

Chapter 241

Registration, Maintenance and Security of Abandoned and Foreclosed Real Property

[History: Adopted by Borough Council on February 1, 2016 by Ord 2016-2]

GENERAL REFERENCES

See Chapter 1, General Provisions
 Chapter 113, Buyer Notification and Rental Inspections
 Chapter 200, Property Maintenance
 Chapter 242, Tenants, Registration of
 Chapter 243, Residential Rental Unit Occupancy

§ 241-1 Title

This chapter shall be known as the Registration, Maintenance and Security of Abandoned and Foreclosed Real Property Ordinance.

§ 241-2 PURPOSE AND INTENT

1. It is the purpose and intent of the Borough of Penbrook to establish a process to address the amount of deteriorating real property located within the Borough, 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 lender or mortgagee by any legal means. It is the Borough'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.

2. For the protection and promotion of the public health, safety and welfare of the citizens of the Borough of Penbrook, the borough Council hereby establishes the rights and obligations of owners, mortgagees and property maintenance companies of vacant and abandoned properties within the Borough and encourages owners, mortgagees and property and judgment companies to maintain and secure such property through registration and compliance with the Borough Code and this Part.

§ 241-3 DEFINITIONS.

The following words, terms and phrases, when used in this Part, shall have the meanings described 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 the mortgagee's sale, pending tax claim sale or vacant property that has 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.

BOROUGH or BOROUGH OF PENBROOK - The Borough of Penbrook, Dauphin County, Pennsylvania

ENFORCEMENT OFFICER - any building official, zoning inspector, code enforcement officer, health 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 not be limited to, overgrown or dead vegetation, accumulation of abandoned property or mail, statements by neighbors or 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 legal instrument securing title to the 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 in 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 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 OR SERVICER - a property manager, property maintenance company or similar entity or individual responsible for the maintenance of abandoned real property.

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

§ 241-4 APPLICABILITY

These sections 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 Borough above and beyond any other state, county or local provisions for the same.

§ 241-5 REGISTRATION OF ABANDONED REAL PROPERTY

1. Any mortgagee who holds the mortgage on any 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 of 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 10 days of the inspection, register the property with the Borough or its designee, on the forms provided by the Borough or through a website designated by the Borough. Registration is required for each property whether vacant or occupied.
2. If the property is occupied but the mortgage on the property remains in default, the property 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 10 days of that inspection, update the property registration to a vacancy status providing the date of the last inspection on forms provided by the Borough.
3. 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 an email address for both parties, the tax parcel number, and the name and 24 hour contact phone number of the property management company responsible for the security and maintenance of the property.

4. 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.
5. A registration fee in the amount of \$200.00, per property, shall accompany the registration form(s).
6. Properties subject to this section shall remain under the registration requirement, security and maintenance standards of this section as long as they remain vacant.
7. 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 mortgagee or his designee.

§ 241-6 MAINTENANCE REQUIREMENTS.

1. Properties subject to this section shall be kept free of weeds, overgrown brush or grass, dead vegetation, trash, junk, debris, building materials and 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.
2. 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.
3. If the property is owned by a corporation or mortgagee that is unable or unwilling to perform maintenance and inspection itself, the Corporation or mortgagee shall contract with a Property Management Company or Servicer to perform biweekly inspections to verify compliance with the requirements of this section, and any other applicable laws. If the property owner is more than fifty (50) miles from the property, it must designate to the borough a local Servicer within fifty (50) miles of the property to be responsible therefore and to be available to the borough for contact with regard to the property.
4. 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 borough, the mortgagee shall provide a copy of the inspection report to the borough.
5. Failure of the mortgagee or owner of record to properly maintain the property may result in a violation of the Borough Code and issuance of a citation. Pursuant to a finding and determination by the Borough's Code Enforcement Officer, the borough may take the necessary action to ensure compliance with this section.

§ 241-7 ADDITIONAL AUTHORITY.

1. The Borough, or its designee, shall have authority to require the mortgagee or owner of record of any property covered by this section 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.
2. The mortgagee or owner covered by this section shall provide access to the borough on request by the borough or its designee to conduct exterior and/or interior inspections of the property and improvements therein to determine compliance with the Borough Code.

