

**BOROUGH OF WEST NEWTON
WESTMORELAND COUNTY, PENNSYLVANIA**

ORDINANCE NO. 2024- 3

**AN ORDINANCE OF THE COUNCIL OF THE BOROUGH OF WEST
NEWTON, WESTMORELAND COUNTY, PENNSYLVANIA, ADOPTING
STANDARDS AND REGULATIONS CONCERNING VACANT,
ABANDONED AND/OR FORECLOSED UPON PROPERTIES**

WHEREAS, the Borough of West Newton (the "Borough") recognizes an increase in the number of vacant and abandoned properties located throughout the Borough; and

WHEREAS, the presence of vacant and abandoned properties can lead to a decline in property value, creates attractive nuisances, and leads to a general decrease in neighborhood and community aesthetics; 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 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 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 has a vested interest in protecting the Borough against the decay caused by vacant and abandoned properties and concludes that it is in the best interest of the citizens and residents to impose registration requirements on such properties located within the Borough.

NOW, THEREFORE, be it ORDAINED by the Borough Council of the Borough of West Newton, the following:

Section 1. Purpose and Intent.

It is the purpose and intent of the Borough 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 2. Applicability and Scope.

The requirements of this Ordinance shall apply to every property within the Borough and shall be considered cumulative and not superseding or subject to any other law or provision for the same but shall rather be an additional remedy available to the Borough above and beyond any other state, county, or local provisions for same.

Section 3. Definitions.

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.

BLIGHTED PROPERTY

Shall include:

- A. Properties that have broken or severely damaged windows, doors, walls, or roofs which create hazardous conditions and encourage trespassing; or
- B. Properties cited as a public nuisance pursuant to applicable codes; or
- C. 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 lack maintenance as required by the applicable codes.

ENFORCEMENT OFFICER

Any building official, zoning inspector, code enforcement officer, fire inspector, or building inspector employed by the Borough.

EVIDENCE OF VACANCY

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, overgrown or dead vegetation, accumulation of abandoned real property, as defined herein, statements by neighbors, passers-by, delivery agents, government agents, among other evidence that the property is vacant.

FORECLOSURE

The system by which a party who has loaned money secured by a mortgage or deed of trust on real property (or has an unpaid judgment), requires sale of the real property to recover the

money due, unpaid interest, plus the costs of foreclosure, when the debtor fails to make payment.

MORTGAGE

A conveyance of title to property that is given as security for the payment of debt or the performance of a duty and that will become void upon payment or performance according to the stipulated terms.

MORTGAGEE

One to whom property is mortgaged or the mortgage creditor or lender.

MORTGAGEE IN POSSESSION

A mortgagee who takes control of mortgaged land by agreement with the mortgagor, usually upon default of the loan secured by the mortgage.

OWNER

Any person, agent, operator, firm, or corporation having a legal or equitable interest in real property; or recorded in the official records of the Commonwealth, County or Borough as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the trustee, executor, or administrator of the estate of such person if authorized by law to take possession of real property, or if ordered or authorized to take possession of real property by a court.

PERSON

An individual, corporation, partnership, financial institution, bank, credit union, savings and loan company, investment firm, government agency, government authority, municipal corporation, or any other group acting as a unit.

PROPERTY

Improved real estate, including buildings or structures.

STOREFRONT

Any facade located on the ground floor of a property having one or more storefront windows.

VACANT

A building or structure space shall be deemed vacant if no person or persons, as defined by this article, are currently conducting a lawfully licensed use in said space.

WINDOW

Any window of any property that permits an unobstructed public view into the interior of the property from any immediately adjacent street, sidewalk, or right-of-way.

Section 4. Establishment of Registry.

Pursuant to Section 1 above, the Borough or its designee shall establish a registry cataloging each registerable property within the Borough containing the information required by this Ordinance.

Section 5. Registration of Vacant Property.

A. Any mortgagee who holds a mortgage on real property located within the Borough shall,

upon default by the mortgagor and prior to the issuance of a notice of default, perform an inspection of the property that is the security for the mortgage. If the property is found to be vacant or shows evidence of vacancy, it shall be deemed abandoned real property and the mortgagee shall, within ten (10) days of the inspection, register the property with the Borough, or its designee, on forms provided by the Borough or through a website designated by the Borough. Registration is required for each property whether vacant or occupied.

- B. Any owner of real property within the Borough that has been identified as vacant pursuant to Section 6 of this Ordinance.
- C. Registration pursuant to this section shall contain the true and correct name, direct mailing address, a direct contact name, telephone number, and email address for the property owner, mortgagee/trustee, and/or the servicer, and the name and twenty-four-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. 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.
- E. Mortgagees or property owners who have existing registrable property have 30 days from the effective date of this article to register the property in accordance herewith.
- F. If the mortgage on a registrable property is sold or transferred, the new mortgagee is subject to all the terms of this article and within 10 days of the transfer must register the property and pay a registration fee in accordance with this article. Any previous unpaid annual registration fees are the responsibility of the new mortgagee or trustee and are due and payable with their initial registration.
- G. 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 article and within 10 days of the transfer must register the property and pay a registration fee in accordance with this article. Any previous unpaid annual registration fees are the responsibility of the new property owner and are due and payable with their initial registration.
- H. Properties subject to this article shall remain under the annual registration requirement and the inspection, security and maintenance standards of this article for as long as they are registrable.
- I. Any person or legal entity that has registered a property under this section must report any change of information contained in the registration to the Borough within 10 days of the change.
- J. 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.

Section 6. 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 the Borough Council, in writing, within 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 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 5.
- E. The Borough Council shall hold a hearing at its next regular public meeting occurring at least 10 days after the written notice of appeal is submitted.
- F. The Borough Council's decision shall be final and, in writing, sent to the property owner within 10 days of its decision. If the Borough Council sustains the Code Enforcement Officer's determination of vacancy, the property owner shall register the vacant property within 10 days of the date of the Council's written decision. Failure to register the property as a vacant property is a violation of this article.

Section 7. Maintenance Requirements.

- A. Properties subject to this article 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.
- I. Mortgagee or property owner shall inspect or have inspected the property on a monthly basis to ensure that the property complies with this Ordinance. Upon the request of the Borough, the mortgagee or property owner shall provide a copy of the inspection reports to the Borough Code Enforcement Officer.

Section 8. Security Requirements.

- A. Properties subject to this article 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 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 Code Enforcement Officer or the applicable code(s) of the Borough. Broken windows shall be secured by reglazing the window.
- 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 article and any other applicable laws.

Section 9. Requirements for Vacant Storefronts.

Once identified by the Borough as being a vacant property with a storefront, the owner of said property shall be responsible for the following requirements:

- A. Maintenance. The vacant storefront of a property located in the Borough shall be maintained in good condition, kept neat, clean, secure, free of graffiti, and lighted.
- B. Window display requirement. Not more than 30 days after receiving notice of a property deemed vacant, the owner of said property shall cause the storefront window to contain a window display, or other form of decorative screen. A variety of window displays are acceptable, provided they have a professional appearance, achieve a minimum coverage of

60% up to 100%, and are not offensive to the general public. All window displays are to be approved by the Code Enforcement Officer.

- C. Appeals. A property owner or owner of record shall have the right to appeal to from the Code Enforcement Officer determination of window display requirements. Such an appeal must be filed with the Borough within 10 days of the date of the Code Enforcement Officer's determination. Borough Council shall hear the appeal at its next regular public meeting occurring at least 10 days after the written notice of appeal is submitted. The Borough Council's decision shall be final and, in writing, sent to the property owner within 10 days of its decision. If the Borough Council sustains the Code Enforcement Officer's determination of additional maintenance and security measures, the property owner or owner of record shall comply with such requirements within ten (10) of Council's decision.

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.

- A. Upon property becoming registrable in accordance with this article, 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 10 days and 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 article shall be cited in accordance with the penalty section of this article.
- B. The property owner and/or responsible party shall permit the Code Enforcement Officer entry to conduct an inspection upon a complaint received by the Code Enforcement Officer concerning the registrable property.

