

ORDINANCE NO. 15026

FILE OF CITY COUNCIL

BILL NO. 49 - 2012

September 19, 2012

AN ORDINANCE

AN ORDINANCE OF THE CITY OF ALLENTOWN, CREATING TITLE THREE, ARTICLE 1731, OF THE CITY CODE OF ORDINANCES, TO BE ENTITLED, "ABANDONED REAL PROPERTY"; PROVIDING FOR PURPOSE, INTENT AND APPLICABILITY OF THE ORDINANCE; 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 CITY; PROVIDING FOR SEVERABILITY, REPEALER, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the present mortgage foreclosure crisis has serious negative implications for all communities trying to manage the consequences of property vacancies and abandoned real properties; and

WHEREAS, the City of Allentown (hereinafter referred to as "City") recognizes an increase in the number of vacancies and abandoned properties located throughout the City; and

WHEREAS, the City is challenged to identify and locate owners of foreclosing parties who can maintain the properties that are in the foreclosure process or that have been foreclosed; and

WHEREAS, the City 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 City 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 City desires to amend the City's code in order 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 City 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 City; and

WHEREAS, upon passage, duly noticed public hearings, as required by law, will have been held by the City, at which public hearings all residents and interested persons were given an opportunity to be heard;

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ALLENTOWN:

SECTION ONE: 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 TWO. That the Allentown City Council does hereby amend the City Codified Ordinances by creating Title Three, Article 1731 entitled "Abandoned Real Property," to read as follows:

TITLE THREE.ARTICLE 1731.ABANDONED REAL PROPERTY

1731.01 – PURPOSE AND INTENT

It is the purpose and intent of the City to establish a process to address the deterioration and blight of City neighborhoods caused by an increasing amount of abandoned, foreclosed or distressed real property located within the City, and to identify, regulate, limit and reduce the number of abandoned properties located within the City. It is the City'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.

1731.02 – 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 City, 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.

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 City's Zoning Code, the City's Property Rehabilitation and Maintenance Code, Neighborhood Improvement Ordinance, Solid Waste Ordinance, Residential and Commercial Recycling Ordinance, and the Pennsylvania Building and Fire Codes.

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 City Codes; 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 applicable codes.

Enforcement Officer – means any Law Enforcement Officer, Building Official, Zoning Inspector, Code Enforcement Officer, Fire Inspector of Building Inspector, or other person authorized by the City 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.

1731.03 - 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 City above and beyond any other State, County or Local provisions for same.

1731.04 – ESTABLISHMENT OF A REGISTRY

Pursuant to the provisions of Section 1731.05 the City or designee shall establish a registry cataloging each Abandoned Property within the City, containing the information required by this Article.

1731.05 – REGISTRATION OF ABANDONED REAL PROPERTY

- a) Any mortgagee who holds a mortgage on real property located within the City of Allentown 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 Bureau of Building Standards and Safety, or designee, on forms or website access provided by the City, 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 City.

- c) Registration pursuant to this section shall contain the name of the mortgagee and the server, the direct mailing address of the mortgagee and the server, 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, Servicer, Trustee, or Owner. Third Party Registration fees are not allowed without the consent of the City 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 annual registration requirement, and the inspection, security and maintenance standards of this section as long as they remain vacant or in default.
- g) 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.
- h) 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.
- i) Pursuant to any administrative or judicial finding and determination that any property is in violation of this article, the City 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.

1731.06 – 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 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 City. Pursuant to a finding and determination by the City's Code Enforcement Officer, Magistrate or a court of competent jurisdiction, the City 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) of the City.

1731.07 – 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 re-glazing 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 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.

1731.08 – 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 City.

1731.09 – 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 offer for sale or transfer of title to the property, the owner shall be responsible to apply to the City's Bureau of Building Standards and Safety office for a Pre-sales Inspection.

1731.10 – 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 bring the violations before the magistrate as soon as possible to address the conditions of the property.

