

**ORDINANCE NO. 604**

**AN ORDINANCE OF THE BOROUGH OF FLEETWOOD, BERKS COUNTY,  
PENNSYLVANIA ENTITLED "ABANDONED REAL PROPERTY" REQUIRING THE  
REGISTRATION AND MAINTENANCE OF CERTAIN REAL PROPERTY AND  
PROVIDING FOR PENALTIES AND ENFORCEMENT.**

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

WHEREAS, the Borough is challenged to identify and locate real parties in interest of vacant property; and

WHEREAS, the Borough finds that the presence of vacant and abandoned properties can lead to a decline in property value, create attractive nuisances and lead to general decrease in neighborhood and community aesthetic; and

WHEREAS, the Borough has already adopted property maintenance codes to regulate building standards for the exterior of the structures and the condition of the property as a whole; and

WHEREAS, the Borough 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 Borough; and

BE IT ORDAINED BY THE COUNCIL OF THE BOROUGH OF FLEETWOOD

**Section 1 – PURPOSE AND INTENT**

It is the purpose and intent of the Borough to establish a process to address the deterioration and blight of the Borough neighborhoods caused by an increasing amount of abandoned, foreclosed or distressed real property 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 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 chapter, shall have the meanings ascribed to them in this section, except where context clearly indicates a different meaning.

"Abandoned Real Property" means any real property located in the Borough 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 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 withdrawn or dismissed, and any default on the mortgage has been cured. Abandoned property shall also include any

and all real estate located in the Borough which remains uninhabited for a consecutive period in excess of 90 days.

"Applicable Codes" means to include, but not be limited to the Borough Zoning Ordinance, Property Maintenance Codes, and the Pennsylvania Building and Fire Codes.

"Blighted Property" means any real property that has broken or severely damaged windows, doors, walls, or roofs which create a hazardous condition and encourage trespassing; or any real property whose maintenance is not in conformance with the maintenance of other neighboring properties causing a decrease in value of neighboring properties; or any real property cited for a public nuisance pursuant to Applicable Codes; or any real property that endangers the public's health, safety or welfare due to the dilapidation or deterioration of such property, or any real property, the condition of which has violated minimum health and safety standards or lacks maintenance as required by Applicable Codes.

"Enforcement Officer" means any Law Enforcement Officer, Building Code Official, Zoning Inspector, Code Enforcement Officer, Fire Inspector or Building Inspector, or other person authorized by the Borough to enforce the Applicable Code(s)

"Owner" means any person, legal entity or other party having 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 Maintenance Company" means a local property manager, property maintenance company or similar entity responsible for the maintenance of Abandoned Real Property.

"Vacant Property" means any building or structure that is not legally occupied and has been unoccupied for a period in excess of 90 consecutive days.

### **Section 3 – APPLICABILITY**

The sections of this Ordinance 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 any other State, County or Local provisions for the same.

### **Section 4 – ESTABLISHMENT OF A REGISTRY**

The Borough of Fleetwood shall establish a registry cataloging each Abandoned Real Property within the Borough containing the information by this Article.

### **Section 5 – REGISTRATION**

Registration is required of the following properties:

- a) Any property in default of the mortgage, for the period of time the mortgage remains in default.
- b) Any property subject to foreclosure sale.
- c) This section shall also apply to property which is currently unoccupied and remains unoccupied for a period in excess of 90 consecutive days.

Registration shall include the property address, date of registration, person registering the property, identification of the real party in interest of the property, the amount and value of all liens and mortgages, and whether the property is occupied or not. The registration must include the name and contact information of a representative who will be responsible to accept service of notice of violation and police citation for any action identified under this Ordinance and under any Ordinance of the Borough of Fleetwood. Registration must be completed in a form as approved by the Borough of Fleetwood which may from time to time be amended. Initial registration shall be without charge, but following passage of this Ordinance, the Borough Council of the Borough of Fleetwood may with good reason create a fee for the registration if such fee is necessary to effectuate the intent as identified above.

#### **Section 6 – MAINTENANCE REQUIREMENTS**

- a) Properties subject to this Ordinance 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 furniture, clothing, large and small appliances, printed material or any other 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 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 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 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 property may result in a violation of applicable code(s) and issuance of a citation or Notice of Violation in accordance the Applicable Code(s) of the Borough. Pursuant to a finding and determination by the Borough Codes Enforcement Officer, Magistrate or a court of competent jurisdiction, the Borough may take 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 Borough.

