

## **BOROUGH OF BALDWIN**

### **ORDINANCE NO. 911**

AN ORDINANCE OF THE BOROUGH OF BALDWIN, COUNTY OF ALLEGHENY, COMMONWEALTH OF PENNSYLVANIA AMENDING CHAPTER 131A, OF THE BOROUGH OF BALDWIN CODE OF ORDINANCES, ENTITLED "VACANT AND ABANDONED PROPERTY"; AMENDING THE VACANT AND ABANDONED PROPERTY ORDINANCE WHICH PROVIDES MEASURES FOR ADDRESSING DETERIORATION AND BLIGHT IN THE COMMUNITY AND PRESCRIBES REGISTRATION, MAINTENANCE, AND SECURITY REQUIREMENTS.

WHEREAS, the Council of the Borough of Baldwin desires to amend the registration process that identifies a contact person for vacant and abandoned properties to address safety, aesthetic and other concerns to minimize the negative impacts and blighting conditions that occur as a result of properties left vacant and/or abandoned.

NOW, THEREFORE, BE IT ORDAINED and ENACTED by the Borough Council of Baldwin, Allegheny County, Pennsylvania, as follows:

#### **SECTION 1. CHAPTER 131A VACANT AND ABANDONED PROPERTY**

##### **§ 131A-1. TITLE, PURPOSE AND INTENT**

The title of this ordinance is the Borough of Baldwin Vacant and Abandoned Property Ordinance. It is the purpose and intent of the Borough of Baldwin to amend the process to more effectively address the deterioration and blight of our neighborhoods caused by abandoned, foreclosed or distressed properties 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 adjust the registration program to protect neighborhoods from becoming blighted due to the lack of adequate maintenance and security of abandoned and foreclosed properties.

##### **§ 131A-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 Property - means any real property located in the Borough, whether vacant or occupied, 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 in a non-arm's length transaction or the foreclosure action has been dismissed.

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 Property Maintenance Code, the Zoning Ordinance, Building Code and Fire Code, the Pennsylvania Building and Fire Codes, the UCC, and the Borough's Codified Ordinances.

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 neighborhood properties; or
- c) Properties cited for a public nuisance pursuant to the Applicable Codes; or
- d) Properties that endanger the public's health, safety, or welfare because the properties are vacant and abandoned or improvements thereon are dilapidated, deteriorated, or violate minimum health and safety standards or lacks maintenance as required by the applicable codes.

Enforcement Officer - means any Law Enforcement Officer, Building Official, Zoning Inspector, Code Enforcement Officer, Fire Marshall, Building Inspector, Planner, 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 as the assignee or owner.

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 and is not currently being offered for sale, rent or lease evidenced by a sign posted on the subject property advertising the property for sale, rent or lease with contact information, ownership information, and current phone number and/or an active listing on an electronic database accessible to Borough staff. If there is no posted sign and the listing is not accessible to Borough staff, a realtor may submit a written confirmation of listing to avoid the requirement of registration. This shall also include those properties subject to the provisions of § 131A-5 of this ordinance, which also shall be defined as vacant and abandoned and subject to the requirements of registration and other provisions of this ordinance.

Exception - This definition shall not apply to properties where owners have, for reasons such as extended vacations, nursing home care, or temporary employment, not occupied their homes for over 90 days but intend to return and have notified the Baldwin Borough Police Department of their intentions.

§ 131A-3. 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 State, County or Local provisions for same.

#### § 131A-4. ESTABLISHMENT OF A REGISTRY

Pursuant to the provisions of § 131A-5, the Borough of Baldwin or designee shall establish a registry cataloging each Abandoned Property and Vacant Property within the Borough, containing the information required by this Chapter.