§ 241-8 VACANT PROPERTY OWNER REQUIREMENTS

The owner of any structure that has become vacant or abandoned property, and any person responsible for maintaining any such building that has become vacant or abandoned shall, within 30 calendar days of the date the structure becomes vacant or abandoned, or within 30 calendar days of the owner taking title to the property do the following:

1. Board and secure the structure and all unattached accessory structures, garages or similar structures to prevent access by vandals, children or other unauthorized personnel.
2. Ensure that the exterior grounds of the structure, including yards, fences, sidewalks, walkways, retaining walls and all attached or unattached accessory structures and driveways are well-maintained and free from trash, debris, and any overgrowth of grass or weeds.
3. Post a sign affixed and protected from the elements, to the structure, indicating the name, address and telephone number of the owner or owners authorized agent for the purpose of service of process and the name, address and telephone number of the entity responsible for maintenance of the property, which may be the same as the owner or authorized agent. The sign shall include the words "No Trespassing" and "to Report Problems with This Building Call..." And shall be of sufficient size and placed in a location where it is clearly visible from the nearest public street or sidewalk, whichever is nearer.
4. Continue to maintain the structure in a secure enclosed condition, keep the grounds in a clean and well-maintained condition, and ensure that the sign is visible and intact until the building is again occupied, demolished or until repair and/or rehabilitation of the building is complete.
5. The owner or owners of any vacant or abandoned property shall acquire and otherwise maintain liability insurance in the amount of not less than \$300,000.00 for the buildings designed primarily for residential use, and not less than \$1,000,000.00 for any other building, including, but not limited to, buildings designed for manufacturing, industrial, storage or commercial uses, covering any damage to any person or any property caused by any physical condition of or in the building or property subject to the provisions of this ordinance. The insurance shall provide a rider for payment of all demolition cost should the vacant building become abandoned and require the Borough of Penbrook to demolish the building.

Any insurance policy acquired or renewed after the building has become vacant shall provide for a written notice to the Penbrook Borough Codes Department at least 30 calendar days before any lapse, cancellation or change of coverage. The owner or owners shall attach evidence of the insurance to the registration statement at the time of registration. Any registration statement submitted that does not include such evidence shall be deemed to be an invalid registration. Insurance must name the Borough of Penbrook as a party or payee for demolition costs should the borough deem demolition is required.

§ 241-9 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 Part.

§ 241-10 VIOLATIONS, PENALTIES AND REMEDIES

1. It shall be a violation of this Part to commit or permit any other person to commit any of the following acts:
 - A. To fail to perform any inspection or to register any property required by Section 5 of this Part.
 - B. To fail to pay registration fee in the amount of \$200.00 pursuant hereto.
 - C. To fail to maintain property as required under this Part.

D. To fail to perform the inspection and maintenance relating to properties so that they are maintained in a secure manner pursuant to this Part.

E. To refuse to permit inspections required under this Part.

F. To place any false information or to omit relevant information from any application for registration provided pursuant to this Part.

G. To fail or refuse to comply with any other provisions of this Part.

2. Penalties and Remedies

A. Any person who shall violate any of the provisions of this Part shall be guilty of a summary offense and, upon conviction thereof before a District Magistrate, shall be sentenced to pay a fine of \$500.00 and the cost of prosecution for each and every offense, and in default of payment thereof, shall be sentenced to imprisonment in the Dauphin County Prison for not more than 30 days. Each violation and each day of violation shall constitute a separate offense.

B. In addition to prosecution of the persons violating this Part, a Borough Enforcement Officer or any other duly authorized agent of the Borough 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 person and/or property, real or personal, to effect the provisions of this Part. The remedies and procedures of this Part are not intended to supplant or replace to any degree, the remedies provided to the Borough in the Borough Building Code, Property Maintenance Code, Uniform Construction Code, Zoning Ordinance or any other Borough code, ordinance or resolution.

§ 241-11 APPEALS

1. Any person aggrieved by the action of the Borough or its designee to the provisions of this Part may appeal to the Capital Region Uniform Construction Code Joint Appeals Board within 30 days of that action.

2. Any person aggrieved by any decision of the Borough or the Capital Region Uniform Construction Code Joint Appeals Board relevant to the procedures of this Part may appeal to the Dauphin County Court of Common Pleas within 30 days of the decision.

§ 241-12 SEVERABILITY

Should any action, paragraph, sentence, clause or phrase of this ordinance be declared unconstitutional or invalid for any reason, the remaining portions of this ordinance shall not be thereby affected and shall remain in full force and effect and to that in the provisions of this ordinance are hereby declared to be severable.

All ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed.