

BOROUGH OF WILMERDING  
ORDINANCE NO. 1040

AN ORDINANCE OF THE BOROUGH OF WILMERDING, ALLEGHENY COUNTY, COMMONWEALTH OF PENNSYLVANIA; TO ADDRESS THE ABANDONMENT OF REAL PROPERTY; 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, A REPEALER, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the Borough of Wilmerding, (hereinafter referred to as "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 who can maintain the properties that are in the foreclosure process or that have been foreclosed; 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 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; and

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Council of the Borough of Wilmerding as follows:

SECTION 1: 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 2: PURPOSE AND INTENT: It is the purpose and intent of the Borough to establish a 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 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 neighborhoods from becoming blighted due to the lack of adequate maintenance and security of abandoned and foreclosed properties.

SECTION 3: 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 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 assessors lien sale, or has been transferred to the Lender under a deed in lieu of foreclosure, including properties in said status at the time of the enactment of this Ordinance. 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 Borough's Zoning Code, the Borough's Code of Ordinances, the Pennsylvania Building Code, the Uniform Construction Code, the International Property Maintenance Code and all other applicable codes adopted by the Borough.

*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 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 and Zoning Codes.

*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).

*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.

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

SECTION 4: 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.

SECTION 5: 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.

SECTION 6: REGISTRATION OF ABANDONED REAL PROPERTY:

- a) Any mortgagee who holds a mortgage on real property located within the Borough of Wilmerding shall perform an inspection of the property to determine vacancy or occupancy, upon default by the mortgagor. The mortgagee shall, within ten (10) days of the inspection, register the property with the Division of Code Enforcement, 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.
- 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 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 its agent, the direct mailing address of the mortgagee and its agent, 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 (24) hour contact phone number of the property management company responsible for the security and maintenance of the property.
- d) A non-refundable annual registration fee in the amount of \$300.00 per property, shall accompany the registration form or website registration. An additional \$100.00 non-refundable fee shall be due and owing for each subsequent year any registered property remains on the registry.

- e) All registration fees must be paid directly from the Mortgagee, its Agent, Trustee, or Owner. Third Party Registration fees are not allowed without the consent of the Borough and/or its authorized designee.
- f) 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.
- g) 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.
- h) 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.
- i) 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.
- j) 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 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.

SECTION 7: 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, trees, 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 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, to prevent the infestation of mosquitos, rodents and other animals. All pools must have a functioning pump, with all chemicals maintained.

- 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 Chapter \_\_\_\_\_ of the Borough of Wilmerding's Code of Ordinances. Pursuant to a finding and determination by the Borough's Code Enforcement Officer, 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).

SECTION 8: 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 reglazing of the window. If, in the opinion of the Code Enforcement Officer, it is found to be in the best interest of the public safety, said structure shall be boarded up and secured pursuant to the Boarding Standard, as outlined in the International Property Maintenance Code, as adopted by the Borough.
- 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.

SECTION 9: 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.

SECTION 10: PENALTIES; SCHEDULE OF CIVIL PENALTIES: Any person who shall violate the provisions of this article may be cited and fined as follows: Failure to register abandoned real property on annual basis and/or any violation of any of the sections stated herein shall result in the imposition of a \$600.00 fine and civil penalty. Said find and penalty may be amended at any time by simple resolution of Borough Council.

SECTION 11: 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 sale or transfer of title to the property, the new owner shall be responsible for all violations of the applicable code(s) and ordinances. The buyer shall be responsible for providing the Borough with a notarized statement acknowledging the acceptance of responsibility for the property, and acknowledging all code violations. The Buyer shall repair all said violations within 45 days of the date that he/she takes ownership of the property.

An initial inspection of the property shall be performed by Code Enforcement upon the registering of said property, with subsequent periodic inspections to confirm compliance with all applicable code provisions and ordinances. Upon inspection, a detailed report outlining the violations will be given to the responsible party, and the responsible party shall have 30 days to abate said violations. If the violations are not abated, the party who is responsible for registering the property with the Borough under this Ordinance, shall be cited in accordance with the penalty section of this Ordinance.

SECTION 12: 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 lien the property by municipal claim.
- b) The Code Enforcement Officer 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 measure 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 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, 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 of \$500.00 to recover the administrative personnel services.

SECTION 13: IMMUNITY OF ENFORCEMENT OFFICER: Any enforcement officer or any person authorized by the Borough to enforce the sections herein 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 14: AMENDMENTS: Registration and Penalty Fees outlined in this article may be modified by simple Resolution, passed and adopted of the Council of the Borough of Wilmerding.

SECTION 15: 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.

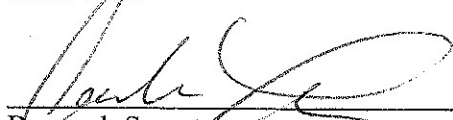
SECTION 16: REPEALER: All Ordinances or parts of Ordinances in conflict herewith, are and the same are hereby repealed.

SECTION 17: CODIFICATION: It is the intention of the Borough of the Council of Wilmerding, that the provisions of this Ordinance shall become and be made a part of the Borough of Wilmerding's 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 such other appropriate word or phrase in order to accomplish such intentions.

SECTION 18: EFFECTIVE DATE: This Ordinance shall become effective immediately.

ORDAINED AND ENACTED THIS 5<sup>th</sup> day of June, 2018


ATTEST:

  
Borough Secretary

WILMERDING BOROUGH

  
Council President

Approved this 5<sup>th</sup> day of June, 2018.

  
Mayor