

**FILE OF THE COUNCIL OF THE
CITY OF POTTSVILLE, PA**

Ordinance Number

Bill Number 4/2019

Introduced by

Enacted by Council

**AN ORDINANCE TO AMEND THE CODIFIED ORDINANCES OF THE
CITY OF POTTSVILLE BY ADDING A NEW CHAPTER, CHAPTER 175: VACANT
PROPERTY REGISTRATION AND MAINTENANCE**

THE CITY COUNCIL OF THE CITY OF POTTSVILLE DOES HEREBY ORDAIN THAT:

CHAPTER 175 VACANT PROPERTY REGISTRATION AND MAINTENANCE ORDINANCE

§175-1 PURPOSE.

The purpose of this chapter is to help protect the health, safety and welfare of the citizens by preventing blight, protecting property values and neighborhood integrity, avoiding the creation and maintenance of nuisances and to ensure the safe and sanitary maintenance of dwellings, commercial and industrial buildings. It is the intent of this Ordinance to address homes and buildings that have become vacant, abandoned, or otherwise unsupervised thereby having a negative impact on surrounding properties and neighborhoods. Vacant and abandoned homes create an increased instance of unsecured or open doors and windows, broken water pipes, flooded basements, theft of metals and other materials, overgrowth of grass, weeds, shrubs, and bushes, illegal dumping, and rodent and vermin activity at vacant structures. Such neglect devalues properties and causes deterioration in neighborhoods and industrial and commercial areas. It is important for the City to be able to contact Owners of vacant properties for property maintenance, utility shutoff, fire safety, and police reasons.

§175-2 SCOPE.

The provisions of this chapter shall apply to all existing residential, commercial, and industrial structures. This chapter does not relieve an Owner from compliance with all other City ordinances, codes, rules, regulations, and state law.

§175-3 DEFINITIONS.

As used in this chapter:

(a) "Abandoned vacant property" means a vacant property that has been vacant for thirty (30) days or more and meets any of the following criteria:

- (1) provides a location for loitering, vagrancy, unauthorized entry, or other criminal activity;
- (2) has one or more broken or boarded windows;
- (3) has taxes in arrears for a period of time exceeding 365 days;
- (4) has utilities disconnected or not in use;
- (5) is not maintained in compliance with city ordinances, codes or state law;
- (6) is only partially completed and is not fit for human occupancy.

(b) "Building" means a structure with a roof supported by columns or walls to serve as a shelter or enclosure.

(c) "Evidence of vacant property" means any condition that on its own or combined with other conditions would lead a reasonable person to believe 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, disconnected utilities, accumulation of trash, junk and/or debris, broken or boarded windows, abandoned vehicles, auto parts or materials, the absence of window coverings such as curtains, blinds and/or shutters, the absence of furnishings and/or personal items consistent with habitation, or occupation, statements by neighbors, passerby, delivery agents or governmental employees that the property is vacant.

(d) "Foreclosure" means the process by which a mortgage is enforced against a parcel of real property through sale or offering for sale to satisfy the debt of the mortgagee.

(e) "Mortgage" means a recorded lien or interest in real property to secure payment of a loan.

(f) "Mortgagee" means a person, firm, corporation or other legal entity holding a mortgage on a property.

(g) "Mortgagor" means a borrower under a mortgage who grants a lien or interest in property to a Mortgagee as security for the payment of a debt.

(h) "Owner" means an individual, co-partnership, association, corporation, company, fiduciary, or any other person or legal entity having a legal or equitable title or interest in real property.

(i) "Structure" means anything constructed or erected, the use of which requires location on or attachment to the ground, and includes Buildings.

(j) "Vacant Property" means an improved lot or parcel of real property with at least one Building or Structure that is not currently used or occupied for a period in excess of 30 days. A Building or Structure which remains furnished, has utilities connected or in use, and on property that is maintained while the Owner is absent, shall not be considered vacant.

