

## ARTICLE 1732

### ABANDONED REAL PROPERTY

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#### **1732.01 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.

#### **1732.02 DEFINITIONS**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this article, 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 a lender holding a mortgage on the property, is subject to an ongoing foreclosure action by a lender, is subject to an

application for a tax deed or pending tax assessor's lien sale, or has been transferred to a 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 International Property Maintenance Code, 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 natural person, entity, firm, association, foundation, institution, partnership, co-partnership, corporation or unincorporated association. This term shall also apply to any person, legal entity or agent responsible for the construction, maintenance or operation of the property involved.

**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.

In this article, the singular shall include the plural, and the masculine shall include the feminine and neuter.

### **1732.03        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 the same.

### **1732.04        ESTABLISHMENT OF A REGISTRY**

Pursuant to the provisions of Section 1732.05 the City or designee shall establish a registry cataloging each Abandoned Property within the City, containing the information required by this Article.

### **1732.05        REGISTRATION OF ABANDONED REAL PROPERTY**

- a) Any mortgagee who holds a mortgage on real property located within the City of Bethlehem 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 Housing, 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.

#### **1732.06 MAINTENANCE REQUIREMENTS**

Failure of the mortgagee and/or owner to properly maintain the property in accordance with all applicable codes of the City 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.

#### **1732.07 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.

#### **1732.08 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.

#### **1732.09 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 contact the City's Housing Inspections Office for the City of Bethlehem to schedule an inspection of the building or structure.

#### **1732.10 ADDITIONAL AUTHORITY**

- a) If an 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 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.

#### **1732.11          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.

#### **1732.12          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.

#### **1732.13          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 Bethlehem.

#### **1732.14          SEVERABILITY**

If any section, sentence, clause or phrase of this article is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect or impair any of the remaining portions of this Ordinance. It is hereby declared to be the intention of City Council of the City of Bethlehem that this article would have been adopted if such illegal, invalid or unconstitutional provisions had not been included herein.

#### **1732.15          EFFECTIVE DATE**

This ordinance shall become effective on August 28, 2013.

#### **1732.99          FEES AND PENALTIES**

- a) A non-refundable registration fee in the amount of two hundred dollars (\$200.00), 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 PENALTIES
Failure to register abandoned real property on annual basis and/or any violation of any of the sections of Article 1732.	1 <sup>st</sup> Violation - \$ 1,000 2 <sup>nd</sup> Violation - \$ 1,000 3 <sup>rd</sup> Violation - \$ 3,000 4 <sup>th</sup> Violation - \$ 7,000 5 <sup>th</sup> Violation - \$10,000

(Ord. 2013-19-Passed 8/6/13)