

**BEFORE THE BOROUGH COUNCIL OF  
THE BOROUGH OF MOHNTON**

**ORDINANCE NO. 957**

**BILL NO. 2023-2**

**AN ORDINANCE OF THE BOROUGH OF MOHNTON IMPLEMENTING A VACANT  
PROPERTY ORDINANCE WHICH SETS FORTH DEFINITIONS OF, AND EXEMPTIONS  
FROM, VACANT PROPERTY WITHIN THE BOROUGH OF MOHNTON, ESTABLISHES A  
VACANT PROPERTY REGISTRY, AND PROVIDES PENALTIES FOR VIOLATIONS OF THE  
ORDINANCE.**

**WHEREAS**, the Borough of Mohnton, Berks County, Pennsylvania is a Borough organized and operating under the laws of the Commonwealth of Pennsylvania and the Borough of Mohnton Code of Ordinances; and

**WHEREAS**, the Borough Council of the Borough of Mohnton, finds that the absence of monitoring, maintaining, repairing and rehabilitating vacant property within the Borough represents a potential health and safety hazard on nearby residences and businesses in the neighborhoods in which they are located; and

**WHEREAS**, the Borough Council of the Borough of Mohnton desires to adopt a Vacant Property Ordinance in Chapter 4, Buildings, Part 2 of the Borough of Mohnton Code of Ordinances, which will provide definitions of vacant property, provide exemptions from such definitions, establish a vacant property registry, and provide penalties for violations of the ordinance; and

**WHEREAS**, the Borough Council of the Borough of Mohnton may, under the general authority of the Code of Ordinances, enact regulations to ensure the health, safety, and general welfare of the citizens of the Borough of Mohnton; and

**WHEREAS**, the Borough Council has determined that it would benefit the health, safety, and general welfare of the citizens of the Borough of Mohnton to implement a Vacant Property Ordinance in Chapter 4, Buildings, Part 2 of the Borough of Mohnton Code of Ordinances; and

**NOW, THEREFORE, BE IT ORDAINED AND ENACTED** that the Borough Council of the Borough of Mohnton adopts a Vacant Property Ordinance in Chapter 4, Buildings, Part 2 of the Borough of Mohnton Code of Ordinances as follows:

**CHAPTER 4**

**BUILDINGS**

**Part 2**

**VACANT PROPERTY**

- §201. Definitions and Interpretation**
- §202. Applicability**
- §203. Registry**
- §204. Fees; Renewals.**

§205	<b>Continuing Obligations</b>
§206	<b>Violations and Penalties</b>
§207	<b>Appeals</b>

**§201. Definitions and Interpretations**

1. **ACTIVE RENOVATION OR REHABILITATION** – In order to be deemed a building undergoing an active renovation or rehabilitation, a building owner must have submitted to the Borough Code Enforcement Office a written and signed renovation or rehabilitation plan and work schedule that will result in the building being able to be occupied when the renovation or rehabilitation is complete which includes, at a minimum, the nature and extent of the planned renovations or rehabilitation including specific improvements, the identity (name and address) of the contractor (if any) to be used, the amount of time planned for the renovations or rehabilitation and the good faith, estimated date of completion of the plan. If a building is occupied up until the start of an active renovation or rehabilitation pursuant to a building permit, the building is exempt from a vacant building registration fee for a period of 180 days from the issuance of the building permit, provided the property is logged in the vacant building database with the date of vacancy and all contact information is up-to-date with the Enforcement Officer.

2. **ACTIVELY MARKETED (FOR SALE OR LEASE)** – In order to be deemed a building actively marketed for sale or lease, the property must be currently listed on an electronic, publicly accessible list of properties for sale or lease, or be currently contractually listed for sale or lease with a licensed real estate broker at a marketable price, with a listing duration of at least six months and the owner shall provide the Borough with the property's offer price, along with supporting evidence of the reasonableness of the offer price, such as appraisal, broker's price opinion, or three reasonable comparable properties that have sold within the last 12 months. If a building is occupied up to the start of active marketing for sale or lease, or at any point during the marketing of the property, the building is exempt from a vacant property registration fee for a period of 180 days from the original date of offering the property for sale or lease, provided the property is logged in the vacant property database with the date of vacancy and date of initial offering for sale or lease and all contact information is up-to-date with the Enforcement Officer.

3. **BOARDED** – A building subject to the provisions of this chapter where, in place of one or more exterior doors, other than a storm door, or of one or more windows, plywood or similar material is covering the space for such door or window so that such door or window is temporarily secured.

4. **BUILDING** – For the purposes of this chapter, any combination of materials having a roof and enclosed within exterior walls or firewalls, built to form a structure for the shelter of persons or property, excluding accessory structures that are incidental to the principal structure located on the same lot.

5. **ENFORCEMENT OFFICER** – Any building code official, zoning officer, code enforcement officer, health officer, fire inspector, police officer, building inspector, or other person authorized by the Borough Council to enforce applicable codes.

6. **NUISANCE** – Any of the following: (i) any public nuisance known at common law or in equity jurisprudence or as provided by the statutes or regulations of the Commonwealth of Pennsylvania or the ordinances or regulations of Berks County or the Borough of Mohnton; (ii) any attractive nuisance known at common law or in equity jurisprudence or as provided by the statutes or regulations of the Commonwealth of Pennsylvania or the ordinances or regulations of Berks County or Borough of Mohnton; and/or (iii) conditions that are unsanitary, dangerous, or otherwise in violation of this chapter.

7. OCCUPIED - A building subject to the provisions of this chapter where one or more persons actually conducts a lawful use and/or resides in all or any part of the building with a valid Use & Occupancy permit as the legal or equitable owner/occupant(s) or tenant(s) on a permanent, nontransient basis, or any combination of the same.

8. OWNER – Every person, entity, service company, property manager, or real estate broker, who alone or severally with others: (i) has legal or equitable title to any dwelling, dwelling unit, building, structure, or parcel of land, vacant or otherwise, including a mobile home park; (ii) has care, charge or control of any dwelling, dwelling unit building structure, or parcel of land, including a mobile home park, in any capacity, including but not limited to agent, executor, executrix, administrator, administratrix, trustee or guardian of the estate of the holder of legal title; (iii) a mortgagee in possession of such property; (iv) an agent, trustee or other person appointed by the courts and vested with possession or control of any such property; or (v) an officer or trustee of the association of unit owners of a condominium; or (vi) a trustee who holds, owns or controls mortgage loans for mortgage backed securities transactions and has initiated the foreclosure process.

9. PREMISES – A lot, plot or parcel of land, including the building or structures thereon, which is subject to the provisions of this chapter.

10. SECURED - A building subject to the provisions of this chapter that has a permanent door or window in each appropriate building opening that is secured to deter vandalism and unauthorized entry, and has all its door and window components, including frames, jambs, rails, stiles, muntins, mullions, panels, sashes, lights and panes intact and unbroken. A building may also be temporarily secured with boards over windows, doors, or other openings in the building to prevent unauthorized entry and protect from weather damage.

11. UNSECURED - Any vacant or abandoned building subject to the provisions of this chapter not continuously secured, maintained, locked or boarded to deter vandalism and unauthorized entry or which fails to provide protection from weather damage.

12. VACANT - A building subject to the provisions of this chapter where no person(s) or entity(ies) actually, currently conduct(s) a lawfully licensed business in, or lawfully occupies any part of the building as the legal or equitable owner(s) or tenant-occupant(s) or owner-occupants, or tenant(s) on a permanent, nontransient basis. For the purposes of this chapter, evidence of vacancy is considered any condition that on its own, or combined with other conditions, would lead a reasonable person to believe the property is vacant. Such conditions may include, but not be limited to, lack of activity on the site; low or no utility usage; accumulation of mail; lack of furniture, equipment or machinery; lack of window coverings; open accessibility; deferred maintenance or deteriorating buildings and structures; overgrown or dead vegetation; dumped refuse or rubbish; public or attractive nuisances; boarded windows or doors; and statements by neighbors, passersby, delivery agents or government agents; among other evidence that the property is vacant. A building may also be considered vacant if less than 10% of the total square footage of the building is actively used by the owner(s) or tenant(s) on a permanent, nontransient basis for domestic or lawfully licensed business purposes.