§175-4 REGISTRATION OF VACANT AND ABANDONED VACANT PROPERTY.

An Owner of a Vacant Property or an Abandoned Vacant Property located in the City shall be responsible for registering that property with the Building Department by complying with the affidavit and registration and inspection fee requirements in this chapter within the following time frames:

(a) Vacant Property shall be registered within thirty (30) days of the vacancy.

(b) Abandoned Vacant Property shall be registered within thirty (30) days of the vacancy.

§175-5 OWNER REGISTRATION FORM; CONTENT.

Owners who are required to register their properties pursuant to this chapter shall do so by submitting a copy of a valid driver's license, date of birth, and owner registration form containing the information specified in this section. The form may be signed by an agent for an Owner provided the agent's written authorization from the Owner is also provided. The form shall include the following:

(a) the name of the Owner of the property.

(b) a current mailing address where mail may be sent that will be acknowledged as received by the Owner. If certified/return receipt requested is sent to the address provided by the Owner pursuant hereto and the mail is returned marked "refused" or "unclaimed" or if ordinary mail sent to the address is returned for whatever reason, then such occurrence shall be prima facie evidence that the Owner has failed to properly comply with this chapter constituting a violation hereof.

(c) The name of an individual or legal entity responsible for the care and control of the property. Such individual may be the Owner, if the Owner is an individual, or may be someone other than the Owner provided that the Owner has contracted with such person or entity to act as his or her agent for purposes of this chapter.

(d) A current address, telephone number, and facsimile number, or email address where communications may be sent that will be acknowledged as received by the individual responsible for the care and control of the property. If certified/return receipt requested mail is sent to the address provided pursuant to section 175. 5(b), and the mail is returned marked "refused" or "unclaimed", or if ordinary mail sent to the address provided pursuant to section 175.5(b) is returned for whatever reason, then such occurrence shall be prima facie evidence that the Owner has failed to properly comply with the requirements of section 175.5(b).

(e) the Owner's promise that the City's Building Official or designee will be permitted to inspect the property, including any Building or Structure situated thereon, in accordance with this chapter, and at such other reasonable times, upon reasonable notice, as determined necessary by the Building Official.

(f) An explanation as to the reason for the vacancy of the property.

Once a vacant or abandoned vacant property has been properly registered by the Owner, such registration shall be valid and effective for a period not to exceed three hundred sixty-five (365) days, and shall be renewed

annually thereafter until the property has become occupied and a certificate of compliance has been issued pursuant to section 175.11 (Re-occupancy).

§175-6 REGISTRATION, INSPECTION AND OTHER FEES.

All fees applicable to this chapter shall be set from time to time by resolution of the City Council, which fees shall include a registration fee, an inspection fee, a re-inspection fee, and such other related fees established by resolution of the City Council. Registration fees are as follows:

- (a) There is no fee for the first six (6) months.
- (b) There is a Twenty-Five Dollar fee (\$25) for six (6) months to twelve (12) months—that initial fee can be waived if the property is being actively marketed.
- (c) After twelve (12) months, there is a Fifty Dollar (\$50) Annual fee for each year until the property becomes occupied and a certificate of compliance has been issued pursuant to section 175.11 (Re-Occupancy). For properties that are not registered within the required time, an additional fee for the added cost of the City's expenses in having to determine ownership, which may include, but is not limited to, title searches, shall be assessed and immediately payable. The payment of all fees required under this chapter shall be secured by a lien against the property and if not paid within thirty (30) days after the bill for such fee(s) is rendered, such fee(s) shall be collected as provided in section 175.14.

§175-7 REQUIREMENT TO KEEP INFORMATION CURRENT.

If at any time the information contained in the owner registration form required pursuant to section 175.5 of this chapter is no longer valid, the Owner has ten (10) days to file a new form containing valid, current information. There shall be no fee to update an existing registered Owner's current information.

§175-8 INSPECTIONS.

