

ORDINANCE NO. 2021- 4

**AN ORDINANCE OF NEWPORT TOWNSHIP, LUZERNE COUNTY,
COMMONWEALTH OF PENNSYLVANIA, ESTABLISHING GUIDELINES TO
ADDRESS DETERIORATING PROPERTY/BUILDINGS WITHIN THE TOWNSHIP
AND FURTHER ESTABLISHING PENALTIES FOR THE VIOLATION THEREOF**

WHEREAS, Newport Township is a First Class Township located in Luzerne County, Pennsylvania;

WHEREAS, the First Class Township Code authorizes the Commissioners to establish procedures to address deteriorating property within the Township and to further establish penalties for the violation(s) thereof;

WHEREAS, Newport Township finds that blighted properties within the Township is not only unsightly but creates an unreasonable hazard for both vehicular and pedestrian traffic.

NOW, THEREFORE, it is hereby **ORDAINED** and **ENACTED** by the Commissioners of the Newport Township as follows:

1. Title.

This Ordinance shall be known as the "Vacant and Abandoned Property Registration Law of the Township of Newport.

2. Purpose.

A. It is the purpose and intent of the Township of Newport to establish a process to address the amount of deteriorating real property located within the Township, which includes but is not limited to property about which a public notice of default has been filed, is in foreclosure, or where ownership has been transferred to a lender or mortgagee by any legal method. It is the Township's further intent to specifically establish an abandoned residential and commercial property program as a mechanism to protect residential neighborhoods from becoming blighted through the lack of adequate maintenance and security of abandoned properties.

B. For the protection and promotion of the public health, safety and welfare of the citizens of the Township of Newport, Board of Commissioners hereby establishes obligations upon owners, mortgagees and property management companies of vacant and abandoned properties within the Township and encourages owners, mortgagees and property management companies to maintain and secure such property through

registration and compliance with the Township of Newport's previously adopted Ordinances and this Ordinance.

3. Definitions.

The following terms, phrases, words and their derivations shall have the meanings given herein. The word "shall" is always mandatory and not merely directory. As used in this Ordinance, the following words shall have the meanings indicated:

ABANDONED REAL PROPERTY

Any property that is vacant or is subject to a mortgage under a current notice of default or notice of mortgagee's sale, pending tax claim sale or vacant properties that have been the subject of a foreclosure sale where the title was retained by the beneficiary of a mortgage involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure or sale.

ACTIVELY FOR SALE OR LEASE

A building, structure or parcel actively listed and marketed through a licensed real estate agent/broker, or by the owner, who is regularly advertising the property in newspapers of general circulation in and around Luzerne County and posting the property for sale via signage; the property is offered for sale or lease at a cost of no more than 25% over the market rate, as determined by comparables; and the property is in reasonable condition for sale or lease, including but not limited to: no trash/debris has accumulated inside or outside, all utilities are functional, and it is not used for storage unrelated to the former use.

BOARD OF APPEALS

The Township of Newport Board of Appeals.

BOARDED

Any building or structure with one or more exterior doors, other than a storm door, and/or one or more windows with a sheet or sheets of plywood or similar material covering the space of such doors or windows.

CONDEMNED PROPERTY

Any building or structure, whether residential or commercial, which has been lawfully deemed by the appropriate Township of Newport Code Enforcement official or employee to be uninhabitable, unsafe, dilapidated, a public nuisance and/or in substantial disrepair, and in which notice has been provided to the owner in accordance with the Township of Newport Code of Ordinances applicable to such properties.

ENFORCEMENT OFFICER

Any building official, zoning inspector, Code Enforcement Officer, health officer, fire inspector or building inspector employed by the Township.

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 or dead vegetation, accumulation of abandoned personal property, as defined herein, statements by neighbors, passersby, delivery agents or government agents, among other evidence that the property is vacant.

FORECLOSURE

The process by which a property, placed as security for a real estate loan, is sold at public sale to satisfy the debt if the borrower defaults.

MORTGAGE

A conveyance of title to property that is given as security for the payment of debt or the performance of a duty and that will become void upon payment or performance according to the stipulated terms.

MORTGAGEE

One to whom property is mortgaged or the mortgage creditor or lender.

MORTGAGEE IN POSSESSION

A mortgagee who takes control of mortgaged land by agreement with the mortgagor, usually upon default of the loan secured by the mortgage.

OCCUPIED

Any building or structure with one or more persons actually conducting a lawful business and/or residing in all or part of the building as the licensed business-occupant, or as the legal or equitable owner/occupant(s) or tenant(s) on a permanent, non-transient basis, or any combination of the same. For purposes of this section, evidence offered to prove that a building is so occupied may include, but shall not be limited to, the consistent receipt of regular mail delivery through the United States Postal Service; proof of continual telephone, electric, gas, heating, water and sewer services; a valid Township business license; or the most recent, federal, state, or local tax statements indicating that the subject property is the official business or residence address of the person or business claiming occupancy, or proof of rental lease.

OPEN

A building or structure deemed to have one or more exterior doors, other than a storm door, broken, open and/or closed, but without a properly functioning lock, or one or more windows broken or not capable of being locked and secured from intrusion, or any combination of the same.

OWNER

The individual, corporation, partnership, trust, estate or other entity which is the party listed on the deed to the referenced property.

PREMISES

All lands, structures, places, and also the equipment and appurtenances connected or used therewith in any business, and also any personal property which is either affixed to or is otherwise used in connection with any such business conducted on such premises.

TOWNSHIP

The Township of Newport.

VACANT

A building, structure or parcel deemed to have no person or persons actually conducting a lawful business or lawfully residing in or on any part thereof in a permanent, non-transient basis, and/or which does not have a valid certificate of occupancy issued by the Township of Newport Office of Code Enforcement, for a period of one hundred twenty (120) days or more.

4. Annual registration of vacant buildings and parcels.

A. The purpose of requiring registration of all vacant buildings, including dwellings, and the payment of registration fees is to:

(1) Assist the Township, specifically including, but not limited to, the Office of Code Enforcement, in protecting the public health, safety, and welfare of the residents;

(2) Monitor the number of vacant buildings and lands in the Township;

(3) Through annual inspections, assess the effects of the condition of those buildings on nearby businesses and the neighborhoods in which they are located, particularly in light of fire safety hazards and unlawful, temporary occupancy by

transients, including illicit drug users and traffickers, reduction in property values and the long-term stability of the neighborhoods; and

- (4) Promote substantial efforts to rehabilitate such vacant properties.

B. The provisions of this Ordinance are applicable to the owners and mortgagees, to the extent allowable by law, of such vacant buildings and parcels as set forth herein and are in addition to and not in lieu of any and all other applicable Ordinances and/or Regulations of the Township of Newport.

5. Applicability.

A. The requirements of this Ordinance shall be applicable to each owner and mortgagee, to the extent allowable by law, of any commercial or residential building or parcel that is not an individual dwelling unit that is vacant for more than one hundred twenty (120) days, and to each owner and mortgagee, to the extent allowable by law, of a residential property consisting of one or more vacant dwellings that shall have been vacant for more than one hundred twenty (120) days.

B. This Ordinance shall also be applicable to any building or structure, whether it be residential or commercial, which does not have a current and valid certificate of occupancy issued by the Office of Code Enforcement for the Township of Newport.

C. Registration shall be required for all vacant buildings and parcels, whether vacant and secure, vacant and open, or vacant and boarded, and shall be required whenever any building has remained vacant for one hundred twenty (120) days or more. This Ordinance shall not apply to any building or property owned by the United States government, the State, the Township or to any of their respective agencies or subdivisions.

6. Annual registration statement.

A. Registration statement. Each such owner and/or mortgagee shall cause to be filed a notarized registration statement, which shall include the street address and parcel number of each vacant building and/or parcel, the names and addresses of all owners, as hereinafter described, and any other information deemed necessary by the Township. The registration statement shall be filed within ten (10) days of the property becoming vacant, as said term is defined by this Ordinance. The registration fee(s) shall be paid within thirty (30) days of the property becoming vacant, as defined by this Ordinance. For purposes of this Ordinance, the following shall also be applicable:

- (1) If the owner is a corporation, the registration statement shall provide the names and residence addresses of all officers/directors of the corporation. A telephone contact number must also be provided.

(2) if an estate, the name and business or residential address of the executor or personal representative of the estate. A telephone contact number must also be provided.

(3) If a trust, the name and address of all trustees, grantors, and beneficiaries. A telephone contact number must also be provided.

(4) If a partnership, the names and residence addresses of all partners with an interest of 10% or greater. A telephone contact number must also be provided.

(5) If any other form of unincorporated association, the names and residence addresses of all principals with an interest of 10% or greater. A telephone contact number must also be provided.

(6) If an individual person, the name and residence address of that individual person. A telephone contact number must also be provided.

(7) In no instance shall the registration of a vacant building or parcel, and payment of registration fees, be construed to exonerate the owner, agent or responsible party from responsibility for compliance with any other building or housing codes or other applicable requirements of law.

(8) One registration statement must be filed for each vacant building or parcel that the owner or mortgagee is registering.

(9) If the status of the registration information referenced above changes, it is the responsibility of the owner, mortgagee, responsible party and/or agent for the same to contact the Township of Newport, Office of Code Enforcement within thirty (30) days of the occurrence of such change and advise the Township in writing of those changes.

(10) 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.

(B) Local agent. If none of the persons listed on the registration statement are at an address within the Commonwealth of Pennsylvania, the registration statement also shall provide the name and address of a person who resides within the Commonwealth of Pennsylvania who is authorized to accept service of process on behalf of the owners and who shall be designated as responsible local party or agent, both for purposes of notification in the event of an emergency affecting the public health, safety or welfare and for purposes of service of any and all notices or registrations statements as herein authorized and in connection herewith.

(C) Fee schedule.

The owner and/or mortgagee of the vacant property, within thirty (30) days of the property becoming vacant, shall be responsible for the payment of the following annual nonrefundable registration fee for the purposes of compensating the Township for the paperwork that will be generated relative to this Ordinance.

Structure/Unit	Annual Registration Fee
Commercial building	\$450
Single-family residence	\$350
Duplex	\$250 per unit
Apartment building	\$250 per unit
Vacant land	\$200

Said fees shall be made payable to the Township of Newport. Furthermore, all registration fees must be paid directly from the mortgagee, executor, personal representative, trustee or owner. Third-party registration fees are not allowed without the consent of the Township and/or its authorized designee.

D. Inspection. At the time the vacant property is registered, the owner or mortgagee shall schedule an inspection with the Code Enforcement Office. For each year that a property remains vacant, the Code Enforcement Officer may schedule annual inspections, as deemed necessary, to monitor the conditions of the property.

E. Delinquent registration fees as a lien. Except for those owners or mortgagees that have properly perfected a waiver pursuant to Paragraph 7 herein, in the event that an owner or mortgagee fails to register a vacant property or registers the vacant property but fails to pay the applicable registration fee within thirty (30) days of the property becoming vacant, said amount shall constitute a debt due and owing to the Township of Newport and the Township may commence a civil action to collect such unpaid debt. Further, a municipal lien may be filed against said property in the Luzerne County Court of Common Pleas.

F. Penalties. Any individual who fails to comply with the registration requirement imposed by this Ordinance within thirty (30) day deadline set forth above commits a summary offense and upon conviction for the same will pay a fine not to exceed \$300.00 and/or undergo confinement in the Luzerne County Correctional Facility for not more than ninety (90) days.

G. Posting of property. All vacant properties shall be posted with a sign no smaller than two feet by four feet indicating the name of the owner(s) and the contact address and telephone number. If a partnership or corporation, the names of all members, with contact information, shall be listed. Said sign shall be placed in plain view from the sidewalk/roadway and must be legible from the opposite sidewalk/side of the roadway.

7. Waiver of registration fee; exemption.

A. Waiver of registration fee. A waiver of the registration fee may be granted by the Office of Code Enforcement upon application of the owner or mortgagee if the owner/mortgagee:

Demonstrates with satisfactory proof that the owner/mortgagee is in the process of demolition, construction, rehabilitation, or other substantial repair of the vacant building as evidenced by valid permits issued by the Township of Newport and any other regulatory entity.

Objectively demonstrates that demolition will be conducted within a reasonable period of time which shall be defined to be not greater than ninety (90) days.

