

**BOROUGH OF CANONSBURG
WASHINGTON COUNTY, PENNSYLVANIA**

ORDINANCE NO. _____

AN ORDINANCE OF THE BOROUGH OF CANONSBURG, COUNTY OF WASHINGTON, COMMONWEALTH OF PENNSYLVANIA, PROVIDING FOR THE REGISTRATION AND MAINTENANCE OF CERTAIN PROPERTIES THAT HAVE DEFAULTED MORTGAGE, ARE IN THE FORECLOSURE PROCESS OR HAVE BEEN FORECLOSED UPON; ARE VACANT OR ABANDONED; PROVIDING FOR THE ENFORCEMENT OF SUCH REGULATIONS; AND PROVIDING PENALTIES FOR VIOLATIONS HEREUNDER.

WHEREAS, the Council of the Borough of Canonsburg (hereinafter “Borough Council”) desires to maintain a high quality of life for the citizens of the Borough of Canonsburg (hereinafter “Borough”) through the maintenance of properties located in the Borough; and

WHEREAS, the Borough Council has already adopted property maintenance codes to regulate building standards for the exterior of structures and the condition of the property as a whole; and

WHEREAS, the Borough Council recognizes an increase in the number of properties that have become vacant or abandoned as a result of the mortgage foreclosure process; and

WHEREAS, the Borough finds that the presence of vacant and abandoned properties as a result of mortgage foreclosures can lead to a decline in property value, create attractive nuisances and lead to a general decrease in neighborhood and community aesthetic; and

WHEREAS, the Borough Council concludes that it is in the best interests of the health, safety, and welfare of its citizens and residents to impose registration requirements of such properties located within the Borough; and

WHEREAS, the Borough Council recognizes that measures are necessary to hold property owners, mortgagees and mortgagors accountable and discourage the same from allowing properties to be abandoned, neglected or left unsupervised as a result of the foreclosure process; and

WHEREAS, the Borough is often challenged to identify and locate owners or mortgagees who can maintain the properties that have been affected by the foreclosure process; and

WHEREAS, the Borough Council desires to enact requirements in order to establish a property registration process that will identify a contact person to address safety and aesthetic concerns to minimize the negative impact and conditions that occur as a result of vacancy, absentee ownership, and the overall foreclosure process; and

WHEREAS, the Borough Council finds that the implementation of the requirements hereunder will help to protect the Borough from the negative impact and conditions that occur as a result of the foreclosure process and the lack of compliance with existing Borough regulations.

NOW THEREFORE, be it ordained by the Council of the Borough of Canonsburg, and it is hereby ordained and enacted as follows:

SECTION 1: FOREGOING CLAUSES. The foregoing clauses are hereby ratified and confirmed as being true and correct and are made a part of this Ordinance upon adoption hereof.

SECTION 2: PURPOSE AND INTENT. It is the purpose and intent of the Borough Council to establish a process to address the threat to the health, safety, and welfare of citizens of the Borough in relation to the deterioration, crime and decline in property value that occurs as a result of vacancy, absentee ownership, and a lack of adequate maintenance and security of property with defaulted mortgages. It is the Borough Council's further intent to establish a registration requirement to identify, regulate, limit and reduce the number of such properties within the Borough and identify a contact person that shall be responsible for each such property.

SECTION 3: DEFINITIONS. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

Abandoned Property — Any real property located in the Borough, whether vacant or occupied, that is in default on a mortgage, has had a *lis pendens* filed against it by the lender holding a mortgage on the property, is subject to an ongoing foreclosure action by the lender, is subject to an application for a tax deed or pending tax assessor's lien sale, or has been transferred to the lender under a deed in lieu of foreclosure. The designation of a property as "abandoned" shall remain in place until such time as the property is sold or transferred to a new owner, the foreclosure action has been dismissed, and any default on the mortgage has been cured.

Accessible Property/Structure – means a property or structure that is readily accessible as a result of an unsecured door, window, gate, fence, wall, etc., or which is secured in an insufficient manner so as to easily be breached to allow access to the interior space by unauthorized persons.

