

**TOWNSHIP OF JENKINS  
LUZERNE COUNTY, PENNSYLVANIA  
ORDINANCE #5 of 2018**

**AN ORDINANCE OF THE TOWNSHIP OF JENKINS, LUZERNE COUNTY, PENNSYLVANIA CREATING ORDINANCE TO BE ENTITLED “ABANDONED REAL PROPERTY;” PROVIDING FOR PURPOSE, INTENT AND APPLICABILITY OF THE ORDINANCE; REQUIRING THE REGISTRATION AND MAINTENANCE OF CERTAIN REAL PROPERTY; PROVIDING FOR PENALTIES AND ENFORCEMENT, AS WELL AS REGULATION, LIMITATION AND REDUCTION OF ABANDONED REAL PROPERTY WITHIN THE TOWNSHIP; PROVIDING FOR SEVERABILITY, REPEALER, 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 Township of Jenkins (hereinafter referred to as “Township”) recognizes an increase in the number of vacancies and abandoned properties located through the Township; and

**WHEREAS**, the Township 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 Township 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 aesthetics; and

**WHEREAS**, the Township 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 Township desires to amend the Township’s code in order to establish a foreclosed and vacant/abandoned 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 Township 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 Township; and

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

**BE IT ORDAINED BY THE BOARD OF SUPERVISRS OF THE TOWNSHIP OF JENKINS:**

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. That the Board of Supervisors of the Township of Jenkins does hereby amend the Township Zoning Book of Ordinances by creating Ordinance, "Abandoned Real Property" to read as follows:

## **ABANDONED REAL PROPERTY**

### **SECTION 1. Purpose and Intent.**

It is the purpose and intent of the Township to establish a process to address the deterioration and blight of the township neighborhoods caused by an increasing amount of abandoned, foreclosed or distressed real property located within the Township and to identify, regulate, limit and reduce the number of abandoned properties located within the Township. It is the Township'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 2. Definitions.**

The following words, terms and phrases, when used in this Article shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning.

**ABANDONED OR REAL PROPERTY** – means any real property located in the Township, whether vacant or occupied, that is in default on a mortgage, has had a *lis pendens*<sup>1</sup> 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 compromised/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 Township's Zoning Code, the Township's Property Maintenance Code, Solid Waste Ordinances, Residential and Commercial Recycling Ordinances and the Pennsylvania Building and Fire Codes, including the Municipality's Codified Book of 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

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<sup>1</sup> *Lis pendens* is Latin for "suit pending." This may refer to any pending lawsuit or to a specific situation with a public notice of litigation that has been recorded in the same location where the title of real property has been recorded. This notice secures a plaintiff's claim on the property so that the sale, mortgage, or encumbrance of the property will not diminish plaintiff's rights to the property, should the plaintiff prevail in its case.

- 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 Township 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 lack maintenance as required by the applicable 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 Township to enforce the applicable code(s).

**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, passers-by, delivery agents or government agents, among other evidence that the property is vacant.

**MORTGAGEE** – means the lender in a mortgage, usually a bank.

**MORTGAGOR** – means the borrower in a mortgage, typically a homeowner.

**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.

**SERVICER** – means a private company that collects payments on a loan, responds to customer service inquiries and performs other administrative tasks associated with maintain a loan. Loan servicers also disburse loans/funds, monitor loans, responds to borrower inquiries, maintain records and ensure that the loans are administered in compliance with federal regulations and other legal requirements.

**TOWNSHIP**- means Jenkins Township, Luzerne County, Pennsylvania.

**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 Municipal staff. This shall also include those properties subject to the provisions of SECTION 5 of this ordinance, which 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 the 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 Jenkins Township of their intention.

**SECTION 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 Township above and beyond any other State, County or Local provisions for the same.

**SECTION 4. Establishment of a Registry.**

Pursuant to the provisions of Section 1, the Township or designee shall establish a registry cataloging each Abandoned Property within the Township, containing the information required by this Article.

**SECTION 5. Registration of Abandoned Real Property.**

- A. Any mortgagee who holds a mortgage on real property located within the Township of Jenkins 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 Property Enforcement Officer, or other Township designee, on forms provided by the Township 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 Township.
- 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 server, a direct contact name and telephone number for both parties, facsimile number and email 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 Township and/or its authorized designee.
- E. This section shall 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. The provisions of this section shall also apply to owners, servicers, trustees, property managers, and agents of all vacant and/or abandoned property whether or not the subject of a mortgage.
- 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 Township 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.

A registration fee in the amount of **\$50.00** per property shall accompany the registration form(s). Plus the Yearly Fee: **Year 1: \$300; Year 2: \$600; Year 3: \$900; All Subsequent Years: \$1200/yr.**

#### **SECTION 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 of the 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 that the water remains free and clear of pollutants and debris. Pools and spas shall comply with all requirements of the Township Ordinances, the Township International Property Maintenance Code, and Pennsylvania Uniform Construction Code, and other applicable codes of the Township, as amended from time to time.
- 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 Township. Pursuant to a finding and determination by the Township's Code Enforcement Officer, Magistrate or a court of competent jurisdiction, the Township may take the necessary action to ensure compliance with this section.