(a) Vacant or unoccupied Buildings or Structures, including the surrounding real property, required to be registered in accordance with this chapter shall be subject to an initial safety and maintenance inspection by the Building Official, or designee, upon registration. The Owner shall pay the inspection fee pursuant to section 175.6 hereunder. The Owner shall demonstrate, within the course of such inspection, that all Building or Structure water, sewer, electrical, HVAC, plumbing systems, exterior finishes and walls, concrete surfaces, accessory buildings, roofing, structural systems, foundation, drainage systems, gutters, doors, windows, parking areas, signage, driveway apron(s), service walk(s), sidewalk(s), and other public areas on the property, are sound, operational, or properly disconnected. The Owner shall also demonstrate compliance with the City's property maintenance code. In the event such inspection reveals any violations, the Owner shall, within ten (10) days, apply for any necessary permits, and shall, within thirty (30) days, or such additional period as permitted by the Building Official not to exceed six (6) months, complete all repairs required resulting from such inspection. Following the initial inspection, in order to ensure that vacant Buildings and Structures are safe, secured, and well-maintained, all vacant or unoccupied Buildings and Structures, including the surrounding real property, shall be subject to annual inspections by the Building Official, or designee, until the Building or Structure is lawfully occupied in accordance with section 175.11 hereof. Any violations of the City's codes or this chapter which are detected during any inspections by the Building Official, or designee, shall be fully repaired and remedied within thirty (30) days of notice to the Owner, or such additional time as permitted by the Building Official but not to exceed six (6) months.

(b) Any Mortgagee who holds a mortgage interest on a property located within the City shall perform an inspection to the extent permitted by law or under the mortgage, of the property that is the security for the mortgage, upon default by the Mortgagor, within five (5) days after either the filing of a complaint for foreclosure (if foreclosure is by judicial action) or publishing a notice of foreclosure (if foreclosure by advertisement). Upon such inspection by the Mortgagee, if the property is found to be vacant or shows Evidence of Vacant Property, it is, by this ordinance, deemed vacant and the Mortgagee shall register the property in accordance with this chapter and be subject to all provision of this chapter.

§175-9 MAINTENANCE AND SECURITY REQUIREMENTS.

An Owner of a vacant property shall, on a daily basis, comply with all of the following maintenance and security requirements.

- (a) Property shall be kept free from weeds, grass more than six (6) inches high, dry brush, dead vegetation, trash, junk, debris, building material, any accumulation of newspapers, circulars, flyers, notices, except those required by federal, state, or local law, discarded items, including, but not limited to, furniture, clothing, large and small appliances, printed material, signage, containers, equipment, construction materials, or any other items that give the appearance that the property is abandoned.
- (b) Property shall be maintained free of graffiti or similar markings.
- (c) All visible front and side yards shall be landscaped and properly maintained. Landscaping includes, but is not limited to, grass, ground covers, bushes, trees, shrubs, hedges, or similar plantings. Maintenance includes, but is not limited to, cutting, pruning, and mowing of required landscaping and removal of all trimmings.
- (d) Pools, spas, and other water features shall be covered with an industry approved safety cover and shall also comply with the minimum-security fencing and barrier requirements of all applicable building and existing structures/property maintenance codes and ordinances.
- (e) Property shall be maintained in a secure manner so as not to be accessible to unauthorized persons. Secure manner includes, but is not limited to, the closure and locking of windows, doors, gates, and any other opening of such size that may allow a child or other person to access the interior of the property and/or Buildings or Structures. Broken windows must be repaired or replaced with like glazing materials within fourteen (14) days. Boarding up of open or broken windows is prohibited except as a temporary measure not to exceed fourteen (14) days.
- (f) Electrical power and natural gas shall be provided to all vacant or unoccupied Buildings or Structures to power all mechanical equipment to maintain a minimum ambient interior temperature of not less than forty-five (45) degrees Fahrenheit during the months of September through April of each calendar year and to power a sump pump. A minimum of a seven (7) watt night light shall be placed in the interior of any vacant residential Building or Structure on a timer, set so as to turn on at dusk and off at dawn, on both the first and second levels, so as to be visible from the exterior of the residential Building or Structure. All vacant or unoccupied residential Buildings or Structures shall have the water shut off at the street and shall have the building properly winterized so as to prevent the bursting of water pipes, unless the Building or Structure is served by a heating system which requires the use of water.
- (g) Property façade, foundation, basements, crawlspaces, exterior walls, exterior windows and doors, roof, gutters, downspouts, scuppers, flashing, chimneys, flues outside stairs, steps, decks, verandas, and balconies need to be properly maintained.
- (h) Property shall be maintained in compliance with all other applicable code requirements.