Applicable Codes – means to include, but not be limited to, the Borough's Code of Ordinances, the Borough's Zoning Code, and the Borough's Property Maintenance Code.

Blighted Property – means:

- a. Properties that have broken or severely damaged windows, doors, walls, or roofs which create hazardous conditions and encourage trespassing; or
- b. Properties in repeated or gross violation of the Borough's Property Maintenance Code which cause a decrease in the value of neighboring properties; or
- c. Properties cited as a public nuisance pursuant to applicable codes; or
- d. Properties that endanger the public's health, safety, or welfare because the properties or improvements thereon are dilapidated, deteriorated, or violate minimum health and safety standards or lacks maintenance as required by the applicable codes.

Enforcement Officer – means any law enforcement officer, building inspector, code enforcement officer, or other person authorized to enforce the applicable codes.

Default – shall mean that the mortgagor has not complied with the terms of the mortgage, promissory note, or other written evidence of debt which is secured by real property.

Evidence of Vacancy - means any condition that on its own, or combined with other conditions present, would lead a reasonable person to believe that the property is vacant.

Such conditions may include, but are not limited to: overgrown or dead vegetation; past due utility notices or disconnected utilities; accumulation of trash, junk or debris; abandoned vehicles or motorized equipment; the absence of furnishings or personal items consistent with habitation or occupancy; the presence of an unsanitary, stagnant swimming pool; the accumulation of newspapers, circulars, flyers or mail; statements by neighbors, passers-by, delivery agents or government agents; or, the presence of boards over doors, windows or other openings.

Foreclosure - shall mean the legal process by which a mortgagee, or other lien holder, terminates a property owner's right of redemption to obtain legal and/or equitable title to the real property pledged as security for a debt or the real property subject to the lien. This definition shall include, but is not limited to, public notice of default, a deed-in-lieu of foreclosure, sale to the mortgagee or lien holder, certificate of title, and all other processes, activities and actions, by whatever name, associated with the described process. The process is not concluded until the property obtained by the mortgagee, lien holder, or their designee, by certificate of title, or any other means, is sold to a non-related bona fide purchaser in an arm's length transaction to satisfy the debt or lien.

Local Property Management Company – means a property manager, property management company or similar entity responsible for the maintenance and security of registrable real property. The property manager must have a principle place of business within thirty (30) driving miles of the Borough limits. At its sole discretion, the Borough or its designee may make exceptions to this requirement and allow a non-local property manager to be listed.

Mortgagee – means the creditor, including but not limited to, lenders in a mortgage agreement; mortgage service companies; trustees; any successor in interest; any agent, servant, or employee of the creditor; or any assignee of the creditor's rights, interests or obligations under the mortgage agreement.

Owner – means any person, firm, corporation or other legal entity who, individually or jointly or severally with others, holds the legal or beneficial title to any building, facilities, equipment or premises subject to the provisions of this chapter.

Property Management Company – means a local property manager, property maintenance company or similar entity responsible for the maintenance of registrable real property.

Real Property – means any improved residential or commercial land, buildings, leasehold improvements and anything affixed to the land, or portion thereof identified by a property parcel identification number, located in the Borough limits. Developed lots are considered improved land.

Registrable Property – means any real property located in the Borough, whether vacant or occupied, that is encumbered by a mortgage in default, is subject to an ongoing foreclosure action by the Mortgagee or Trustee, is subject to an application for a tax deed

or pending tax assessor's lien sale, or has been the subject of a foreclosure sale where the title was transferred to the beneficiary of a mortgage involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure, or is determined as vacant by the Borough or its designee, including properties in said status at the time of the enactment of this Ordinance.

The designation of a "default/foreclosure" property as "registrable" shall remain in place until such time as the property is sold to a non-related bona fide purchaser in an arm's length transaction or the foreclosure action has been dismissed and any default on the mortgage has been cured.