## **Section 7 – SECURITY REQUIREMENTS**

- a) Properties subject to this Ordinance shall be maintained in a secure manner so as not to be accessible to unauthorized persons.
- b) A “secured manner” shall include, but not limited to, the closure and locking and/or repair of windows, doors, gates and other openings of such size that may allow a child to access the interior of any improvements on the property. 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 property into compliance with 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.

## **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 Borough.

## **Section 9 – INSPECTIONS FOR VIOLATIONS**

Adherence to this Ordinance 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.

## **Section 10 – ADDITIONAL AUTHORITY**

- a) If the Codes Enforcement Officer has reason to believe that a property subject to the provisions of this Ordinance is posing a serious threat to public health, safety and welfare, the Codes Enforcement Officer may temporarily secure the property at the expense of mortgagee and/or and may bring the violations before the magistrate as soon as possible to address the conditions of the property.
- b) The Codes Enforcement Officer or magistrate shall have the authority to require the mortgagee and/or owner of record 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 finding that the condition of the property is posing serious threat to the public health, safety and welfare, and then the Codes Enforcement Officer or magistrate may direct the Borough to abate violations and charge the mortgagee with the cost of the abatement.
- d) If the mortgagee does not reimburse the Borough for the cost of temporarily securing the property, or of any abatement directed by the Codes Enforcement Officer or magistrate, within thirty (30) days of the Borough sent the mortgagee the invoice then the Borough may lien the property with such

cost, along with any charges for administrative personnel services, and reasonable attorney's fees, costs and expenses.

**Section 11 – OPPOSING, OBSTRUCTING ENFORCEMENT OFFICER; PENALTY**

Whoever opposes obstructs or resists any Codes Enforcement Officer or any person authorized by the enforcement office in the discharge of duties as provided by 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 Codes Enforcement Officer or any person authorized by the Borough to enforce sections herein 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 – PENALTIES**

Any person who shall violate the provisions of this Ordinance may be cited and fined. Following is a list of violations of this Ordinance which may be enforced pursuant to the provisions of this Ordinance. (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 not meant to limit or define the nature of violations or the subject matter of Applicable Codes, except to the extent that different violations of the Applicable Codes 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 Borough Code section(s) shall be examined.

<b>DESCRIPTION OF VIOLATION</b>	<b>CIVIL PENALTY</b>
a) Failure to register Abandoned Real Property	\$500.00
b) Each consecutive 90 day period without registration is a new violation of the registration requirement subject to additional penalty	\$500.00
c) Each occurrence when the referenced property is cited for a separate and distinct violation of the Applicable Codes shall result in not only the penalty or such violation as prescribed by the Applicable Codes, but in addition, in the event the property is Abandoned Real Property, whether or not the Abandoned Real Property is registered, there shall be an additional penalty assessed based on the fact that the property in question is an Abandoned Real Property.	\$500.00

**Section 14 – AMENDMENTS**

Registration and Penalty Fees outlined in this article may be modified by a Resolution, passed and adopted by the Borough Council of Fleetwood.

**Section 15 – SEVERABILITY**

If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any court or competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

**Section 16 – REPEALER**

All Ordinances inconsistent with the above provisions are repealed to the extent of their consistency.

**Section 17 – EFFECTIVE DATE**

That this Ordinance with take effect ten (10) days after final passage.

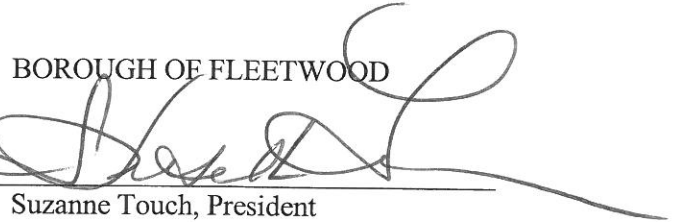
ORDAINED and ENACTED by the Borough Council of the Borough of Fleetwood in lawful session duly assembled this 10<sup>th</sup> day of March, 2014.

Attest:

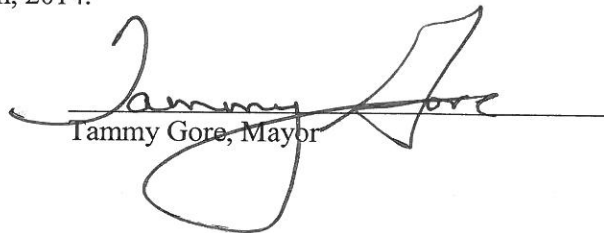
  
Lorrie Collinge, Secretary

BOROUGH OF FLEETWOOD

By:

  
Suzanne Touch, President

APPROVED this 10<sup>th</sup> day of March, 2014.

  
Tammy Gore, Mayor