§175-10 OPEN PROPERTY; SECURING FEE.

Property that is subject to this chapter that is left open and/or accessible shall be subject to entry by the City in order to ensure that the property has not become an attractive nuisance and to ensure that the property is locked and/or secured and in compliance with the City's codes and ordinances. The Owner of property subject to this chapter which is found open or unsecured shall be responsible for paying a securing fee as set by the City Council to offset the cost incurred by the City in contacting the Owner or management company to secure the property, or if the Owner and/or management company cannot be contacted or does not secure the property within a reasonable time, not to exceed 24 hours, the cost incurred by the City in securing the property.

§175-11 RE-OCCUPANCY.

A vacant or unoccupied Building or Structure on vacant property shall not be occupied until a certificate of compliance has been issued by the Building Official within thirty (30) days immediately prior to occupancy, and all violations have been corrected in accordance with the City's codes and ordinances and state law. All mechanical, electrical, plumbing, and structural systems shall be certified by a licensed contractor as being in good operation and repair. In addition, a certificate of compliance shall not be issued until all outstanding costs, assessments, and/or liens owed to the City have been paid in full.

§175-12 FIRE-DAMAGED PROPERTY.

If an occupied Building or Structure is damaged by fire, the Owner has thirty (30) days from the date of the fire to apply for a permit to start construction or demolition. Failure to do so will result in the property being deemed vacant and subject to the requirements of this chapter.

§175-13 NONLIABILITY OF CITY.

The issuance of a certificate of compliance is not a representation by the City that the residential home, rental unit, or commercial property is in compliance with the Fire Prevention, Building, Mechanical, Property Maintenance, Electrical or Plumbing Codes. The issuance of a certificate of compliance indicates that the residential home, rental unit or commercial property did not have any dangerous conditions as of the date of the inspection. However, neither the enactment of this article nor the issuance of a certificate of compliance shall impose any liability upon the City for any errors or omissions which resulted in the issuance of such certificate, nor shall the City bear any liability not otherwise imposed by law.

§175-14 UNPAID FEES; ASSESSMENT.

All fees hereunder that remain unpaid after fourteen (14) days written notice to the Owner and/or management company shall be assessed against the property as a lien and placed on the tax roll or the City may seek civil judgment in the court of jurisdiction.

§175-15 PENALTIES; MUNICIPAL CIVIL INFRACTION.

A violation of this chapter shall be a municipal civil infraction and shall not be punishable by imprisonment. A first offense shall be subject to a minimum \$200.00 fine and any other penalties authorized under state law. Second or subsequent offenses shall be subject to a minimum fine of \$400.00 and any other penalties authorized under state law. The requirements of this chapter are in addition to, and not in lieu of, all other City ordinances, codes, rules, regulations, or state law.

§175-16 SEVERABILITY.

Should any section, subsection, clause, or phrase of this Ordinance be declared by the courts to be invalid or unacceptable, such holding will not affect the validity or enforceability of the ordinance as a whole or any part thereof other than such part so invalidated or declared unenforceable.

ORDAINED AND ENACTED THIS _____ day of _____, 2019.

CITY OF POTTSVILLE

Mayor James T. Muldowney

ATTEST:

Lisa M. Kral, City Clerk