

MUNICIPALITY OF PENN HILLS
ALLEGHENY COUNTY, PENNSYLVANIA
ORDINANCE No 052 of 2019

AN ORDINANCE OF THE MUNICIPALITY OF PENN HILLS AMENDING ORDINANCE ~~2567-2636~~ OF ~~2014~~ 2018 THE PENN HILLS VACANT AND ABANDONED PROPERTY ORDINANCE WHICH PROVIDES MEASURES FOR ADDRESSING DETERIORATION AND BLIGHT IN THE COMMUNITY AND PRESCRIBES REGISTRATION, MAINTENANCE, AND SECURITY REQUIREMENTS

ARTICLE 1

PENN HILLS VACANT AND ABANDONED PROPERTY ORDINANCE

Section 100.01-TITLE, PURPOSE AND INTENT

The title of this ordinance is the Penn Hills Vacant and Abandoned Property Ordinance. It is the purpose and intent of the Municipality of Penn Hills to amend the process to address the deterioration and blight of our neighborhoods caused by an increasing amount of abandoned, foreclosed or distressed property located within the Municipality, and to identify, regulate, limit and reduce the number of abandoned properties located within the Municipality. It is the Municipality's further intent to [establish] amend the registration program as a mechanism to protect neighborhoods from becoming blighted due to the lack of adequate maintenance and security of abandoned and foreclosed properties.

Section 100.02 - 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 - means any real property located in the Municipality, whether vacant or occupied, that is in default on a mortgage, has had a lien 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 that is accessible through a comprised/breached gate, fence, wall, etc., or a structure that is unsecured and/or breached in such a way as to allow access to the interior space by unauthorized persons.

Applicable Codes - means to include, but not be limited to, the Municipality's Property Maintenance Code, the Zoning Ordinance, Building Code and Fire Code, the Pennsylvania Building and Fire Codes, the UCC, and the Municipality's Codified Ordinances.

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 whose maintenance is not in conformance with the maintenance of other neighboring properties causing a decrease in value of the neighboring properties; or
- c) Properties cited for a public nuisance pursuant to the Applicable Codes; or
- d) Properties that endanger the public's health, safety, or welfare because the properties are vacant and abandoned or improvements there on are dilapidated, deteriorated, or violate minimum health and safety standards or lacks maintenance as required by the applicable codes.

Default shall mean that the mortgagor has not complied with the terms of the mortgage on the property, or the promissory note, or other evidence of the debt, referred to in the mortgage, as evidenced by a foreclosure filing.

Enforcement Officer - means any Law Enforcement Officer, Building Official, Zoning Inspector, Code Enforcement Officer, Fire Marshall, Building Inspector, Planner, or other person authorized by the Municipality to enforce the applicable code(s).

Foreclosure or Foreclosure Action shall mean the legal process by which a Mortgagee, or other lien holder, terminates or attempts to terminate a property Owner's equitable right of redemption to obtain legal and equitable title to the Real Property pledged as security for a debt or the Real Property subject to the lien. The legal 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.

Owner - means any person, legal entity or other party having any ownership interest whether legal or equitable, in real property. This term shall also apply to any person, legal entity or agent responsible for the construction, maintenance or operation of the property involved.

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

Real Property shall mean any residential or commercial land and/or buildings, leasehold improvements and anything affixed to the land, or portion thereof identified by a property parcel identification number, located in the Municipality limits.

Registrable Property shall mean:

- a. Any Real Property located in the Municipality, whether vacant or occupied, that is encumbered by a mortgage subject to an ongoing Foreclosure Action by the Mortgagee or Trustee, has been the subject of a Foreclosure Action by a Mortgagee or Trustee and a Judgement has been entered, 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/sale. The designation of a "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; or
- b. Any property that is vacant for more than thirty (30) days or any cancellation of Utility or Service, whichever occurs first.

Registry shall mean a web-based electronic database of searchable Real Property records, used by the Municipality to allow Mortgagees and Owners the opportunity to register properties and pay applicable fees as required in this Chapter.

Semi-Annual Registration shall mean six (6) months from the date of the first action that requires registration, as determined by the Municipality, or its designee, and every subsequent six (6) months. The date of the initial registration may be different than the date of the first action that required registration.

Utilities and Services shall mean any utility and/or service that is essential for a building to be habitable and/or perform a service necessary to comply with all Municipality codes. This includes, but is not limited to, electrical, gas, water, sewer, lawn maintenance, pool maintenance, and snow removal.

Vacant - means any building or structure that is not legally occupied.

100.03 - APPLICABILITY

These sections shall be considered cumulative and not superseding or subject to any other law or provision for same, but rather be an additional remedy available to the Municipality above and beyond any other State, County or Local provisions for same.

100.04 - ESTABLISHMENT OF A REGISTRY

Pursuant to the provisions of Section 100.05 the Municipality of Penn Hills or designee shall establish a registry cataloging each Abandoned Property and Vacant Property within the Municipality, containing the information required by this Article.

100.05 — INSPECTION AND REGISTRATION OF ABANDONED AND OR VACANT REAL PROPERTY REAL PROPERTY UNDER FORECLOSURE

Registration is required for all ~~abandoned and vacant~~ property subject to foreclosure within the Municipality of Penn Hills.

a) Upon default by the mortgagor of the mortgage, any mortgagee (lender) who holds a mortgage on real property located within the Municipality of Penn Hills shall perform an inspection of the property to determine vacancy or occupancy, upon default by the mortgagor. The mortgagee (lender) shall, within ten (10) days of the inspection, register all ~~vacant and abandoned~~ property with the Department of Code Enforcement, or designee, on forms or website access provided by the Municipality and pay the fee required for registration. A separate registration is required for each property.

b) If the property is occupied but remains in default, it shall be inspected by the mortgagee (lender) or his designee monthly until (1) the mortgagor or other party remedies the default, or (2) it is found to be vacant or show evidence of vacancy at which time it is deemed abandoned, and the mortgagee shall, within ten (10) days of that inspection, update the property registration to a vacancy status on forms provided by the Municipality.

c) Registration pursuant to this section shall contain the name of the mortgagee and the servicer, the direct mailing address of the mortgagee and the servicer, a direct contact name and telephone number for both parties, facsimile number and e-mail address for both parties, the PIN or tax number, and the

name and twenty-four (24) hour contact phonenumber of the property management company responsible for the security and maintenance of the property.

d) All registration fees must be paid directly from the Mortgagee (lender), Servicer, Trustee, or Owner. Third Party Registration fees are not allowed without the consent of the Municipality and/or its authorized designee.

e) Each individual property on the Registry that has been registered for twelve (12) months or more prior to the Effective Date shall have thirty (30) days to renew the registration and pay the non-refundable four hundred dollar (\$400.00) Semi-Annual Registration fee. Properties registered less than twelve (12) months prior to the Effective Date shall renew the registration every six (6) months from the expiration of the original registration renewal date and shall pay the non-refundable four hundred dollar (\$400.00) Semi-Annual Registration Fee.

f) If the mortgage and/or servicing on a Registrable Property is sold or transferred, the new Mortgagee is subject to all the terms of this Chapter. Within ten (10) days of the transfer, the new Mortgagee shall register the property or update the existing registration. The previous Mortgagee(s) will not be released from the responsibility of paying all previous unpaid fees, fines, and penalties accrued during that Mortgagee's involvement with the Registrable Property.

g) If the Mortgagee sells or transfers the Registrable Property in a non-arm's length transaction to a related entity or person, the transferee is subject to all the terms of this Chapter. Within ten (10) days of the transfer, the transferee shall register the property or update the existing registration. Any and all previous unpaid fees, fines, and penalties, regardless of who the Mortgagee was at the time registration was required, including, but not limited to, unregistered periods during the Foreclosure process, are the responsibility of the transferee and are due and payable with the updated registration. The previous Mortgagee will not be released from the responsibility of paying all previous unpaid fees, fines, and penalties accrued during that Mortgagee's involvement with the Defaulted Property.

h) If the Foreclosing or Foreclosed Property is not registered, or the registration fee is not paid within thirty (30) days of when the registration or renewal is required pursuant to this section, a late fee equivalent to ten percent (10%) of the Semi-Annual Registration fee shall be charged for every thirty-day period (30), or portion thereof, the property is not registered and shall be due and payable with the registration.

e) This section shall also apply to properties that have 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/sale.

f) Properties subject to this section shall remain under ~~an annual~~ the Semi-Annual registration requirement, and the inspection, security and maintenance standards of this section as long as they remain ~~vacant or in default~~ Registrable Property.

g) 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.

h) Failure of the mortgagee (lender) and/or owner to properly register or to modify the registration form from time to time to reflect a change of circumstances as required by this article is a violation of the article and shall be subject to enforcement.

i) ~~The provisions of this section shall also apply to owners, servicers, trustees, property managers, and agents of all vacant and/or abandoned property whether or not the subject of a mortgage. All property must be registered immediately upon vacancy.~~

j) Pursuant to any administrative or judicial finding and determination that any property is in violation of this article, the Municipality may take the necessary action to ensure compliance with and place a lien on the property for the cost of the work performed to benefit the property and bring it into compliance.

SEC. ##### INSPECTION AND REGISTRATION OF REAL PROPERTY THAT IS NOT SUBJECT TO A MORTGAGE IN FORECLOSURE

a) Any Owner of Vacant property located within the Municipality shall within ten (10) days after the property becomes Vacant, register the Real Property with the Municipality Registry.

b) Initial registration pursuant to this section shall contain at a minimum the name of the Owner, the mailing address of the Owner, e-mail address, and telephone number of the Owner, and if applicable, the name and telephone number of the Property Manager and said person's address, e-mail address, and telephone number.

c) At the time of initial registration each registrant shall pay a non-refundable Semi-Annual Registration fee of four hundred dollars (\$400.00) for each Vacant property. Subsequent non-refundable Semi-Annual renewal registrations of Vacant properties and fees in the amount of four hundred dollars (\$400.00) are due within ten (10) days of the expiration of the previous registration. Said fees shall be used to offset the costs of: (1) registration and registration enforcement, (2) code enforcement and mitigation related to Vacant properties, and (3) for any related purposes as may be adopted in the policy set forth in this Chapter. Said fees shall be deposited to a special account in the Municipality's Department dedicated to the cost of implementation and enforcement of this Ordinance, and fulfilling the purpose and intent of this Chapter.

d) Each individual property on the Registry that has been registered for twelve (12) months or more prior to the Effective Date shall have thirty (30) days to renew the registration and pay the non-refundable four hundred dollar (\$400.00) Semi-Annual Registration fee. Properties registered less than twelve (12) months prior to the Effective Date shall renew the registration every six (6) months from the expiration of the original registration renewal date and shall pay the four hundred dollar (\$400.00).

e) If the property is sold or transferred, the new Owner is subject to all the terms of this Chapter. Within ten (10) days of the transfer, the new Owner shall register the Vacant property or update the existing registration. The previous Owner(s) will not be released from the responsibility of paying all previous unpaid fees, fines, and penalties accrued during that Owner's involvement with the Vacant property.

f) If the Vacant property is not registered, or either the registration fee or the Semi-Annual Registration fee is not paid within thirty (30) days of when the registration or Semi-Annual Registration is required pursuant to this section, a late fee shall be equivalent to ten percent (10%) of the Semi-Annual Registration fee shall be charged for every thirty (30) day period, or portion thereof, the property is not

registered and shall be due and payable with the registration. This section shall apply to the initial registration and registrations required by subsequent Owners of the Vacant property.

g) Properties subject to this section shall remain subject to the Semi-Annual Registration requirement, and the inspection, security and maintenance standards of this section as long as the property is Vacant.

h) Failure of the Owner to properly register or to modify the registration to reflect a change of circumstances as required by this ordinance is a violation of this Chapter and shall be subject to enforcement by any of the enforcement means available to the Municipality.

i) If any property is in violation of this Chapter the Municipality may take the necessary action to ensure compliance with and place a lien on the property for the cost of the outstanding obligation and any additional cost incurred to the property into compliance.

j) Properties registered as a result of this section are not required to be registered again pursuant to the Foreclosure mortgage property section.

100.06 - 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, grass, groundcovers, bushes, shrubs, hedges or similar plantings, decorative rock or bark or artificial turf/sod designed specifically for residential installation. 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).

g) Failure of the mortgagee (lender) 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 of the Municipality. Pursuant to a finding and determination by the Municipality's Code Enforcement Officer, Magisterial District Judge, or a court of competent jurisdiction, the Municipality may take the necessary action to ensure compliance with this section.

h) In addition to the above, the property is required to be maintained in accordance with the Municipality's Property Maintenance Code, Building Code, Fire Code, and other applicable code(s) of the Municipality.