Rental Property – means property that contains a single-family rental dwelling unit or multi-family rental dwelling units for use by residential tenants, including but not limited to, mobile homes, mobile home spaces, townhomes and condominium units. A rental dwelling unit includes property that is provided to an individual or entity for residential purposes upon payment of rent, or any other consideration in lieu of rent, regardless of relationship between lessor and lessee.

Vacant –

- a. Any building or structure that is not legally occupied and is not currently being offered for sale, rent or lease evidenced by a sign posted on the subject property advertising the property for sale, rent or lease with contact information, ownership information, and current phone number and/or an active listing on an electronic database accessible to Borough staff. If there is no posted sign and the listing is not accessible to Borough staff, a realtor may submit a written confirmation of listing to avoid the requirement of registration.
- b. Exception: This definition shall not apply to properties where owners have, for reasons such as extended vacations, nursing home care, or temporary employment, not occupied their homes for over ninety (90) days but intend to return and have notified the Borough of their intentions.

SECTION 4: APPLICABILITY. These sections shall be considered cumulative and not superseding or subject to any other law or provision for same, but rather, shall be in addition to those remedies already available to the Borough.

SECTION 5: ESTABLISHMENT OF REGISTRY: Pursuant to the above provisions of Section 2, the Borough, or its designee shall establish a registry cataloging each Registrable Property within the Borough containing the information required by this Ordinance.

SECTION 6: REGISTRATION OF VACANT PROPERTY

- a. Any Mortgagee who holds a mortgage on real property located within the Borough shall perform an inspection of the property to determine vacancy or occupancy, upon default by the mortgagor. The Mortgagee shall, within ten (10) days of the inspection, register the property with the Borough, or its designee, on forms or as directed in another manner, and indicate whether the property is vacant or occupied. A separate registration is required for each property, whether it is found to be vacant or occupied.
- b. Any property owner who owns real property located within the Borough is subject an inspection of the property to determine vacancy or occupancy based upon the provisions of Section 7 of this Ordinance.
- c. Registration pursuant to this section shall contain the name, direct mailing address, a direct contact name, telephone number, and e-mail address for the Property Owner, Mortgagee/Trustee, and/or the Servicer, and the name and twenty-four (24) hour contact phone number of the local property management company responsible for the security and maintenance of the property and who has the authority to make decisions concerning the abatement of nuisance conditions at the property, as well as any expenditure in connection therewith.
- d. Mortgagees or Property Owners who have existing registrable property have thirty (30) days from the effective date of this Ordinance to register the property in accordance herewith.
- e. If the mortgage on a registrable property is sold or transferred, the new Mortgagee is subject to all the terms of this Ordinance and within ten (10) days of the transfer must register the property and pay a registration fee in accordance with this Ordinance. Any previous unpaid annual registration fees are the responsibility of the new Mortgagee or Trustee and are due and payable with their initial registration.
- f. If the Mortgagee owner of a foreclosed real property sells or transfers the property to a non-arm's length related person or entity, the transferee is subject to all the terms of this Ordinance and within ten (10) days of the transfer must register the property and pay a registration fee in accordance with this Ordinance. Any previous unpaid annual registration fees are the responsibility of the new property owner and are due and payable with their initial registration.
- g. As long as the property is registrable it shall be inspected by the Property Owner, Mortgagee, or designee, monthly. If an inspection shows a change

in the property's occupancy status the mortgagee shall, within ten (10) days of that inspection, update the occupancy status of the property registration.

