

ORDINANCE NO. 2021- 02

AN ORDINANCE AMENDING THE CODE OF THE TOWNSHIP OF SWATARA, PENNSYLVANIA BY AMENDING CHAPTER 220 TO BE ENTITLED "REGISTRATION MAINTENANCE AND SECURITY OF ABANDONED REAL PROPERTY" WHICH CHAPTER PROVIDES FOR REGISTRATION, MAINTENANCE, AND SECURITY OF ABANDONED REAL PROPERTY AS DEFINED THEREIN, PROVIDES FOR PENALTIES FOR VIOLATION, AND PROVIDES FOR SEVERABILITY CONFLICTS AND AN EFFECTIVE DATE.

WHEREAS the Township of Swatara (the "Township") recognizes the number of vacant and abandoned properties located throughout the Township; and

WHEREAS the presence of vacant and abandoned properties can lead to a decline in property value create attractive nuisances and lead to 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 Township; 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 Township has a vested interest in protecting the Township 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 Township.

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE TOWNSHIP OF SWATARA PENNSYLVANIA as follows:

**Section 1.** The Code of the Township of Swatara, Pennsylvania is hereby amended by amending Chapter 220 "Real Property, Abandoned" to read as follows:

Chapter 220 **Registration Maintenance and Security of Abandoned Real Property**

§ 220-1 Purpose and Intent.

A. It is the purpose and intent of the Township of Swatara to establish a process to address the amount of deteriorating real property located within the Township, which includes property, whether vacant or occupied, about which a public notice of default has been filed, is in foreclosure, or where ownership has been transferred to a lender or mortgagee by any legal method. It is the Township's further intent to specifically establish an abandoned residential property program as a mechanism to protect residential neighborhoods from becoming blighted through the lack of adequate maintenance and security of abandoned properties.

B. For the protection and promotion of the public health, safety and welfare of the citizens of the Township of Swatara, the Board of Commissioners hereby establishes the rights and obligations of owners, mortgagees and property management companies of vacant and abandoned properties within the Township and encourages owners, mortgagees and property management companies to maintain and secure such property through registration and compliance with the Township Code and this chapter.

#### § 220-2 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** - Any property that is vacant or is subject to a mortgage under a current notice of default or notice of mortgagee's sale, pending tax claim sale or properties that have been the subject of a foreclosure sale where the title was retained by the beneficiary of a mortgage involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure or sale.

**ENFORCEMENT OFFICER** - Any building official, zoning inspector, code enforcement officer, health officer, fire inspector or building inspector employed by the Township.

**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 not be limited to, overgrown or dead vegetation, accumulation of abandoned real property, as defined herein, statements by neighbors, passersby, delivery agents or government agents, among other evidence that the property is vacant.

**FORECLOSURE** - The process by which a property, placed as security for a real estate loan, is sold at public sale to satisfy the debt if the borrower defaults.

**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, excluding governmental agencies.

**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 or any other group acting as a unit.

**PROPERTY MANAGEMENT COMPANY**- A property manager, property maintenance company or similar entity or individual responsible for the maintenance of abandoned real property.

**REAL PROPERTY** - 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 Township limits.

REGISTRABLE PROPERTY - Any Real Property located in the Township, 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 or 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 - A web-based electronic database of searchable real property records, used by the Township to allow Mortgagees 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 Township, 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.

VACANT - Any building/structure that is not legally occupied.

#### § 220-3 Applicability.

This chapter shall be considered cumulative and not superseding or subject to any other law or provision for same but shall rather be an additional remedy available to the Township above and beyond any other state, county or local provisions for same.

#### § 220-4 Registration of abandoned real property.

A. Any mortgagee who holds a mortgage on real property located within the Township shall, upon default by the mortgagor as evidenced by a Foreclosure filing, perform an inspection of the property that is the security for the mortgage. The mortgagee shall within 10 days of the inspection register the property with the Township or its designee on forms provided by the Township or through a website designated by the Township. A registration is required for each property whether vacant or occupied.

B. If the property is occupied but the mortgage on the property remains in foreclosure the property 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 10 days of that inspection update the property registration to a vacancy status providing the date of last inspection on forms provided by the Township.

C. Registration pursuant to this section shall contain the name of the mortgagee and the servicer the direct mailing address of both parties a direct contact name and telephone number for both parties a 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. 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.

E. At the time of initial registration each registrant shall pay a non-refundable Semi-Annual Registration fee of three hundred dollars (\$300.00) for each Registrable Property. Subsequent non-refundable Semi-Annual Registrations of properties and fees in the amount of three hundred dollars (\$300.00) 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 defaulted properties, (3) post-closing counseling and Foreclosure intervention limited to Owner-occupied persons in default, which may not include cash and mortgage modification assistance, and (4) 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 Township's Code Enforcement Department dedicated to the cost of implementation and enforcement of this Ordinance and fulfilling the purpose and intent of this chapter. None of the funds provided for in this section shall be utilized for the legal defense of Foreclosure actions.

F. 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 of this Ordinance 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.