100.07 - SECURITY REQUIREMENTS

a) Properties subject to these Sections shall be maintained in a secure manner so as not to be accessible to unauthorized persons.

b) 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. Broken windows shall be secured by re-glazing of the window.

c) If a mortgage on a property is in default, and the property has become vacant or abandoned, a property manager shall be designated by the mortgagee, owner, trustee, or legal entity 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 article, and any other applicable laws.

100.08 - PUBLIC NUISANCE

All abandoned real property is hereby declared to be a public nuisance, the abatement of which pursuant to the police power is hereby declared to be necessary for the health, welfare and safety of the residents of the Municipality.

100.09- INSPECTIONS FOR VIOLATIONS Adherence to this article does not relieve any person, legal entity or agent from any other obligations set forth in any applicable code(s), which may apply to the property. Upon offer for sale or transfer of title to the property, the owner shall be responsible to apply to the Municipality's Dept. of Code Enforcement for an Occupancy Permit.

100.10 - ADDITIONAL AUTHORITY

a) If the enforcement officer has reason to believe that a property subject to the provisions of this article 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 and/or owner, and may bring the violations before the Magisterial District Judge as soon as possible to address the conditions of the property.

b) The Code Enforcement Officer or Magisterial District Judge shall have the authority to require the mortgagee and/or owner of record of any property affected by this section, 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 Municipality may abate the violations and charge the mortgagee with the cost of the abatement.

d) If the mortgagee, owner, trustee or legal entity does not reimburse the Municipality for the cost of temporarily securing the property, or of any abatement directed by the code enforcement officer or Magisterial District Judge, within thirty (30) days of the Municipality sending the mortgagee the invoice then the Municipality may lien the property with such cost, along with an administrative fee as determined in the Municipality's fee ordinance to recover the administrative personnel services.

100.11 - OPPOSING, OBSTRUCTING ENFORCEMENT OFFICER; PENALTY

Whoever opposes obstructs or resists any enforcement officer or any person authorized by the enforcement office in the discharge of duties as provided in this chapter shall be punishable as provided in the applicable code(s) or a court of competent jurisdiction.

100.12 - IMMUNITY OF ENFORCEMENT OFFICER Any enforcement officer or any person authorized by the Municipality to enforce the sections here within shall be immune from prosecution, civil or criminal, for reasonable, good faith entry upon real property while in the discharge of duties imposed by this article.

100.13- FEES AND PENALTIES

~~a) A non-refundable registration fee in the amount of four hundred (\$400.00) dollars per property, shall accompany the initial registration form. Thereafter the fee for annual renewal shall be \$400.00 for annual renewals thereafter.~~

~~b) Any person who shall violate the provisions of this article may be cited and fined. The fine shall be a minimum of five hundred dollars or up to a maximum of \$3,000 or otherwise in accordance with the provisions of Chapter 202.99 of the Municipality's Codified Ordinances as amended. A separate offense shall be deemed committed each day during or on which such non-compliance or violation shall continue.~~

SECTION 2. SEVERABILITY. It is hereby declared to be the intention of the Council of the Municipality of Penn Hills that several provisions of this Ordinance are separable. If any Court of competent jurisdiction shall declare any words, sentences, sections or provisions of this Ordinance to be invalid, such a ruling shall not affect any other words, sentences, sections or provisions of this Ordinance not specifically included in said ruling.

SECTION 3. REPEALER. All ordinances, or parts of ordinances, in conflict with the provisions of this Ordinance, are hereby repealed.

THIS ORDINANCE APPROVED AND ADOPTED BY THE MAYOR AND THE COUNCIL OF THE MUNICIPALITY OF PENN HILLS ON THIS ___ DAY OF ___ 2019

Sara J. Kuhn, Mayor
SARA J. KUHN, MAYOR

8-19-19
DATE

ATTEST:

SCM
SCOTT ANDREJCHAK, ESQ.
MUNICIPAL MANAGER

8-19-19
DATE

SEAL