- h. All registration fees must be paid directly from the Mortgagee, Trustee, Servicer, or Owner. Third Party Registration fees are not allowed without the consent of the Borough and/or its authorized designee.
- i. Properties subject to this Ordinance shall remain under the annual registration requirement, and the inspection, security and maintenance standards of this Ordinance for as long as they are registrable.
- j. Until the mortgage or lien on the property in question is satisfied, or legally discharged, the desire to no longer pursue foreclosure, the filing of a dismissal of *lis pendens* or summary of final judgment or certificate of title, voluntary or otherwise, does not exempt any Mortgagee holding the defaulted mortgage, from the requirements of this Ordinance as long as the borrower is in default.
- k. Any person or legal entity that has registered a property under this section must report any change of information contained in the registration within ten (10) days of the change.
- l. Failure of the Mortgagee or Property Owner to properly register or to modify the registration form from time to time to reflect a change of circumstances as required by this Ordinance is a violation of the Ordinance and shall be subject to enforcement and any resulting monetary penalties.
- m. The provisions of this section shall also apply to owners, servicers, trustees, property manager, and agents of all vacant and/or abandoned property whether subject of a mortgage. All property must be registered immediately upon the determination that a property and/or structure located thereon is vacant by the Borough or its designee.
- n. Pursuant to any administrative or judicial finding and determination that any property is in violation of this Ordinance, the Borough may take the necessary action to ensure compliance and place a lien on the property for costs.

SECTION 7: DETERMINATION OF VACANCY

- a. The Code Enforcement Official or his designee shall inspect and/or review properties that are suspected as being vacant and make a determination whether a property and/or structure is vacant based upon the provisions of this Ordinance.
- b. Upon making a determination that a property and/or structure is vacant, the Code Enforcement Officer shall notify the owner by certified mail sent to the address for which the municipal taxes are delivered. Said notice shall contain notification of the property owner's right to appeal the determination, based upon the provisions of this Ordinance.
- c. Any property owner aggrieved by the determination that his/her property is vacant shall have a right to appeal to Borough Council in writing within thirty (30) days of the Code Enforcement Officer notifying the property owner of the determination of vacancy. In the written appeal, the property owner shall provide and append evidence that the property and/or structure is not vacant.
- d. Should any property owner fail to file an appeal after thirty (30) days of receiving the vacancy determination from the Code Enforcement Officer, the property owner shall register the vacant property with the Borough according to the provisions of Section 6.
- d. Borough Council shall hold a hearing at its next regular public meeting occurring at least ten (10) days after the written notice of appeal is submitted.
- e. Borough Council's decision shall be final and in writing sent to the property owner within ten (10) days of its decision. If Borough Council sustains the Code Enforcement Officer's determination of vacancy, the property owner shall register the vacant property within ten (10) days of the date of Council's written decision. Failure to register the property as a vacant property is a violation of this Ordinance.

SECTION 8: MAINTENANCE REQUIREMENTS.

- a. Properties subject to this chapter shall be kept free of weeds, overgrown brush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspaper circulars, flyers, notices, except those required by federal, state or local law, discarded personal items including, but not limited to, furniture, clothing, large and small appliances, printed material or any other items that give the appearance that the property is abandoned.

- b. The property shall be maintained free of graffiti or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior structure.
- c. Front, side, and rear yards, including landscaping, shall be maintained in accordance with the applicable code(s) at the time registration was required.
- d. Yard maintenance shall include, but not be limited to, trees, grass, ground covers, bushes, shrubs, hedges or similar plantings. Acceptable maintenance of yards and/or landscape shall not include weeds, gravel, broken concrete, asphalt or similar material.
- e. Maintenance shall include, but not be limited to, watering, irrigation, cutting and mowing of required ground cover or landscape and removal of all trimmings.
- f. Pools and spas shall be maintained so the water remains free and clear of pollutants and debris and shall comply with the regulations set forth in the applicable code(s). All pools shall be covered with a properly installed pool cover.
- g. Failure of the mortgagee and/or owner to properly maintain the property may result in a violation of the applicable code(s) and issuance of a citation or Notice of Violation in accordance with the applicable code(s) of the Borough. Pursuant to a finding and determination by the Borough's Enforcement Officer or a court of competent jurisdiction, the Borough may take the necessary action to ensure compliance with this Ordinance.
- h. In addition to the above, the property is required to be maintained in accordance with all provisions of the applicable code(s) of the Borough.

SECTION 9: SECURITY REQUIREMENTS.

