

**BOROUGH OF EAST LANSDOWNE
DELAWARE COUNTY, PENNSYLVANIA**

ORDINANCE 2020-606

AN ORDINANCE OF THE BOROUGH OF EAST LANSDOWNE, AMENDING AND RESTATING CHAPTER 11 (HOUSING), PART 3 OF THE BOROUGH CODE OF ORDINANCES ENTITLED "ABANDONED REAL PROPERTY"; PROVIDING FOR PURPOSE, INTENT AND APPLICABILITY OF THE ORDINANCE; REQUIRING THE SEMI-ANNUAL REGISTRATION OF CERTAIN VACANT AND FORECLOSURE REAL PROPERTY BY MORTGAGEES AND OWNERS; REQUIRING THAT SUCH MORTGAGEES AND OWNERS MAINTAIN AND SECURE SUCH AND VACANT AND FORECLOSURE REAL PROPERTY; PROVIDING FOR PENALTIES AND ENFORCEMENT, AND PROVIDING FOR SEVERABILITY, REPEALER, CODIFICATION, AND AN EFFECTIVE DATE

WHEREAS, the mortgage foreclosures and vacant properties have serious negative implications for all communities trying to manage the consequences of property vacancies and abandoned real properties; and

WHEREAS, the Borough of East Lansdowne (hereinafter referred to as the "Borough") recognizes an increase in the number of vacancies and abandoned properties located throughout the Borough; and

WHEREAS, the Borough is challenged to identify and locate owners or foreclosing parties or owners of vacant properties who can maintain the properties that are in the foreclosure process or that have been foreclosed or are not subject to foreclosure and are vacant; and

WHEREAS, the Borough finds that the presence of vacant and abandoned properties 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 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 desires to amend the Borough's Code in order to improve the property registration process that will identify a contact person to address safety and aesthetic concerns to minimize the negative impacts and blighting conditions that occur as a result of the foreclosures and vacancies; and

WHEREAS, the Borough has a vested interest in protecting neighborhoods against decay caused by vacant and abandoned properties and concludes that it is in the best interests of the health, safety and welfare of its citizens and residents to amend the registration and certification requirements on abandoned and vacant properties located within the Borough.

NOW, THEREFORE, BE IT RESOLVED BY THE BOROUGH COUNCIL OF THE BOROUGH OF EAST LANSDOWNE as follows:

Section 1. Amendment to Chapter 11 (Housing), Part 3 entitled "Abandoned Real Property." The Borough's Code of Ordinances Chapter 11, Part 3 entitled "Abandoned Real Property," is hereby amended and restated to read as follows:

*Chapter 11 HOUSING
PART 3 ABANDONED REAL PROPERTY*

§ 11-3011. PURPOSE AND INTENT

It is the purpose and intent of the Borough to establish a process to address the deterioration and blight of the Borough neighborhoods caused by an increasing amount of abandoned, foreclosed, vacant or distressed real property located within the Borough, and to identify, regulate, limit and reduce the number of abandoned properties located within the Borough. It is the Borough's further intent to establish a registration program as a

mechanism to protect the neighborhoods from becoming blighted due to the lack of adequate maintenance and security of abandoned, vacant and foreclosed properties.

§ 11-302. 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 Real Property- means any vacant real property located in the Borough, that is in default on a mortgage and is subject to an ongoing foreclosure action by the Lender, 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, window, 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 Borough's Zoning Code, the Borough's Code of Ordinances ("Boroughs Code"), and the Pennsylvania Building Code

Default - means 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.

Enforcement Officer - means any law enforcement officer, building official, zoning inspector, code enforcement officer, fire inspector or building inspector, or other person authorized by the Borough to enforce the applicable code(s).

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 and/or dead vegetation; past due Utility notices and/or disconnected Utilities; accumulation of trash, junk or debris; abandoned vehicles, auto parts and/or materials; the absence of furnishings and/or personal items consistent with habitation or occupancy; the presence of an unsanitary, stagnant swimming pool; the accumulation of newspapers, circulars, flyers and/or mail; statements by neighbors, passers-by, delivery agents or government agents; and/or the presence of boards over doors, windows or other openings in violation of applicable code.

Foreclosure or Foreclosure Action - means 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.

Mortgagee - means the creditor, including but not limited to, trustees; mortgage servicing companies; lenders in a mortgage agreement; any agent, servant, or employee of the creditor; any successor in interest; or any assignee of the creditor's rights, interests or obligations under the mortgage agreement; or any other person or entity with the legal right to foreclose on the Real Property, excluding governmental entities.

Owner - means any person, legal entity or other party having any ownership interest whether legal or equitable, in real property, including, without limitation, any mortgagee. 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 - means 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 Borough limits.

Registrable Property - means:

- a. *Any Real Property located in the Borough, 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 - means a web-based electronic database of searchable Real Property records, used by the Borough to allow Mortgagees and Owners the opportunity to register properties and pay applicable fees as required in this Chapter.

Semi-Annual Registration - means six (6) months from the date of the first action that requires registration, as determined by the Borough, 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 - means any utility and/or service that is essential for a building to be habitable and/or perform a service necessary to comply with all Borough 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 occupied by owners and/or tenants under a legal, valid and unexpired lease agreement.

§ 11-303 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 Borough above and beyond any other state, county or local provisions for same.

§ 11-304 ESTABLISHMENT OF A REGISTRY

The Borough or designee shall establish a registry cataloging each Abandoned Property within the Borough, containing the information required by this Article.

