

**ORDINANCE NO. 5 of 2018**

**AN ORDINANCE OF THE BOROUGH OF PLYMOUTH ESTABLISHING A VACANT AND ABANDON PROPERTY REGISTRY AND MAINTENANCE REQUIREMENTS OF REAL PROPERTIES**

WHEREAS, the Borough is experiencing serious negative implications as a result of vacant, dilapidated, abandon and unsafe structures in the Borough;

WHEREAS, in order to address this issue the Borough has decided to require registration, inspection and maintenance requirements of all vacant properties, including residential and commercial real estate, subject to the terms and conditions specified in this ordinance;

WHEREAS, the Borough finds that the presence of abandon properties can lead to a decline in property value, create attractive nuisances and lead to a decline in neighborhood and community aesthetics;

WHEREAS, the Borough has a vested interest and duty to protect neighborhoods against decay, including the consequences of neglected abandon properties and conclude it is in the best interest of the residents of the borough to establish registration and maintenance requirements on abandon properties within the Borough;

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Plymouth Borough Council, for the reasons set forth above and incorporated herein, that the "Abandoned Property Registration and Maintenance Ordinance is hereby established as hereinafter set forth:

§1.101 Purpose and intent.

It is the purpose and intent of the Borough to establish a process to address the deterioration and blight of Borough neighborhoods caused by the increasing number of abandoned properties that are within the Borough and to establish registration as a mechanism to protect the neighborhoods of the Borough from becoming blighted due to lack of adequate maintenance on abandoned properties.

§1.102 DEFINITIONS. – The following words, terms, and phrases when used herein, shall have the meanings ascribed to them in this section, except when the context clearly indicates a different meaning:

**ABANDONED REAL PROPERTY**

Any real property or structure, located within the Borough that is vacant for more than forty-five (45) days.

**ACCESSED VALUE**

The amount posted or listed on the public records of the Luzerne County Tax Assessment records as the value of the land and improvement.

#### BOROUGH

Borough of Plymouth, Luzerne County, Pennsylvania.

#### EVIDENCE OF VACANCY

Any condition that standing alone, or combined with other conditions present, would lead a reasonable person to conclude that the property is vacant. Such conditions include, but are not limited to, overgrown and/or dead vegetation, accumulation of newspapers, circulars, flyers and/or mail, past due utility notices and or disconnected utilities, accumulation of trash, junk and/or debris, the absence of window coverings such as curtains, blinds, or shutters, the absence of furnishings and/or personal items consistent with residential habitation, statements by neighbors, passer-bys, delivery agents, mail delivery persons or governmental employees indicating that the property or structure is vacant.

#### ENFORCEMENT OFFICER

Any lawful enforcement officer, building official, zoning inspector, code enforcement officer, fire inspector or chief, or other person authorized by any borough ordinance or by a resolution of the Borough Council to enforce this ordinance.

#### GARBAGE

The animal or vegetable waste resulting from the handling, preparation, cooking or consumption of food.

#### HIGH GRASS

All grasses, annual plants, and vegetation, other than trees or shrubs, in excess of twelve (12) inches high, however, this term shall not include cultivated flowers and gardens

#### OWNER

Any person, legal entity, corporation, partnership, financial institution, bank, credit union, savings, and loan company, an investment firm, municipal or corporation, municipal authority, non-profit organization of any type, or other group acting as a unit. having an ownership interest, whether legal or equitable, in real property.

#### PERSON

An individual, corporation, partnership, financial institution, bank, credit union, savings, and loan company, an investment firm, municipal or corporation, municipal authority, non-profit organization of any type, or other group acting as a unit. having an ownership interest, whether legal or equitable, in real property.

#### PREMISES

Has the same meaning as property.

## PROPERTY

Any unimproved or improved real property, or portion thereof, located within the Borough and includes the buildings or structures located on the property regardless of condition.

## RUBBISH

Combustible and noncombustible waste material, except garbage. The term shall include the residue from burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings. Tin cans, metals, mineral matter, glass, crockery, dust, and other similar materials.

## STRUCTURE

Any portion of that which is built, constructed or affixed to the land.

## VACANT

Any building or structure that is not legally occupied.

### §103. Applicability

These sections shall be considered cumulative and nor superseding or subject to any other law or provision of the same, but rather be an additional remedy available to the Borough above and beyond any other state, county or borough ordinance applicable to any violation or condition that is covered under this ordinance.

### §104. Establishment of a registry.

The Borough or its designee shall establish a registry cataloging each abandoned property within the Borough, containing the information required by this ordinance.

### §105 Inspection

Any person who owns a property located within the Borough shall have performed by the Borough or its designee an inspection within ten(10) days of purchase and if a property is vacant it shall be inspected by the owner or his duly appointed designee/agent monthly until the property becomes legally occupied.

### §106. Registration

- A. If any property is found to be vacant or abandoned or shows evidence of vacancy, then the owner shall register the property with the Borough Code enforcement officer or its designee on a form or forms and pay a registration fee of \$300.00 per year for each and every year for each property that meets the requirements requiring registration per this ordinance.
- B. Registration pursuant to this section shall contain the name of the owner, the physical address of the property, the physical mailing address of the owner and not P.O. Box, a direct contact name and telephone number for the owner(s) and the name, address and phone number for the local management company responsible for the security,

maintenance and marketing of the property, a facsimile number and email address for all parties, the fax 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 and any other information required by the Borough code enforcement officer or the Borough's designee.

