to collect or allow for the multiplication of insects.
- (18) *Nuisance parking and storing.* Parking or storing any vehicle, camper, trailer, or watercraft outside in the yard areas adjacent to a street and on the lawn or ground surface other than on a paved or graveled parking surface or driveway area. Vehicles, campers, watercraft, and other articles stored outside on residential property must be owned by a person who resides on or owns that property. Students who are away from school for periods of time but still claim the property as their legal residence will be considered residents on the property. "Yard area

adjacent to a street” means the horizontal distance between the right-of-way of a street to the foundation of the primary structure on the lot.

**BE IT FURTHER ORDAINED** that enforcement of the above amendments to Aberdeen City Code, Chapter 26 – *Health and Sanitation* shall be suspended until June 1, 2019, or 60 days from the effective date of the ordinance, whichever is later.

Passed First Reading: November 26, 2018

Passed Second Reading: \_\_\_\_\_

Adopted: \_\_\_\_\_

Published: \_\_\_\_\_

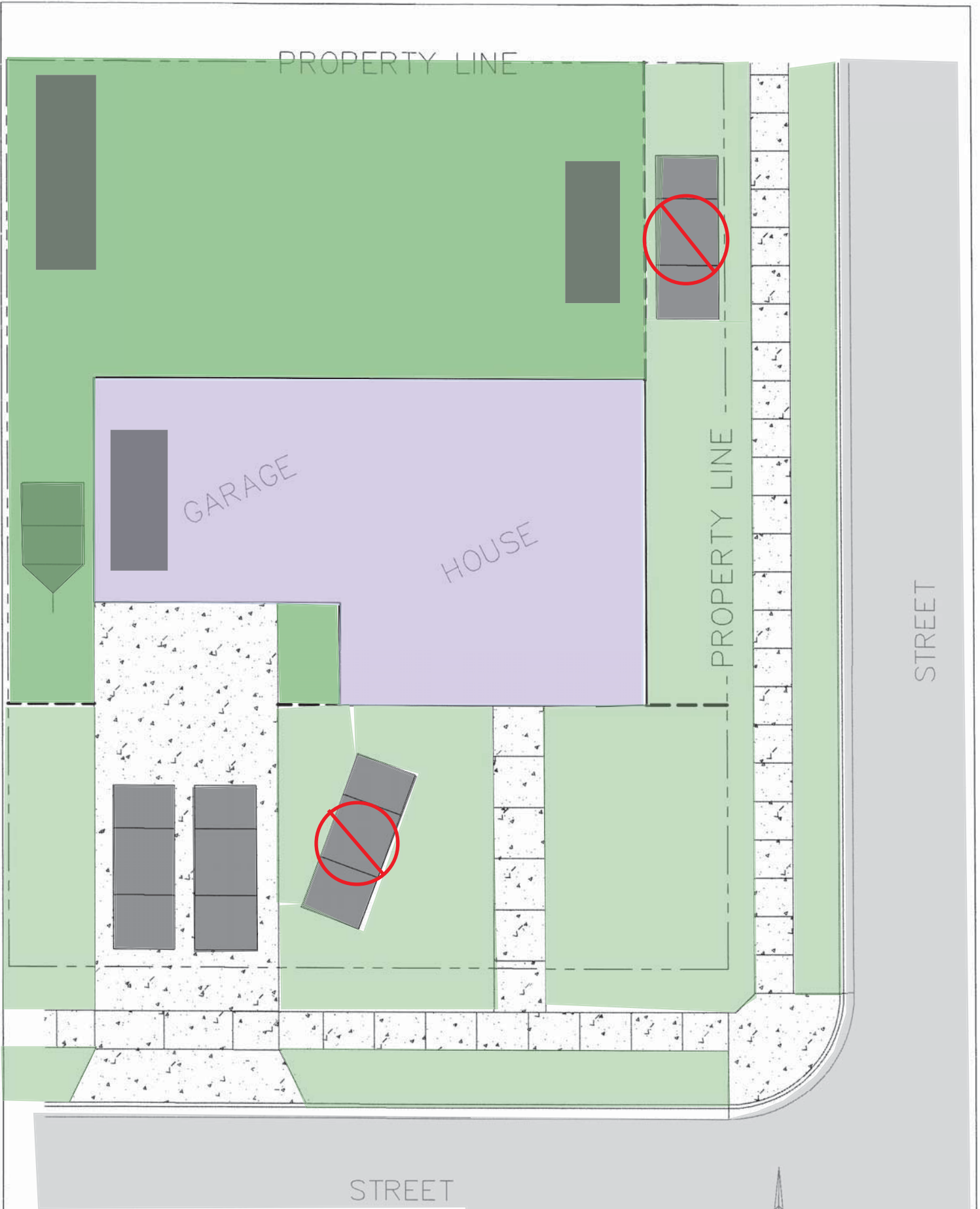
Effective Date: \_\_\_\_\_

\_\_\_\_\_  
Mike Levsen, Mayor

ATTEST:

\_\_\_\_\_  
Karl Alberts, Finance Officer

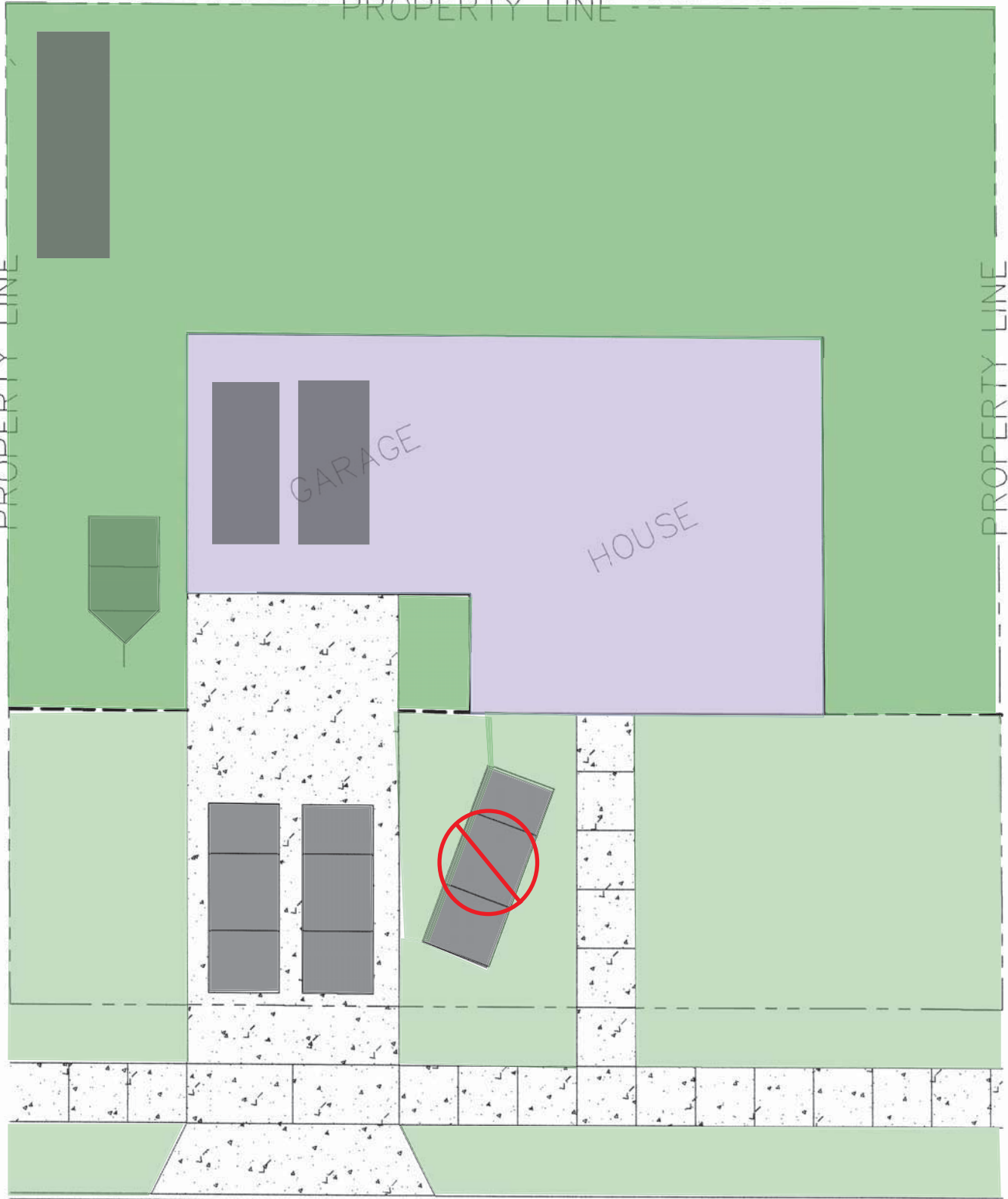




PROPERTY LINE

PROPERTY LINE

PROPERTY LINE



STREET



**CITY OF ABERDEEN**  
**ENGINEERING DEPARTMENT**  
123 S. LINCOLN ST.  
ABERDEEN, SD 57401 605-626-7017



SCALE: No Scale