

**BOROUGH OF MARCUS HOOK
DELAWARE COUNTY, PENNSYLVANIA
ORDINANCE NO. O-21-2**

AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF MARCUS HOOK, CHAPTER 157, THEREOF ENTITLED PROPERTY MAINTENANCE, AMENDING ARTICLE IV, ENTITLED "ABANDONED REAL PROPERTY"; PROVIDING FOR PURPOSE, INTENT AND APPLICABILITY OF THE ORDINANCE; REQUIRING THE REGISTRATION AND MAINTENANCE OF CERTAIN . REAL PROPERTY BY MORTGAGEES, PROVIDING FOR PENALTIES AND ENFORCEMENT, AS WELL AS THE REGULATION, LIMITATION AND REDUCTION OF ABANDONED REAL PROPERTY WITHIN THE BOROUGH; PROVIDING FOR SEVERABILITY, REPEALER, CODIFICATION, AND AN EFFECTIVE DATE

WHEREAS, the Borough of Marcus Hook (hereinafter referred to as "Borough") recognizes an increase in the number of vacant and abandoned properties located throughout the Borough, and

WHEREAS, the present mortgage foreclosure crisis has serious negative implications for all communities trying to manage the consequences of property vacancies and abandoned real properties; and

WHEREAS, 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, vacant and abandoned properties present a serious threat to the public health and safety of the community, and

WHEREAS, the presence of vacant and abandoned properties may discourage prospective buyers from purchasing real property within the Borough, and

WHEREAS, many vacant and abandoned properties are the responsibility of mortgage lenders and trustees who upon giving of a Notice of Default to the mortgagor or upon becoming a mortgagee in possession or upon becoming holder of title pursuant to a mortgage foreclosure sale fail to adequately secure and maintain such properties, 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 establish a foreclosed 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

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 impose registration and certification requirements on abandoned and vacant properties located within the Borough.

Now, Therefore Be It Ordained by the Borough Council of the Borough of Marcus Hook, Delaware County, Pennsylvania, as follows:

SECTION I: That the foregoing "Whereas" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon the adoption hereof.

SECTION II: Chapter 157, Property Maintenance, of the Code of the Borough of Marcus Hook, does hereby amend Article IV entitled "Abandoned Real Property," to read as follows:

§ 157-18. Purpose and Intent.

The purpose and intent of the Borough is to amend the process to address the deterioration and blight of Borough neighborhoods caused by an increasing amount of abandoned, foreclosed or distressed real property located within the Borough, and to further identify, regulate, limit and reduce the number of abandoned properties located within the Borough. It is the Borough's further intent to amend the registration program as a mechanism to protect neighborhoods from becoming blighted due to the lack of adequate maintenance and security of abandoned or foreclosed properties.

§ 157-19. Definitions.

The following words, terms and phrase, 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 - any real property located in the Borough, whether vacant or occupied, that 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, 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 or the foreclosure action has been dismissed.

Accessible Property/Structure - a property that is accessible through a compromised/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.

Blighted Property –

- 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 Borough Code; 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 Borough Zoning Codes.

Enforcement Officer - 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).

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. 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 - mean a local property manager, property maintenance company or similar entity responsible for the maintenance of abandoned real property. **Vacant** - means any building or structure that is not legally occupied.

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 any Real Property located in the Borough, whether vacant or occupied, that is 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.

Registry - means a web-based electronic database of searchable real property records, used by the Borough to allow Mortgagees 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 property is Registrable. The date of the initial registration may be different than the date of the first action that required registration.

§ 157-20. Applicability.

These sections shall be considered 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.

§ 157-21. Establishment of a Registry.

Pursuant to the provisions of §157-22, the Borough or designee shall continue a registry cataloging each Abandoned Property within the Borough, containing the information required by this Article.

§ 157-22. Registration of Abandoned Real 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 foreclosure. The mortgagee shall, within ten (10) days of the inspection, register the property with the Code Enforcement Department, 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 Registrable Property, whether it is found to be vacant or occupied.