G. 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.

H. 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.

I. If the foreclosing or foreclosed property is not registered, or the Semi-Annual 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.

J. Properties subject to this section shall remain under the registration requirement, security and maintenance standards of this section as long as they remain Registrable Property.

K. Any person or corporation that has registered a property under this section must report any change of information contained in the registration in writing within 10 days of the change to the mayor or his designee.

§ 220-5 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), abandoned vehicles, portable storage devices, 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 Township's Code of Ordinances.
- 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 landscaping 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 that the water remains free and clear of pollutants and debris. Pools and spas shall comply with all requirements of the Township's Code of Ordinances and Pennsylvania Uniform Construction Code, as amended from time to time.
- G. Failure of the mortgagee or property owner of record to properly maintain the property may result in a violation of the Township's Code and issuance of a citation or notice of violation.

§ 220-6 Security requirements.

- A. Properties subject to this chapter 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 shall be secured by reglazing of the window.
- C. If the property is owned by a corporation or mortgagee that is unable or unwilling to perform maintenance and inspections itself, the corporation or mortgagee shall contract with a property management company which shall be contracted to perform biweekly inspections to verify compliance with the requirements of this section and any other applicable laws.
- D. The mortgagee shall inspect or have inspected the property on a biweekly basis to ensure that the property is in compliance with this section. Upon the request of the Township, the mortgagee shall provide a copy of the inspection reports to the Township Code Enforcement Department.
- E. Failure of the mortgagee or property owner of record to properly maintain the property may result in a violation of the Township Code and issuance of a citation. Pursuant to a finding and determination by

the Township's Code Enforcement Officer, the Township may take the necessary action to ensure compliance with this section.

§ 220-7 Additional authority.

The Township, or its designee, shall have authority to require the mortgagee or owner of record of any property affected by this chapter to implement additional maintenance 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 prevent a decline of the property.

§ 220-8 Immunity of enforcement officer.

Any enforcement officer or any person authorized by the enforcement officer shall be immune from prosecution, civil or criminal, for reasonable, good-faith trespass upon real property while in the discharge of duties imposed by this chapter.

§ 220-9 Penalties and remedies.

A. It shall be a violation of this chapter to commit or permit any other person to commit any of the following acts:

- (1) To fail to perform any inspection or to register any property required by § 220-4 of this chapter.
- (2) To fail to pay a Semi-Annual Registration fee of three hundred dollars (\$300.00) for each Registrable Property pursuant to § 220-4E and 220-4F of this chapter.
- (3) To fail to maintain property as required under § 220-5 of this chapter.
- (4) To fail to perform the inspection and maintenance relating to properties so that they are maintained in a secure manner pursuant to the provisions of § 220-5 of this chapter.
- (5) To refuse to permit inspections required under this chapter.
- (6) To place any false information on or to omit relevant information from an application for registration provided pursuant to this chapter.
- (7) To fail or refuse to comply with any other provision of this chapter.

B. Penalties and remedies.

- (1) Any person who shall violate any of the provisions of this chapter shall be guilty of a summary offense and, upon conviction thereof before a District Magistrate, shall be sentenced to pay a fine of \$500, and the cost of prosecution for each and every offense, and in default of payment thereof, shall be sentenced to imprisonment in Dauphin County Prison for not more than 30 days. Each violation and each day of violation shall constitute a separate offense.
- (2) In addition to prosecution of the persons violating this chapter, a Swatara Township enforcement officer, Swatara Township Solicitor, or any other duly authorized agent of the Township may bring such civil or equitable actions, seeking civil or equitable remedies, in any appropriate court of record of the Commonwealth of Pennsylvania, against any persons and/or property, real or personal, to effect the provisions of this chapter. The remedies and procedures of this chapter are not intended to supplant or

replace, to any degree, the remedies provided to the Township in the Township Building Code, Existing Structures Code, Uniform Construction Code, Zoning Ordinance, or any other Township code, ordinance, or resolution.

§ 220-10 Appeals.

A. Any person aggrieved by the action of the Township or its designee relevant to the provisions of this chapter may appeal to the Capital Region UCC Joint Appeals Board within 30 days of that action.

B. Any person aggrieved by any decision of the Township or the Capital Region UCC Joint Appeals Board relevant to the provisions of this chapter may appeal to the Dauphin County Court of Common Pleas within 30 days of the decision.


**Section 2.** If any section, clause, sentence, or phrase of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the remaining portions of this Ordinance.

**Section 3.** All sections or parts of sections of the Code of Ordinances, all ordinances or parts of ordinances, and all Resolutions or parts of Resolutions in conflict with this Ordinance are repealed to the extent of such conflict.

**Section 4.** Effective Date - This Ordinance shall become effective immediately upon adoption.

**SO ORDAINED AND ENACTED** by the Board of Commissioners of Swatara Township, County of Dauphin, Commonwealth of Pennsylvania, this 14 day of July, 2021.

ATTEST:

  
Secretary

  
Thomas Connolly, President  
Board of Commissioners of Swatara Township