## **§202. Applicability.**

1. **Applicability.** This chapter shall be applicable to any building designed or used for residential (including multifamily use), commercial, industrial, manufacturing, storage or other nonresidential uses or purposes which have been determined to be vacant by the Enforcement Officer.

2. **Exemptions.** The following buildings and/or building units are exempt from the provisions of this chapter:

(A) A building that is undergoing an active renovation or rehabilitation, for which all required permits have been obtained, no municipal liens or unpaid taxes apply to the property, and the property is not in mortgage foreclosure shall be exempt from registering as vacant for a period of not more than 180 days from the issue date of building permit(s) provided property was occupied prior to rehabilitation/renovation and is intended for occupancy immediately following rehabilitation/renovation.

(B) A building that is actively marketed for sale or lease that was occupied up to the start of being actively marketed, or was occupied for some period of time while being marketed and does not have outstanding code violations, municipal liens, unpaid taxes and is not in foreclosure, shall be exempt from registering as vacant for a period of not more than One Hundred Eighty (180) days from the date the property was placed on the market.

(C) Residential condominium and rental units in a building the vacancy rate of which does not exceed eighty percent (80%).

(D) A building whose occupants are temporarily or seasonally away, provided the premises are in compliance with all Borough codes, no municipal liens or unpaid taxes apply to the property, the utilities remain connected and not in arrears, and the property is not in mortgage foreclosure.

(E) Permitted warehouses or storage structures, provided the premises is in compliance with all Borough codes, no municipal liens or unpaid taxes apply to the property, and the property is not in mortgage foreclosure.

(F) Newly constructed buildings for the period of one year from the date that the applicable building permit or zoning permit is issued, whichever is later, provided that the premises is in compliance with all Borough codes, no municipal liens or unpaid taxes apply to the property, and the property is not in mortgage foreclosure.

(G) Buildings vacant due to fire damage, for a period of one (1) year from the date of the fire, provided the premises is otherwise in compliance with all Borough codes, no municipal liens or unpaid taxes apply to the property, and the premises is not in mortgage foreclosure.

### §203. Registry.

1. **Registration.** The owner of a vacant building shall file a registration statement for each such building with the Borough on forms provided by the Borough. Registration shall be required for all vacant buildings, whether vacant and secured or vacant and unsecured, whenever any building has been determined to be vacant by the Enforcement Officer. In no instance shall the registration of a vacant building be construed to exonerate the owner, agent or responsible party from responsibility for compliance with any building, property maintenance, fire, housing, zoning or other applicable codes, ordinances or regulations. One registration statement shall be filed for each vacant building owned, or in the case of a multiunit building, per unit, by the owner so registering.

2. **Contents.** The following information and documentation shall be provided in or accompanying the registration statement:

(A) The street address of each vacant building;

- (B) The names and addresses of all owners;
- (C) The name of the responsible person to contact regarding building repairs and emergency conditions, along with mailing address, email address, and working telephone number;
- (D) The status of all utility connections;
- (E) The reasoning for the vacancy and an expected time frame for the vacancy;
- (F) If no owner has an address within the Commonwealth of Pennsylvania, the owner's registered agent for purposes of service of process; and
- (G) Any other information deemed necessary by the Enforcement Officer from time to time.

### 3. **Maintenance Plan.**

(A) At the time of registration, the owner shall provide a written maintenance plan for the building(s) and premises. If the owner fails to submit the plan as provided for by this chapter, or the plan is not approved by the Enforcement Officer, the Enforcement Officer may determine and impose a maintenance plan. The plan shall contain the following at a minimum:

(i) A plan to permanently repair or replace any doors, windows, or other openings which are in need of repair or being secured. The proposed repair or replacement shall result in the openings being secured. Windows and doors shall not be boarded up. The owner shall maintain the building in a secure state until the building is reoccupied or made available for immediate occupancy.

(ii) A plan to repair any deterioration in the exterior of the building(s) or premises, to ensure the building(s) is weather-tight and minimize danger to the public. The proposed repair(s) shall be of similar materials and colors as the original architecture or style of the building(s) and premises.

(iii) For buildings and premises thereof which are determined by the Enforcement Officer as being or containing nuisances, the maintenance plan shall contain a plan to remedy such nuisance(s).

(iv) A time schedule, which shall be reviewed and approved by the Borough, identifying the date of commencement of repair or mitigation and date of completion for each improperly secured opening, deteriorating exterior or premises condition, and nuisance identified by the Enforcement Officer.

(v) At such time when the owner proposes to demolish the vacant building, the owner shall submit a plan and time schedule in advance of such demolition. No demolition of the vacant building shall occur until the plan and time schedule have been approved, in writing, by the Borough.

(vi) A time schedule, identifying the date the building(s) and premises will be habitable and occupied or offered for occupancy or sale. The time schedule shall include date(s) of commencement and completion of all actions required to achieve habitability.

(vii) A listing of all hazardous materials in the building(s) or premises and a plan for their removal.

(B) In consideration of the approval of the proposed maintenance plan, the Enforcement Officer shall include the following in his or her consideration and shall make written findings as to each:

(1) the purpose of this chapter and intent of the Borough Council to minimize the time a building is vacant;

(2) the effect of the building and the proposed maintenance plan on adjoining property;

(3) the length of time the building has been vacant;

(4) the presence of any nuisances on the property;

(5) the likelihood that the maintenance plan or portion(s) thereof will prevent or ameliorate the condition it is designed to address;

(6) whether the measures will secure the premises from trespassers and make it safe for entry by emergency personnel in times of exigent circumstances or emergency; and

(7) whether the building shall be made to conform to all applicable codes.

4. **Inspections.** Each vacant building or structure registered herein shall be inspected not less than annually by the Enforcement Officer to ensure the maintenance plan is being followed and for compliance with the International Property Maintenance Code and the other codes of the Borough of Mohnton Code of Ordinances. The owner shall permit a code compliance inspection of both the interior and exterior of the premises. Generally, the inspection will include the following points: (i) habitability; (ii) building openings and access-ways; (iii) roofs; (iv) drainage; (v) building structure; (vi) foundation walls; (vii) building exterior; (viii) grounds; (ix) utility connections and (x) walkways.

#### **§204. Fees; Renewals.**

1. **Registration of Single-Family Residential Dwellings.** A registration fee of Two Hundred Fifty and 00/100 Dollars (\$250.00) shall be imposed for a registration statement for each vacant single-family residential or two-family building dwelling unit or renewal of such registration statement annually to cover the administrative cost of monitoring the premises and ensuring the proper maintenance thereof. The registration fee shall be paid at the time of application and renewal. No registration statement shall be deemed complete prior to payment of the registration or renewal fee, as applicable. In the event of a required reinspection by the Borough, an additional Two Hundred and 00/100 Dollars (\$250.00) fee shall be imposed.

2. **Registration for Multifamily Residential and Non-residential Buildings and Structures.** A registration fee in accordance with the table below shall be imposed for a registration statement for each multifamily residential (containing more than two dwelling units) or non-residential building or structure to which this chapter applies as well as for the renewal of such registration statement annually to cover the administrative cost of monitoring the premises and ensuring the proper maintenance

thereof. The registration fee shall be paid at the time of application or renewal, as applicable. No registration statement shall be deemed complete prior to payment of the registration or renewal fee, as applicable.

<u>Total Floor Space of Vacant Floor Space</u>	<u>Annual Registration Fee</u>
Less than 5,000 Sq. Ft.	\$300.00
5,000 to 9,999 Sq. Ft.	\$400.00
10,000 to 19,999 Sq. Ft.	\$500.00
20,000 or more Sq. Ft.	\$1,000.00

3. **Renewal.** Each registration statement shall expire after one (1) year. Registration of a vacant building shall be renewed on an annual basis, beginning on January 1<sup>st</sup> of each year, and the inspection shall be completed by March 31<sup>st</sup>.

(A) **Renewal of registration without violations.** If a vacant building and its premises does not violate the conditions of this chapter or other applicable property maintenance and building code ordinances at the time of renewal, then the renewal fee shall be the same amount as the initial registration. All renewed registration statements shall be subject to all of the same conditions and obligations applicable to the initial registration statement, unless expressly exempted therefrom by the Borough.

(B) **Renewal of registration with violations.** If a vacant building and its premises has outstanding violations with respect to this chapter and other applicable property maintenance and building code ordinances at the time of renewal, then the renewal fee shall be double the initial registration fee at the time of first renewal with violations. The second year a vacant building and its premises has any violations at time of renewal, then the renewal fee shall be triple the original renewal fee. The third and each year after, a vacant building and its premises has any outstanding violations, the renewal fee shall be four times the original registration fee.

#### 4. **Habitation of Vacant Building.**

(A) Prior to removal of a vacant building from the vacant building registry, owner shall submit to an inspection by the Enforcement Officer to verify all outstanding code violations have been addressed to the satisfaction of the Enforcement Officer and the maintenance plan has been completed.

(B) If a building is found habitable and legally occupied less than One Hundred Eight (180) days after registration or registration renewal, owner may receive a refund of 50% of the registration fee for that year, minus an inspection fee of \$100 per inspection conducted to date.

**§205. Continued Obligations.** The obligations of the owner as set forth in this chapter constitute continuing obligations throughout the period in which the building is vacant. The owner, or the responsible person or agent for the owner, shall notify the Enforcement Officer within 30 days of any change to the information contained in the registration statement on file with the Borough.

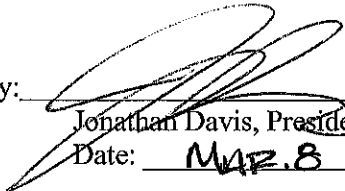
**§206. Violations and Penalties.** The failure or refusal of any owner to register a vacant building and/or to otherwise comply with any provision of this chapter, including, without limitation, failure or refusal to comply with the owner's maintenance plan required pursuant to §203 hereof, shall upon adjudication thereof in a civil enforcement proceeding commenced by the Borough be subject to a civil penalty not to exceed \$1,000 per violation, plus costs of prosecution. Each day that such violation shall occur shall constitute a separate violation. Said penalty(ies) shall be in addition to the registration fee amount.

**§207. Appeals.** Any person affected by any notice issued in connection with the enforcement of this chapter shall have the right to appeal and request a hearing on the matter before the Board of Appeals of the Borough

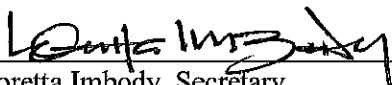
of Mohnton, which shall be the appeal board as referred to in this chapter. The appeal shall be filed with the Borough Secretary, in writing, within thirty (30) days of the rendition of the order or decision of the Enforcement Officer being appealed from.

**APPROVED AND ADOPTED** this 8 day of MARCH, 2023, by the Borough Council of the Borough of Mohnton, Berks County, Pennsylvania, at a regular public meeting.


**BOROUGH COUNCIL  
BOROUGH OF MOHNTON**

By:   
Jonathan Davis, President  
Date: MAR. 8, 2023

**ATTEST:**

  
Loretta Imbody, Secretary

AND NOW, TO WIT, this 8 day of MARCH, 2023, the above is approved.

  
Eric Burgis, Mayor