- b) The Code Enforcement Officer or magistrate 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 code enforcement board or special magistrate may direct the City to abate the violations and charge the mortgagee with the cost of the abatement.
- d) If the mortgagee does not reimburse the City for the cost of temporarily securing the property, or of any abatement directed by the code enforcement officer or magistrate, within thirty (30) days of the City sending the mortgagee the invoice then the City may lien the property with such cost, along with an administrative fee as determined in the City's fee ordinance to recover the administrative personnel services.

1731.11 – 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.

1731.12 – IMMUNITY OF ENFORCEMENT OFFICER

Any enforcement officer or any person authorized by the City 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 article.

1731.13 – FEES AND PENALTIES

- a) A non-refundable registration fee in the amount of two hundred (\$200.00) dollars per property, shall accompany the registration form.
- b) Any person who shall violate the provisions of this article may be cited and fined. The following table shows violations of these sections, as may be amended from time to time, which may be enforced pursuant to the provisions of this regulation; and the dollar amount of civil penalty for the violation of these sections as it may be amended. The descriptions of violations below are for informational purposes only and are not meant to limit or define the nature of the violations or the subject matter of the City code sections, except to the extent that different types of violations of the Code section may carry different civil penalties. For each Code section listed in the schedule of civil penalties, the entirety of the section may be enforced by the mechanism provided in this section, regardless of whether all activities prescribed or required are described in the "Description of Violation" column. To determine whether a particular activity is prescribed or required by this Code, the relevant City Code section(s) shall be examined.

DESCRIPTION OF VIOLATION	CIVIL PENALTY
Failure to register abandoned real property on annual basis and/or any violation of the sections stated within.	\$500.00

SECTION THREE: AMENDMENTS. Registration and Penalty Fees outlined in this article may be modified by a Resolution, passed and adopted by the City Council of the City of Allentown.

SECTION FOUR: 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 FIVE: REPEALER. That all Ordinances inconsistent with the above provisions are repealed to the extent of their inconsistency.

SECTION SIX: CODIFICATION. It is the intention of Council of the City of Allentown, Pennsylvania, that the provisions of this Ordinance shall become and be made a part of the City of Allentown Code of Ordinances; and that the sections of this ordinance may be renumbered or re-lettered 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 SEVEN – EFFECTIVE DATE. That this Ordinance will take effect ten (10) days after final passage.

	Yea	Nay
Joe Davis	X	
Jeanette Eichenwald	X	
Jeff Glazier	X	
Cynthia Y. Mota	X	
Ray O'Connell, VP	X	
Peter G. Schweyer	X	
Julio A. Guridy, Pres.	X	
TOTAL	7	0

I hereby certify that the foregoing Ordinance was passed by City Council on October 17, 2012 and signed by the Mayor on November 1, 2012.



CITY CLERK

- **What Department or bureau is Bill originating from? Where did the initiative for the bill originate?**

Bureau of Building Standards and Safety.

- **Summary and Facts of the Bill**

Creates a registration for properties entering into foreclosure and mandates a contact for property maintenance in the City of Allentown.

- **Purpose – Please include the following in your explanation:**
 - **What does the Bill do – what are the specific goals/tasks the bill seek to accomplish**
 - **What are the Benefits of doing this/Down-side of doing this**
 - **How does this Bill related to the City’s Vision/Mission/Priorities**

Creates a list of the properties going through the foreclosure process and highlights a point of contact for the maintenance of these properties.

- **Financial Impact – Please include the following in your explanation:**
 - **Cost (Initial and ongoing)**
 - **Benefits (initial and ongoing)**

Cost - None.

This will help prevent vacant properties from becoming blight.

- **Funding Sources – Please include the following in your explanation:**
 - **If transferring funds, please make sure bill gives specific accounts; if appropriating funds from a grant list the agency awarding the grant.**

Registration fee of \$200.00

- **Priority status/Deadlines, if any**

- **Why should Council unanimously support this bill?**

This is another step to eliminate blight in the City of Allentown.