Section 12. Additional Authority.

- A. Upon the Code Enforcement Officer having a 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, Borough, or its designee, shall have authority to require the mortgagee or owner of record of any property affected by this Ordinance to implement additional maintenance or security measures including, but not limited to, securing all doors, windows or other openings, employment of an on-site security guard, or other measures as may be reasonably required to prevent a decline of the property. A notice listing the additional maintenance or security measures shall be issued to the mortgagee or owner of record by the Code Enforcement Officer.
- B. Upon the failure of the mortgagee or owner of record of any property affected by this

Ordinance to implement security or maintenance requirements of this Ordinance as ordered by the Code Enforcement Officer, the Borough is permitted, upon five (5) day's written notice, to abate or cause for the abatement of the violations. The costs of said abatement shall be borne by the mortgagee or owner of record of the property. Failure of the mortgagee or owner of record to pay said costs shall result in the Borough filing a lien and/or pursuing civil litigation against the mortgagee or owner of record.

- C. Appeal. The mortgagee or owner record of the property shall have three (3) days from date of the notice in Section 12(A) to appeal any determination by the Code Enforcement Officer requiring additional maintenance or security measures.
1. The Borough Council shall hold a hearing at its next regular public meeting occurring at least 10 days after the written notice of appeal is submitted.
 2. The Borough Council's decision shall be final and, in writing, sent to the property owner within 10 days of its decision. If the Borough Council sustains the Code Enforcement Officer's determination of additional maintenance and security measures, the property owner or owner of record shall comply with such requirements within ten (10) of Council's decision.

Section 13. Vacant Property Monitoring Fee.

- A. A nonrefundable annual registration fee in the amount per property set by fee resolution shall be required when registering any property subject to this Ordinance.
- B. An additional fee set by resolution will be a nonrefundable fee that shall be due and owing for each subsequent year any registered property remains on the registry.
- C. Vacant Property Monitoring Fees are nontransferable, and each subsequent owner is required to complete a registration and submit the applicable fees.

Section 14. Violations, Fines and Penalties.

- A. Any person who shall violate any of the provisions of this Ordinance shall be guilty of a summary offense and, upon conviction thereof before a Magisterial District Judge, shall be sentenced to pay a fine of \$500.00 and the cost of prosecution for every offense, and in default of payment thereof, shall be sentenced to imprisonment for not more than thirty (30) days. Each violation and each day of violation shall constitute a separate offense.
- B. In addition to prosecution of the persons violating this Ordinance, a Borough Enforcement Officer, Borough Solicitor, or any other duly authorized agent of the Borough may bring such civil or equitable actions, seeking civil or equitable remedies, and any appropriate Court of record of the Commonwealth of Pennsylvania, against any persons and/or property, real or personal, to affect the provisions of this Ordinance. The remedies and procedures of this Ordinance are not intended to supplant or replace, to any degree, the remedies provided to the Borough in the Borough's International Property Maintenance Code, Uniform Construction Code, Zoning Ordinance, or any other Borough Code, Ordinance or Resolution.

Section 15. Severability.

If any section, sentence, clause or phrase of this article 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 article.

Section 16. Repealer.

All sections or parts of sections of the Borough Ordinances, all ordinances or part of ordinances, and all Resolutions, or parts of Resolutions, in conflict with the Ordinance are repealed to the extent of such conflict.

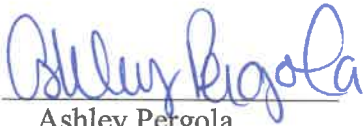
Section 17. Effective Date.


This Ordinance shall be effective upon adoption.

ORDAINED AND ENACTED into an Ordinance of the Borough of West Newton this 10TH day of June, 2024, by Council of the Borough of West Newton.

ATTEST:

BOROUGH OF WEST NEWTON

BY: 
Ashley Pergola,
Borough Secretary

BY: 
Jason Cooper,
Council President

Examined and approved this 10 day of
June, 2024

BY: 
Mayor Mary Popovich