#### **SECTION 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 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. D. Posting.
1. The property shall be posted with the name and twenty-four-hour contact phone number of the local property management company. The posting shall be no less than an 8" X 10" sign containing the name of the management company and the name and telephone number of an individual to whom to report problems or concerns.
  2. The posting shall be placed on the interior of a window facing the street to the front of the property so it is visible or secured to the exterior of the building/structure facing the street to the front of the property so it is visible. If no such area exists, on a stake of sufficient size to support the posting in a location as close as possible to the main door entrance to the property. Exterior postings shall be constructed of and printed with weather resistant materials.
- D. The local property management company shall inspect the property on a monthly basis to ensure that the property is in compliance with this section. Upon the request of the Township, the company shall provide a copy of the inspection reports to the Township.
- E. Failure of the mortgagee or property owner of record to properly maintain the property will result in a violation of the Township Ordinance and will result in the issuance of a Citation. Pursuant to a finding and determination by the Township Code Enforcement Office, the Township may take the necessary action to ensure compliance with this Ordinance.

#### **SECTION 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 Township.

#### **SECTION 9. 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 Township's Property Maintenance officer for a pre-sales inspection.

#### **SECTION 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 officer or magistrate may direct the township to abate the violations and charge the mortgagee with the cost of the abatement.
- D. If the mortgagee does not reimburse the Township for the cost of temporarily securing the property or for any abatement directed by the code enforcement officer or magistrate within thirty days of the Township sending the mortgagee the invoice then the Township may lien the property with such cost, along with an administrative fee as determined in the Township's fee resolution to recover the administrative personnel services.

**SECTION 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.

**SECTION 12. Immunity of Enforcement Officer.**

Any enforcement officer or any person authorized by the Township 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 Ordinance.

**SECTION 13. Fees and Penalties.**

- 1) It shall be a violation of this Ordinance 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 Ordinance.
  - B. To fail to pay a registration fee in the amount of **Fifty Dollars (\$50.00) plus the Yearly Fee: Year 1: \$300; Year 2: \$600; Year 3: \$900; All Subsequent Years: \$1200/yr.** pursuant to Section 5 part I of this Ordinance.
  - C. To fail to maintain property as required under Section 5 of this Ordinance.
  - D. 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 Section 6 of this Ordinance.
  - E. To refuse to permit inspections required under this Ordinance.
  - F. To place any false information on or to omit relevant information from and application for registration provided pursuant to this Ordinance.
  - G. To fail or refuse to comply with any other provision of this Ordinance.
- 2) A non-refundable registration fee in the amount of fifty (\$50.00) dollars per property, shall accompany the registration form plus the yearly fee: **Year 1: \$300; Year 2: \$600; Year 3: \$900; All Subsequent Years: \$1200/yr.**

- 3) Any person who shall violate the provisions of this article may be cited and fined. Failure to register abandoned real property on an annual basis and/or any violation of the sections stated within this ordinance, shall upon conviction before a District Magistrate be subject to a fine not exceeding One Thousand (\$1,000.00) Dollars plus costs. Each day's continuance of a violation shall constitute a separate offense. Penalties contained in this Section are in addition to any other remedies provided by law or by this Ordinance.
- 4) In addition to prosecution of the persons violating this Ordinance, a Township Enforcement Officer, Township Solicitor, or any other duly authorized agent of the Township may bring such civil or equitable actions, seeking civil or equitable remedies, and 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 Ordinance. The remedies and procedures of this Ordinance are not intended to supplant or replace, to any degree, the remedies provided to the Township in the Townships International Property Maintenance Code, Uniform Construction Code, Zoning Ordinance, or any other Township Code, Ordinance or Resolution.

#### **SECTION 14. AMENDMENTS.**

Registration and Penalty Fees outline in this Ordinance may be modified by a Resolution, passed and adopted by the Board of Supervisors of the Township of Jenkins.

#### **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 provisions of this Ordinance.

#### **SECTION 16. APPEALS.**

- A. Any person aggrieved by the action of the Township or its designee relevant to the provisions of this Ordinance may appeal to the Township UCC Appeals Board within thirty (30) days of that action.
- B. Any person aggrieved by any decision of the Township or the Township UCC Appeals Board relevant to the provisions of this Ordinance may appeal to the Luzerne County Court of Common Pleas within thirty (30) days of the decision.

**SECTION 17. REPEALER.** That all Ordinances inconsistent with the above provisions are repealed to the extent of their inconsistency.

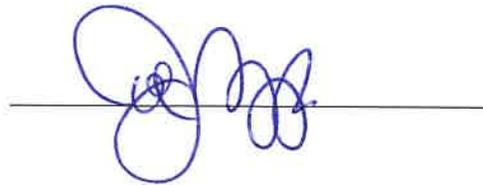
**SECTION 18. EFFECTIVE DATE.** That this Ordinance shall take effect immediately after final passage.

ENACTED AND ORDAINED this 8<sup>th</sup> day of 2018 at a Regular Meeting of the Jenkins Township Board of Supervisors.

Jenkins Township Board of Supervisors



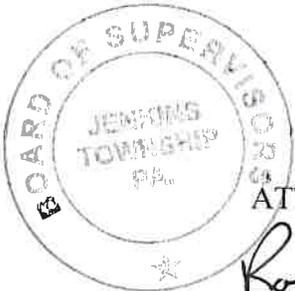
Stanley Rovinski, Chairman



Joseph Sperrazza, V. Chairman



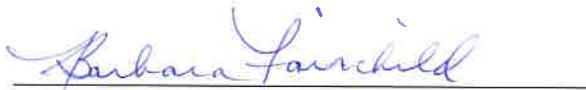
Robert Linskey, Sec. /Treasurer



ATTEST:



Robert Linskey, Secretary/Treasurer



Barbara Fairchild, Manager