B. If the property is occupied but remains in foreclosure, it shall be inspected by the mortgagee or his designee monthly until 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 that 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 and the server, the direct mailing address of the mortgagee and the server, a direct contact name and telephone number for both parties, facsimile number and e-mail address for both parties, the folio or tax number, and the name and twenty-four hour contact phone number 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, Servicer, Trustee, or Owner. Third Party Registration fees are not allowed without the consent of the Borough 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 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 Semi-Annual Registration fee.

F. If the mortgage and/or servicing on a 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 Registrable 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 semi-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.

M. Pursuant to any administrative or judicial finding and determination that any property is in violation of this article, the Borough may take the necessary action to insure 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.

N. Registration of foreclosure property does not alleviate the Mortgagee and/or Owner from obtaining all required licenses, permits and inspections required by applicable code or State Statutes. Acquisition of required licenses, permits and inspections or registration of rental property does not alleviate the requirement for the property to be registered under this section. Mortgagee and/or Owner is expected to update the status of the property in the event of a Mortgagee managed rental.

§ 157-23. 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 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 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, ground covers, 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 or 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 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 Borough. Pursuant to a finding and determination by the Borough's Code Enforcement Officer, Magistrate or a court of competent jurisdiction, the Borough 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 applicable code(s) of the Borough.

§ 157-24. Security Requirements.

A. Properties subject to these sections shall be maintained in a secure manor 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 reg lazing 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 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.

§ 157-25. 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 Borough.

§ 157-26. 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 Borough's Code Enforcement Department for a Presales Inspection.

§ 157-27. 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 magistrate as soon as possible to address the conditions of the property.
- B. The Code Enforcement Officer or magistrate 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 Code Enforcement Officer or magistrate may direct the Borough to abate the violations and charge the mortgagee with the cost of the abatement.
- D. If the mortgagee 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 the invoice then the Borough may lien the property with such cost, along with an administrative fee as determined by the Borough's fee schedule Resolution to recover the cost of the administrative personnel services.

§ 157-28. Opposing or Obstructing Enforcement Officer; Penalty.

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

§ 157-29. 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.

§ 157-30. Fees, Violations and Penalties.

- A. A non-refundable semi-annual registration fee in the amount of three hundred (\$300.00) dollars per property shall accompany the registration form.
- B. Any person who shall violate the provisions of this article may be cited and fined. The following table shows violations of these sections, as may be amended from time to time, which may be enforced pursuant to the provisions of this regulation; and the dollar amount of civil penalty for the violation of these sections as it may be amended. The descriptions of violations below are for informational purposes only and are not meant to limit or define the nature of the violations or the subject matter of the Borough code sections, except to the extent that different types of violations of the Code section may carry different civil penalties. For each Code section listed in the schedule of civil penalties, the entirety of the section may be enforced by the mechanism provided in this section, regardless of whether all activities prescribed or required are described in the "Description of Violation" column. To determine whether a particular activity is prescribed or required by this Code, the relevant Borough Code sections(s) shall be examined.

Description of Violation	Civil Penalty
Failure to register abandoned real property on a semi-annual basis and/or any violation of the sections stated within.	\$500.00

SECTION III: Amendments. Registration and Penalty Fees outlined in this article may be modified by Resolution, passed and adopted by the Borough Council of the Borough of Marcus Hook.

SECTION IV: 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 V: Repealer. That all Ordinances inconsistent with the above provisions are repealed to the extent of their inconsistency.

SECTION VI: Codification. It is the intention of Council of the Borough of Marcus Hook, Pennsylvania, that the provisions of this Ordinance shall become and be made part of the Borough of Marcus Hook Code of Ordinances; and that the sections of this ordinance may be renumbered or re-lettered to accomplish said intention, and the word "ordinance" may be changed to "section", "article", or such other appropriate word or phrase in order to accomplish said intentions.

SECTION VII: Effective Date. This ordinance shall take effect immediately upon its adoption.

ADOPTED this 1st day of February, 2021.

BOROUGH OF MARCUS HOOK

Attest: 

Andrew Weldon
Borough Secretary



Josephine M. Laird
Council President

APPROVED this 1st day of February, 2021.



Gene Taylor
Mayor