§ 11-305 REGISTRATION OF ABANDONED REAL PROPERTY

(a) Any mortgagee who holds a mortgage on real property located within the Borough of East Lansdowne shall perform an inspection of the property to determine vacancy or occupancy, upon default, as evidenced by a foreclosure filing, by the mortgagor. The mortgagee shall, within ten (10) days of the inspection, register the property with the Code Enforcement Officer, or designee, on forms or website access provided by the Borough, 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. The sale of any mortgage by a mortgagee shall not terminate or otherwise affect the requirements of this ordinance. The requirements of this ordinance shall be applicable to and binding upon any successor mortgagee or assignee or purchaser of a mortgage.

- (b) *If the property is occupied but remains in default, it shall be inspected by the mortgagee or his designee monthly until (1) the mortgagor or other party remedies the default, or (2) it is found to be vacant or shows evidence of vacancy at which time it is deemed abandoned, and the mortgagee shall, within ten (10) days of the inspection, update the property registration to a vacancy status on forms provided by the Borough.*
- (c) *Registration pursuant to this section shall contain the name of the mortgagee, the direct mailing address of the mortgagee, a direct contact name and telephone number, facsimile number and email address for the mortgagee, the folio or tax number, and the name and twenty-four (24) hour contact phone number of the property management company responsible for the security and maintenance of the property.*
- (d) *A non-refundable semi-annual registration fee shall accompany the registration form or website registration. The fee shall be \$300 per property upon enactment of this ordinance, but such fee may be revised by resolution of Borough Council from time to time.*
- (e) *Each individual property on the Registry that has been registered for twelve (12) months or more prior to the Effective Date of this ordinance shall have thirty (30) days to renew the registration and pay the non-refundable three hundred dollars (\$300.00) 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 three hundred dollars (\$300.00) 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 Foreclosed 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.*
- (i) *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.*
- (j) *Properties subject to this section shall remain under the annual registration requirement, and the inspection, security and maintenance standards of this section as long as they remain vacant or 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 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.*

§ 11-306 INSPECTION AND REGISTRATION OF VACANT REAL PROPERTY THAT IS NOT SUBJECT TO A MORTGAGE IN FORECLOSURE

(a) Any Owner of property located within the Borough that shall be vacant for thirty (30) consecutive days shall within ten (10) days after the thirtieth (30th) day of vacancy, register the Real Property with the Borough 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 for each Vacant property. The fee shall be \$300 per property upon enactment of this ordinance, but such fee may be revised by resolution of Borough Council from time to time. Subsequent non-refundable Semi-Annual renewal registrations of Vacant properties and the applicable fees are due within ten (10) days of the expiration of the previous registration.

(d) 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.

(e) 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.

(f) 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.

(g) 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 Borough.

(h) If any property is in violation of this Chapter the Borough 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.

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

§ 11-307 MAINTENANCE REQUIREMENTS

(a) Properties subject to this chapter shall comply with the Borough's Property Maintenance Code, including, without limitation, provisions requiring that the property be kept free of weeds, overgrown brush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspapers, 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 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, ground covers, brushes, shrubs, hedges or similar plantings specifically for residential installation. Acceptable maintenance of yards and/or landscapes shall not include weeds, gravels, 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 pollution and debris and shall comply with the regulations set forth in the applicable code(s).

§ 11-308 SECURITY REQUIREMENTS

(a) Properties subject to this Ordinance 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 reglazing or replacing the window.

(c) If a mortgage on the property is in default, and the property has become vacant or abandoned, or where the owner of a vacant property resides more than fifty (50) miles outside of the Borough, a 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 this Ordinance, and the property manager must perform regular inspections to verify compliance with the requirements of this article, and any other applicable laws.

§ 11-309 PUBLIC NUISANCE.

All abandoned, foreclosure or vacant 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 resident of the Borough.

§ 11-310 PENALTIES AND REMEDIES FOR VIOLATIONS.

(a) Any person who shall violate the provisions of this ordinance, shall, upon conviction, be punished by a fine not to exceed one thousand dollars (\$1,000), plus costs, and in default of payment of said fine and costs, to (J, term of imprisonment not to exceed thirty (30) days. Each day that a violation continues shall constitute a separate offense.

(b) The Borough may seek to enjoin violations of this ordinance by equitable action for injunction or specific performance.

§ 11-311 OTHER OBLIGATIONS

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.

§ 11-312 IMMUNITY OF ENFORCEMENT OFFICER

Any enforcement officer or any person authorized by the Borough 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.

Section 2. 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 3. Repealer. All ordinances or parts of ordinances in conflict herewith, are and the same are hereby repealed. Section

4. Codification. It is the intention of the Council of the Borough of East Lansdowne, Pennsylvania, that the provisions of this Ordinance shall become and be made a part of the Borough of East Lansdowne Code of Ordinances; and that the sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section", "article", or other such appropriate word or phrase in order to accomplish such intentions.

Section 5. Effective Date. This ordinance shall be effective upon the date of its enactment.


ENACTED and ORDAINED this 10th day of February, A.D., 2020.

ATTEST:

COUNCIL OF THE BOROUGH OF
EAST LANSDOWNE

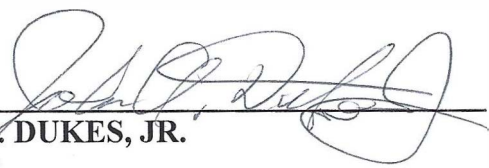


GLENICE THOMAS
BOROUGH SECRETARY

BY: 

LINDSAY CROSBY
PRESIDENT OF COUNCIL

APPROVED THIS 10th DAY OF February, 2020



JOHN A. DUKES, JR.
MAYOR