#### § 131A-5. REGISTRATION OF ABANDONED AND/OR VACANT REAL PROPERTY

- a) Upon default by the mortgagor of the mortgage, any mortgagee (lender) who holds a mortgage on real property located within the Borough of Baldwin shall perform an inspection of the property to determine vacancy or occupancy, upon default by the mortgagor as evidenced by a foreclosure filing. The mortgagee (lender) shall, within ten (10) days of the inspection, register all vacant and abandoned property with the Department of Code Enforcement, or designee, on forms or website access provided by the Borough and pay the fee required for registration. A separate registration is required for each property.
- b) If the property is occupied but remains in default, it shall be inspected by the mortgagee (lender) 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 the servicer, the direct mailing address of the mortgagee and the servicer, a direct contact name and telephone number for both parties, facsimile number and e-mail address for both parties, the PIN 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) All registration fees must be paid directly from the Mortgagee (lender), Servicer, Trustee, or Owner. Third Party Registration fees are not allowed without the consent of the Borough and/or its authorized designee.
- e) 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.
- f) 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.
- g) 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.

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 (lender) 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 chapter is a violation of the chapter and shall be subject to enforcement.

j) 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.

k) 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.

l) The provisions of this section shall also apply to owners, servicers, trustees, property managers, and agents of all vacant and/or abandoned property not the subject of a mortgage in foreclosure. All property must be registered immediately upon vacancy.

m) If the property not subject to a foreclosure 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. 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.

n) Pursuant to any administrative or judicial finding and determination that 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 work performed to benefit the property and bring it into compliance.

#### § 131A-6. 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 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, 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).

g) Failure of the mortgagee (lender) 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 either the Borough's Code Enforcement Officer, Magisterial District Judge, 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 Borough's Property Maintenance Code, Building Code, Fire Code, and other applicable code(s) of the Borough.

#### § 131A-7. 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.

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, owner, trustee, or legal entity 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.

#### § 131A-8. 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.

#### § 131A-9. INSPECTIONS FOR VIOLATIONS

Adherence to this chapter 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 Department of Code Enforcement for an Occupancy Permit.

#### § 131A-10. ADDITIONAL AUTHORITY

a) If the enforcement officer has reason to believe that a property subject to the provisions of this chapter 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 Magisterial District Judge as soon as possible to address the conditions of the property.

b) The code enforcement officer or Magisterial District Judge 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 Borough may abate the violations and charge the mortgagee with the cost of the abatement.

d) If the mortgagee, owner, trustee or legal entity does not reimburse the Borough for the cost of temporarily securing the property, or of any abatement directed by the code enforcement officer or Magisterial District Judge, 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 in the Borough's fee ordinance to recover the administrative personnel services.

#### § 131A-11. OPPOSING, OBSTRUCTING ENFORCEMENT OFFICER; PENALTY

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

#### § 131A-12. 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 chapter.

#### § 131A-13. FEES AND PENALTIES

a) A non-refundable registration fee in the amount of three Hundred (\$300.00) dollars per property, shall accompany the registration.

b) If a 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.

c) Any person who shall violate the provisions of this chapter may be cited and fined. Failure to register abandoned or vacant real property on an annual basis and/or any violation of the sections stated within this ordinance shall result in a fine of \$500.00. A separate offense shall be deemed committed each day during or on which such non-compliance or violation shall continue.

SECTION 2. § 131A-14. AMENDMENTS

Registration, Late Fees and Penalty Fees outlined in this chapter may be modified by Resolution, passed and adopted by the Council of the Borough of Baldwin.

SECTION 3. § 131A-15. SEVERABILITY

It is hereby declared to be the intention of the Council of the Borough of Baldwin that several provisions of this Ordinance are separable. If any Court of competent jurisdiction shall declare any words, sentences, sections or provisions of this Ordinance to be invalid, such a ruling shall not affect any other words, sentences, sections or provisions of this Ordinance not specifically included in said ruling.

SECTION 4. § 131A-16. REPEALER

All ordinances, or parts of ordinances, in conflict with the provisions of this Ordinance, are hereby repealed.

SECTION 5. § 131A-17. EFFECTIVE DATE This Ordinance shall be in full force and effect from the date of its adoption by the Baldwin Borough Council and upon publication provided by law.


ORDAINED AND ENACTED INTO LAW, this 20th day of October, 2020.

ATTEST:

BOROUGH OF BALDWIN



Borough Manager

By:   
Marianne Conley, President of Council