- C. A nonrefundable annual registration fee in the amount of \$300.00 per property is required to register under this ordinance. This fee will be due during each calendar year and will not be prorated. The annual fee shall accompany the registration form. The annual fee can be changed by Resolution of Council passed at a duly authorized public meeting.
- D. The fee will be valid for the calendar year or remainder of that calendar year in which the registration fee was initially required. Subsequent registrations and fees are due January 1 of each year and must be paid by January 31 of the year due.
- E. Properties subject to this section shall remain under registration and fee requirement and the inspection, security, and maintenance standards of this ordinance for so long as they remain vacant.
- F. Any owner that has registered a property under this ordinance must report any change of information contained on the registration form within ten (10) days of its occurrence.

#### §107. 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 newspapers, circulars, flyers, notices, except those required by federal, state, or local laws, 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 all borough ordinances.
- 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 water remains free and clear of pollutants and debris and shall comply with regulations under other applicable Borough ordinances.
- G. Failure of the owner to properly maintain the property may result in a violation of other Borough ordinances and the issuance of a citation or notice of violation. In accordance with the findings of the enforcement officer or any person designated under any

borough ordinance or court of competent jurisdiction, the Borough may take the necessary action to ensure compliance with this ordinance.

- H. In addition to the above, the property must be maintained in compliance with all other applicable Borough ordinances, including the Borough's Property Maintenance Code.

#### §108. Security Requirements

- A. Properties subject to this ordinance shall be maintained in a secure manner so as not to be accessible to unauthorized persons, vermin, rats or pests. 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 reglazing of the window. C. If a property manager is designated by the owner to perform the work necessary to bring the property into compliance with the Borough Code or any property maintenance codes that have been adopted by the Borough, and the property manager must perform regular inspections to verify compliance with the requirements of this ordinance and any other applicable laws or ordinances.

#### §109. Public Nuisance.

All blighted real property is hereby declared to be a public nuisance, the abatement of which pursuant to the police power of the Borough is hereby declared to be necessary for the health, welfare, and safety of the residents of the Borough. Nothing herein shall be deemed to alter or otherwise supersede the terms "public nuisance" or "nuisance" as used elsewhere in this ordinance.

#### §110. Inspections for violations.

Adherence to this ordinance does not relieve any person, legal entity or agent from any other obligations set forth in the Borough Code, any other Borough ordinances or any other applicable, federal, state or county law, which may apply to the property. Upon transfer of title of a vacant property to a new owner, the original owner shall be responsible for all violations of this ordinance or any other applicable borough ordinance, and the original owner shall be responsible for meeting with the Borough Code Enforcement Officer within twenty (20) days of the date of transfer for a final inspection report and the original owner shall abate all violations cited in the inspection report within forty-five (45) days of the date of the report.

#### §111 Additional Authority.

- A. If the enforcement officer or any person or entity designated by the Borough to enforce this ordinance has reason to believe that a property subject to this ordinance is posing a serious threat to the public health, safety or welfare, the enforcement officer may temporally secure the property at the expense of the owner.

- B. The enforcement officer or Borough designee shall have the authority to require the owner of record of any property covered by this ordinance 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 the enforcement officer or Borough designee has reason to believe that a property subject to this ordinance is posing a serious threat to the public health, safety or welfare, then the enforcement officer or Borough designee may recommend to the Borough to abate the violations, and the Borough may abate the violations and charge owner with the cost of abatement and take any and all lawful steps to collect the same, including but not limited to placing a lien on the property.
- D. If the owner does not reimburse the Borough for the cost of temporarily securing the property or of any abatement thereof within thirty (30) days of the date of the Borough invoice, then the Borough may lien the property with such costs along with an administration fee of five hundred (\$500.00) dollars to recover the administrative costs and fees connected with the filing of the lien.

§112. Opposing, obstructing enforcement officer; penalty.

Whoever opposes, obstructs or resists any enforcement officer or any person authorized by the enforcement officer or Borough in the discharge of duties provided for in this ordinance shall be subject to punishment for any crimes committed covered under state or federal law in addition to being subject to a summary offense to be filed with a District Justice/Magistrate having jurisdiction over matters occurring in the Borough. Upon conviction of the offense be subject to a minimum fine of \$300.00 and a maximum fine of \$1,000 for each offense and/or up to ninety days imprisonment, plus pay all filing fees and the cost of prosecution.

§113. Immunity of enforcement officer.

Any enforcement officer or any person authorized by the Borough to enforce the provisions of this ordinance shall be immune from prosecution, civil or criminal, for reasonable, good-faith entry upon real property while in the discharge of duties imposed and/or performed under this ordinance.

§114. Penalties

Any person who violates or permits the violation of any portion of this ordinance shall be upon conviction in a summary non-traffic proceeding subject to a minimum fine of \$300.00 and a maximum fine of \$1,000.00, plus the costs of prosecution including all filing fees and costs associated therewith. These proceedings shall be filed in a District Justice/Magistrate Court having jurisdiction over matters involving Plymouth Borough.

All actions involving fines shall be filed with a District Justice/Magistrate having jurisdiction over matters occurring in the Borough.

§115. Repealer.

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 ruling shall in no way affect the validity of the remaining portions of this ordinance.

This Ordinance shall become effective as specified in the Borough Code.

ENACTED AND ORDAINED the 9<sup>th</sup> day of October 2018 at a duly authorized regular meeting of the Plymouth Borough Council.

BOROUGH OF PLYMOUTH

By: Frank Coughlin  
Frank Coughlin, Acting President of Council

ATTEST:

Holly Spece  
Holly Spece, Secretary

SEAL

APPROVED BY THE MAYOR

Thomas McTague  
Thomas McTague, Mayor

Dated: 10.10.18