- a. Properties subject to this Ordinance shall be maintained in a secure manner so as not to be accessible to unauthorized persons. A "secure manner" shall include, but not be limited to, the closure and locking of windows, doors, gates and other openings of such size that may allow a child to access the interior of the property or structure. Broken windows, doors, gates and other openings of such size that may allow a child to access the interior of the property or structure must be repaired or secured by boarding in a manner approved by the Borough's Enforcement Officer or the applicable code(s) of the Borough.

- b. If a property is registrable, and the property has become vacant or blighted, a local property manager shall be designated by the Mortgagee or Owner to perform the work necessary to bring the property into compliance with the applicable code(s), and the property manager must perform regular inspections to verify compliance with the requirements of this Ordinance, and any other applicable laws.

SECTION 10: PUBLIC NUISANCE. All registrable property is hereby declared to be a public nuisance, the abatement of which is pursuant to the police power in the interest of the health, welfare and safety of the residents of the Borough.

SECTION 11: INSPECTIONS FOR VIOLATIONS. Upon property becoming registrable in accordance with this Ordinance, an initial inspection of the property shall be performed by the Borough, its agent or designee, with subsequent monthly inspections to be performed at the discretion of the Borough. Upon inspection, a detailed report outlining the violations will be given to the responsible party, and the responsible party shall have between ten (10) to thirty (30) days, as determined by the Borough, its agent or designee, to abate the said violations. If the violations are not abated, the Borough, its agent or designee, may conduct subsequent inspections, whereby the party who is responsible for registering the property with the Borough under this Ordinance shall be cited in accordance with the penalty section of this Ordinance.

SECTION 12: ADDITIONAL AUTHORITY.

a. If the Enforcement officer has reason to believe that a property subject to the provisions of this Ordinance is posing a serious threat to the public health, safety and welfare, the Code Enforcement Officer may temporarily secure the property at the expense of the Mortgagee or Owner, and may bring the violations before the Magistrate as soon as possible to address the conditions of the property.

b. The Magistrate shall have the authority to require the Mortgagee or Owner affected by this Ordinance, to implement additional maintenance and/or security measures including, but not limited to, securing any and all doors, windows or other openings, employment of an on-site security guard or other measures as may be reasonably required to help prevent further decline of the property.

c. If there is a finding that the condition of the property is posing a serious threat to the public health, safety and welfare, then the Magistrate may direct the Borough to abate the violations and charge the Mortgagee or Owner with the cost of the abatement.

d. If the Mortgagee or Owner does not reimburse the Borough for the cost of temporarily securing the property, or of any abatement directed by the code enforcement officer or magistrate, within thirty (30) days of the Borough sending the Mortgagee or Owner the invoice then the Borough may lien the property for such costs. In addition to filing a lien, the Borough can pursue financial penalties against the Mortgagee or Owner.

SECTION 13: FEES AND PENALTIES.

- a. A non-refundable annual registration fee in the amount per property set by fee resolution, shall accompany the registration form or website registration. An additional fee set by resolution will be a non-refundable fee that shall be due and owing for each subsequent year any registered property remains on the registry.
- b. Any person who shall violate the provisions of this chapter may shall be sentenced upon conviction to a Summary Offense and pay a fine and penalty amounting to \$200.00 per violation plus court costs.
- c. A violation of this ordinance shall constitute a separate offense for each day it shall continue or recur. Each condition which exists in violation of this Ordinance is a separate violation.

SECTION 14: AMENDMENTS. Registration and Penalty Fees outlined in this Ordinance may be modified by amendment of this Ordinance, passed and adopted by the Borough Council.

SECTION 15: SEVERABILITY. If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

SECTION 16: REPEALER. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 17: EFFECTIVE DATE. This Ordinance shall take effect ten (10) days after final passage.

ORDAINED AND ENACTED into law this ___ day of _____, 2021.

ATTEST: BOROUGH OF CANONSBURG

By: _____
Denise Lesnock, Secretary

By: _____
Richard T. Bell, Council President

David Rhome, Mayor