

COUNCIL BILL NO. 1962

INTRODUCED BY: James Aughenbaugh

ORDINANCE NO. 1863

AN ORDINANCE

AN ORDINANCE OF THE CITY OF DUBOIS AMENDING CHAPTER 310 OF THE CODE OF ORDINANCES OF THE CITY OF DUBOIS ENTITLED "PROPERTY MAINTENANCE" TO ADD THE REQUIREMENT FOR THE REGISTRATION, MAINTENANCE AND SECURITY OF ABANDONED, VACANT OR FORECLOSED UPON REAL PROPERTY BY THE LENDERS, MORTGAGEES AND/OR OWNERS OF THE SAME; ESTABLISHING A REGISTRATION FEE SCHEDULE UPON RESOLUTION OF CITY COUNCIL; PROVIDING FOR ENFORCEMENT AND IMPOSING PENALTIES FOR VIOLATIONS THEREOF UPON CONVICTION.

WHEREAS, blighted, abandoned and vacant properties have serious and significant implications for municipalities trying to manage the consequences of such property within the municipality; and

WHEREAS, the City of DuBois (hereinafter referred to as the "City") has recognized an increase in the number of vacancies and abandoned properties located in the City; and

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

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

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

WHEREAS, many abandoned properties are the responsibility of absentee owners, mortgage holders and trustees who, upon giving a Notice of Default to the mortgagor, or upon becoming a mortgagee in possession, or upon becoming a holder of title pursuant to a mortgage foreclosure sale, fail to adequately secure and maintain such properties; and

WHEREAS, the City desires to establish a vacant and abandoned properties resignation process that will identify a contact person to address safety and aesthetic concerns to minimize the impacts and blighting conditions that occur as a result of the vacating or abandoning of such properties; 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 certificate requirements on abandoned and vacant properties located within the City; and

NOW, THEREFORE, BE IT ORDAINED AND ENACTED, by the City Council of the City of DuBois, in lawful session duly assembled, and it is hereby ORDAINED AND ENACTED as follows:

SECTION 1

The foregoing "Whereas" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance.

SECTION 2. PURPOSE AND INTENT

It is the purpose and intent of the City to establish a process to address the deterioration and blight of the City of DuBois 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.

SECTION 3. 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 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.

APPLICABLE CODES - means to include, but not be limited to, the City's Code of Ordinances and the Pennsylvania Building Code.

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 City Code; 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 City.

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 City to enforce the applicable code(s).

LENDER OR MORTGAGEE – means any person, legal entity or other party holding a mortgage as mortgagee for any real property.

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.

PERSON – means an individual, partnership, corporation or any other entity or group acting as a unit.

PROPERTY MANAGEMENT COMPANY – means a local property manager, property maintenance company or similar entity responsible for the maintenance of abandoned real property.

UNOCCUPIED – means without inhabitants; deserted

VACANT – means any building or structure that is not legally occupied.

SECTION 4. APPLICABILITY

These section 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.

SECTION 5. ESTABLISHMENT OF A REGISTRY

Pursuant to the provisions of Section 6 below, the City or designee shall establish a registry cataloging each abandoned and vacant property within the City, containing the information required by this part.

SECTION 6. REGISTRATION OF ABANDONED AND VACANT REAL PROPERTY

- A. Any mortgagee or lender who holds a mortgage on real property located within the City shall perform an inspection of the property to determine vacancy or occupancy, upon default by the mortgagor. The mortgagee shall, within ten days of the inspection, register the property with the Code Enforcement Officer, 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 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 folio or tax number, and the name and 24 – hour contact phone number of the property management company responsible for the security and maintenance of the property.
- D. A non-refundable annual registration fee per property set by resolution of the Council of the City of DuBois, shall accompany the registration form or website registration.
- E. 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.
- F. 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.
- G. This section shall also apply to vacant properties not in any foreclosure status.
- H. 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.
- I. 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 days of the change.
- J. 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 part is a violation of the part and shall be subject to enforcement.

- K. Pursuant to any administrative or judicial finding and determination that any property is in violation of this Ordinance, 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.

SECTION 6.1 WAIVER OF FEES

A waiver may be granted for the current year if the following conditions are met:

- A. All local municipal fees are paid in full; and,
- B. A good faith effort is shown to rent, sell or lease the space. Good faith efforts include: contracts with realtors, newspaper ads or other methods provided that the effort is actually likely to generate interest in the property and the owner is actually willing to rent, sell or lease; and,
- C. Pricing is consistent with other similar buildings; and,
- D. The building is in compliance with all City of DuBois codes and ordinances and is habitable; or
- E. Other good cause as determined by a majority vote of Council.

SECTION 7. 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, stone or block or artificial turf/sod or mulch designed specifically for residential installation. Acceptable maintenance of yards and/or landscape shall not include weeds, gravel, broken concrete, asphalt or similar material or cracked sidewalks resulting in upheaval.
- 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 City's Code of Ordinances. Pursuant to a finding and determination by the City's Code Enforcement Officer 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).

SECTION 8. SECURITY REQUIREMENTS

- A. Properties subject to these sections shall be maintained in a secure manner so as not to be accessible to unauthorized persons. 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.
- B. 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 Ordinance, the City's Property Maintenance Code, and any other applicable laws.

SECTION 9. 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.

SECTION 10. VIOLATIONS

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 register any property required by this Ordinance to be registered.
- B. To fail to pay a registration fee in the amount required by this Ordinance.
- C. To fail to maintain and secure properties pursuant to the provisions of this Ordinance.
- D. To place any false information on or to omit relevant information from a registration form required pursuant to this Ordinance.
- E. To fail or refuse to comply with any other provision of this Ordinance.

SECTION 11. PENALTIES

Any person or entity that violates this Ordinance shall be guilty of a summary offense, and, upon conviction thereof, shall be subject to a fine of not less than Five Hundred Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00) for each offense, plus the costs of prosecution. Each day that a violation of this Ordinance occurs or continues shall be considered a separate offense.

SECTION 12. INSPECTIONS

Adherence to the provisions of 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. Upon sale or transfer of title to the property, the owner shall be responsible for all violations of

the applicable code(s) and the owner shall be responsible for meeting with the City's Code Enforcement Officer within 45 days for a final courtesy inspection report.

SECTION 13. ADDITIONAL AUTHORITY

If the Code Enforcement Officer has reason to believe that a property subject to the provisions of this Ordinance 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 in accordance with the City's Property Maintenance Code.

SECTION 14. IMMUNITY OF ENFORCEMENT OFFICER

Any Code Enforcement Officer or any person authorized by the City to enforce the sections set forth 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 part.

SECTION 15. AMMENDMENTS

Registration procedures and fees outlined in this Ordinance may be modified by a Resolution, passed and adopted by the City Council.

SECTION 16. REPEALER

Any ordinance or part of any ordinance conflicting with the provision of this Ordinance are hereby repealed to the extent of such conflict.

SECTION 17. SEVERABILITY

If any provision of this Ordinance shall be determined to be unlawful, invalid, void or unenforceable, then that provision shall be considered severable from the remaining provisions which shall continue in full force and effect.

SECTION 18. EFFECTIVE DATE

This Ordinance shall be in full force and effect immediately upon and after its final passage.

ORDAINED AND ENACTED INTO LAW THIS 24th DAY OF MAY, 2021.

ATTEST:



Bobbie J. Shaffer
Administrative Secretary

CITY OF DUBOIS



Edward L. Walsh
Mayor & President of Council

PASSED BY COUNCIL:

5-24-21

APPROVED:

