Borough of New Cumberland
Cumberland County, Pennsylvania

ORDINANCE NO. 711

AN ORDINANCE OF THE BOROUGH OF NEW CUMBERLAND PROVIDING FOR THE REGISTRATION OF FORECLOSED AND VACANT PROPERTIES IN THE BOROUGH; PROVIDING FOR PENALTIES AND ENFORCEMENT, AS WELL AS THE REGULATION, LIMITATION AND REDUCTION OF REGISTRABLE REAL PROPERTY WITHIN THE BOROUGH OF NEW CUMBERLAND; AND PROVIDING FOR SEVERABILITY, REPEALER, AND EFFECTIVE DATE.

WHEREAS, the Borough Council desires to further protect the public health, safety and welfare of the citizens of New Cumberland Borough and maintain a high quality of life for the citizens of the Borough through the maintenance of structures and properties; and

WHEREAS, properties that are neglected and have unsecured, accessible structures have a negative impact on community value, create conditions that invite criminal activity, and foster an unsafe and unhealthy environment for children; and

WHEREAS, mortgage foreclosures and vacant properties have serious negative implications for all communities trying to manage the consequences of properties with defaulted mortgages, are in the foreclosure process, foreclosed upon and/or mortgagee owned or vacant; and

WHEREAS, the mortgagee of foreclosed property and the owner of vacant property frequently are not physically present to maintain the property and there is no local responsible party for such property, making it difficult to maintain the requisite level of maintenance and security on such structures or lots or to serve the proper party of notices of violations of the Borough's Code of Ordinances; and

WHEREAS, the Borough Council recognizes the existence of properties which have been foreclosed upon or stand vacant (hereinafter referred to as "registrable properties") located throughout the Borough which lead to a decline in property value, create nuisances and lead to a general decrease in neighborhood and community aesthetic; and

WHEREAS, the Borough Council recognizes that in the best interest of the public health, safety and welfare of the community, a more regulated method is needed to discourage registrable property owners and mortgagees from allowing their properties to be abandoned, neglected or left unsupervised; and

WHEREAS, the Borough Council recognizes the opportunity to conserve staff resources by greatly reducing the need to repeatedly process property maintenance violations against the owners of foreclosed or vacant properties, to include the expenditure of taxpayer funds to cover the costs of abatement; and

WHEREAS, the Borough Council has a vested interest in protecting neighborhoods against decay caused by registrable property and concludes that it is in the best interests of the health, safety, and welfare of its citizens and residents to impose registration requirements of registrable property located within the Borough to discourage registrable property owners and mortgagees from allowing their properties to be abandoned, neglected or left unsupervised; and

WHEREAS, the Borough Council desires to establish a property registration process that will identify a contact persons to address safety and aesthetic concerns to minimize the negative impact and conditions that occur as a result of the foreclosure process.

NOW THEREFORE, it is hereby ordained by the Borough Council of New Cumberland Borough, Cumberland County, Pennsylvania, as follows:

Section 1. Title. This ordinance may be referred to as "New Cumberland Borough Foreclosed and Vacant Property Registration Ordinance."

Section 2. Purpose. The purpose of this ordinance is to establish a procedure for the registration of foreclosed and vacant properties located within the Borough so as to facilitate the protection of neighborhoods from the negative impacts and conditions that occur as a result of vacancy, absentee ownership, and lack of adequate maintenance and security, and to provide a method to expeditiously identify contact persons for each property responsible for this protection. It is not the intent of this ordinance to determine the rights and liabilities of persons under agreements to which New Cumberland Borough is not a party. This ordinance shall not be construed to alter the terms of any lease or other agreement between a landlord and a tenant or others relating to property that is the subject of this ordinance; provided that no provision of any lease or other agreement shall be construed to excuse compliance with this ordinance. Additionally, a violation of this ordinance shall not in and of itself create negligence per se standard or otherwise expand existing liability in tort for either a landlord or a tenant.

Section 3. Definitions. The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except-where the context clearly indicates a different meaning.

Accessible Property/Structure - a property that is accessible through a compromised/breached gate, fence, wall, etc., or a structure that is unsecured and/or breached in such a way as to allow access to the interior space by unauthorized persons.

Applicable Codes - any state or local laws, ordinances, or regulations applicable to the use, ownership, or maintenance of real property in New Cumberland Borough, including, but not limited to, New Cumberland Borough's Zoning Ordinance, Property Maintenance Code, Nuisance ordinances, Solid Waste and Recyclables Ordinance, and Building and Fire Codes.

Enforcement Officer - any Law Enforcement Officer, Building Official, Zoning Officer, Codes Enforcement Officer, Fire Marshall, or other person authorized by New Cumberland Borough to enforce the applicable code(s).

Evidence of Vacancy - any condition that on its own, or combined with other conditions present, would lead a reasonable person to believe that the property is vacant. Such conditions may include, but are not limited to: overgrown and/or dead vegetation; past due Utility notices and/or disconnected Utilities; accumulation of trash junk or debris; abandoned vehicles, auto parts and/or materials; the absence of furnishings and/or personal items consistent with habitation or occupancy; the presence of an unsanitary, stagnant swimming pool; the accumulation of newspapers, circulars, flyers and/or mail; statements by neighbors, passers-by, delivery agents or government agents; and/or the presence of boards over doors, windows or other openings in violation of applicable code.

Foreclosure - the legal process by which a mortgagee, or other lien holder, terminates a property owner's equitable right of redemption to obtain legal and equitable title to the real property pledged as security for a debt or the real property subject to the lien. This definition shall include, but is not limited to, public notice of default, a deed-in-lieu of foreclosure, sale to the mortgagee or lien holder, certificate of title and all other processes, activities and actions, by whatever name, associated with the described process. The process is not concluded until the property obtained by the mortgagee, lien holder, or their designee, by certificate of title, or any other means, is sold to a non-related bona fide purchaser in an arm's length transaction to satisfy the debt or lien.

Mortgagee - means the creditor, including but not limited to, trustees; mortgage servicing companies; lenders in a mortgage agreement; any agent, servant, or employee of the creditor; any successor in interest; or any assignee of the creditor's rights, interests or obligations under the mortgage agreement, excluding government entities.

Owner - Owner means any person, firm, corporation or other legal entity who, individually or jointly or severally with others, holds the legal or beneficial title to any building, facilities, equipment or premises subject to the provisions of this chapter, including a mortgagee which has initiated foreclosure proceedings on real property located within New Cumberland Borough.

Real Property- means any improved or unimproved residential or commercial land, buildings, leasehold improvements and anything affixed to the land, or portion thereof identified by a property parcel identification number, located in New Cumberland Borough.

Registrable Property – includes:

a. Any real property located in New Cumberland Borough, whether vacant or occupied, that is encumbered by a mortgage in default, is subject to an ongoing foreclosure action by the Mortgagee or Trustee, has been the subject of a foreclosure action by a Mortgagee or Trustee and a Judgement has been entered, or has 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. The designation of a "default/foreclosure" property as "registrable" shall remain in place until such time as the property is sold to a non-related bona fide purchaser in an arm's length transaction or the foreclosure action has been dismissed and any default on the mortgage has been cured.

b. Any property that is vacant for more than sixty (60) days or any cancellation of Utility or Service, whichever occurs first.

Semi-Annual Registration – the registration of registrable properties six (6) months from the date of the first action that requires registration, as determined by New Cumberland Borough, or its designee, and every subsequent six (6) months thereafter. The date of the initial registration may be different than the date of the first action that required registration.

Vacant - any improved parcel of land in New Cumberland Borough that is not legally occupied. Vacant property does not mean property that is temporarily unoccupied while the residents are away on vacation, personal matters or business, or is not intended by the owner to be left vacant, so long as the period does not exceed sixty (60) days.

Section 4. Establishment of Registry. New Cumberland Borough hereby establishes a Foreclosed and Vacant Property Registry which shall include all information pertaining to registrable properties as required in this ordinance.

Section 6. Inspection and Registration of Foreclosed Real Property.

A. Any Mortgagee who initiates foreclosure proceedings against real property located within New Cumberland Borough shall perform an inspection of the property to determine vacancy or occupancy, within sixty (60) days of the initiation of said foreclosure proceedings. The Mortgagee shall, within ten (10) days of the inspection, register the property with the Code Enforcement Department, or its designee, on forms or other manner as directed, 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. Registration pursuant to this section shall contain the name, direct mailing address, a direct contact name, telephone number, and e-mail address for the Mortgagee/ Trustee, and the Mortgage Servicer, and the name and twenty-four (24) hour contact phone number of the local property management company responsible for the security and maintenance of the property who has the authority to make decisions concerning the abatement of nuisance conditions at the property, as well as any expenditure in connection therewith.

C. Mortgagees who have existing registrable property on the effective date of this ordinance have sixty (60) calendar days from the effective date to register the property with the Code Enforcement Department, or its designee, on forms or other manner as directed, and indicate whether the property is vacant or occupied. A separate registration is required for each property, whether it is vacant or occupied.

D. If the servicing rights for a mortgage on a registrable property are sold or transferred, the registration must be updated to include all the new servicer information within ten (10) days of the servicing transfer.

E. As long as the property is registrable, the mortgagee, or designee, shall inspect the property on a monthly basis. If an inspection shows a change in the property's occupancy status the mortgagee shall, within ten (10) days of that inspection, update the occupancy status of the property registration.

F. Properties subject to this section shall remain under the semi-annual registration requirement, and the inspection, security and maintenance standards of this section as long as they are registrable.

G. 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 (10) days of the change.

H. Failure of the Mortgagee to properly register or to modify the registration information within (10) days of the action requiring the update to reflect a change of circumstances as required by this article is a violation of the article and shall be subject to enforcement and any resulting monetary penalties and/or property liens.

I. Pursuant to any administrative or judicial finding and determination that any property is in violation of this ordinance, New Cumberland Borough 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.

L. Properties subject to this ordinance shall be maintained in accordance with the applicable code(s) of New Cumberland Borough.

Section 7. Inspection and Registration of Vacant Real Property.

a. Any Owner of Vacant property located within the Borough shall register the property with Foreclosed and Vacant Property Registry within ten (10) days after the property becomes Vacant.

b. Initial registration pursuant to this section shall contain at a minimum the name of the Owner, the mailing address of the Owner, e-mail address, and telephone number of the Owner, and if applicable, the name and telephone number of the Property Manager and said person's address, e- mail address, and telephone number.

c. If the property is sold or transferred, the new Owner is subject to all the terms of this ordinance. Within ten (10) days of the transfer, the new Owner shall register the vacant property or update the existing registration. The previous Owner(s) will not be released from the responsibility of paying all previous unpaid fees, fines, and penalties accrued during that Owner's involvement with the vacant property.

f. Properties subject to this section shall remain subject to the Semi-Annual Registration requirement, and the inspection, security, and maintenance standards of this section as long as the property is Vacant.

g. Failure of the Owner to properly register or to modify the registration to reflect a change of circumstances as required by this ordinance is a violation of this ordinance and shall be subject to enforcement by any of the enforcement means available to the Borough.

h. If any property is in violation of this ordinance the Borough may take the necessary action to ensure compliance with and place a lien on the property for the cost of the outstanding obligation and any additional cost incurred to the property into compliance.

Section 8. Severability. 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 holding shall in no way affect the validity of the remaining portions of this Ordinance.

Section 9. Repealer. All ordinances or parts of ordinances in conflict herewith, are and the same are hereby repealed.

Section 10. Effective Date. This Ordinance shall take effect immediately in accordance with all applicable laws.

ENACTED AND ORDAINED by the Borough Council, the Borough of New Cumberland, Cumberland County, Pennsylvania, this 9th day of February, 2022.

BOROUGH OF NEW CUMBERLAND

ATTEST:

BY: _____
Robert P. Kline, President
Borough Council

_____
Borough Secretary

APPROVED this 10th day of February, 2022, by Mayor of the Borough of New Cumberland, Cumberland County, Pennsylvania.

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Douglas Morrow, Mayor
Borough of New Cumberland

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