Provides satisfactory proof that the owner and/or mortgagee is actively attempting to sell or lease the property during the vacancy period. Satisfactory proof must be provided, including, but not limited to, the property being actively listed and marketed through a licensed real estate agent/broker, or by the owner, who is regularly advertising the property in newspapers of general circulation in and around Luzerne County. For the purposes of this section, "actively listed and marketed" shall mean at least once per month. Also, the property shall be posted with "For Sale" signs large enough to see from across the street. Said property shall be offered for sale or lease at a cost of no more than 25% over the market rate, as determined by comparables. Properties listed at a price of 25% above market value will not meet the waiver guidelines.

Upon application by the owner and/or mortgagee and satisfaction of the subsections above, the Township may grant a waiver of the registration fee if the owner meets the criteria for a nonprofit organization as defined by S 501 (3)(c) of the IRS Code.

Remits a nonrefundable fee of \$100.

B. Vacant real estate with no improvements. Any vacant real estate with no improvements, structures or other appurtenances attached thereto which is owned by an owner and/or mortgagee who owns an adjacent parcel, which actually borders the vacant real estate, and which is not in violation of this Ordinance, is exempt from the required fees. However, the owner and/or mortgagee is still required to register the said vacant, unimproved parcel with the Township of Newport.

8. 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 newspaper circulars, flyers, or notices, except those required by federal, state or local law; discarded personal items, including, but not limited to, furniture, clothing, and 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 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, 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 applicable code of the Township. Pursuant to a finding and determination by the Township's Code Enforcement Officer, the Township 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) of the Township, including but not limited to the 2015 version of the International Property Maintenance Code, which has been previously adopted by the Township.

9. Security requirements.

Properties subject to this article 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 and any other applicable laws.

10. Exterior and visible coverings.

Plywood or other wood-type covering. In the event that a residential or commercial property is vacant, the owner or mortgagee may only secure the property with plywood or other similar type of wood covering on the exterior of the property for a period not to exceed one (1) year from the date the property becomes vacant. After one (1) year has expired, the owner may be cited by the Township of Newport, as the plywood or other wood-type covering on the exterior of the property, or which is visible from the sidewalk shall be deemed a nuisance punishable by a fine of not less than \$25 and not more than \$100. Each day in which the nuisance is not abated shall be considered a separate offense.

11. Condemnation for demolition policy.

General policy. All condemned properties, identified for demolition by the Building Code Official and/or his or her designee, located within the Township of Newport, shall be required to be addressed, in accordance with this article, by the property owner within thirty (30) days of the property being deemed condemned by the Township of Newport unless otherwise provided by law.

The term "addressed" shall mean taking any and all proper and legal measures to ensure that the condemned property is safe and secure and not in danger of causing bodily harm or property damage, including, but not limited to, being boarded up with plywood and/or being forcibly secured to prevent transient access or other prohibited access by any nonowner. "Secure" shall be determined by the Building Code Official.

Permits required before commencement of work. No owner or mortgagee shall commence any work on any condemned property without first complying with the vacant property registration set forth in this Ordinance and obtaining any and all permits required by the Office of Code Enforcement.

Full payment of all applicable real estate taxes and sanitary/recycling fees. Prior to the issuance of any permits for the rehabilitation of any condemned property, the owner or mortgagee must show proof that all outstanding real estate taxes, for the Township of Newport, County of Luzerne and Greater Nanticoke Area School District, are paid in full. Additionally, the owner or mortgagee shall show proof that all Township of Newport and Wyoming Valley Sanitation Authority sewer and recycling fees are paid in full.

Licensed contractors and compliance with the Uniform Construction Code. All contractors performing work on the condemned property shall be licensed in the Township of Newport consistent with all applicable requirements in the Township's Code of Ordinances. Additionally, all work must be in compliance with and inspected according to the Uniform Construction Code and the applicable building, rental and construction codes in effect at the time. The owner, mortgagee and contractor shall be jointly and severally responsible and liable for notifying the Township of Newport for all inspections and, ultimately, for the issuance of certificate of occupancy.

Extension of time to complete rehabilitation of condemned property. In the event that the rehabilitation of the condemned property exceeds one year from the date the property is deemed a "condemned property," the Code Enforcement Office may grant the owner or mortgagee an additional four (4) months in which to complete the rehabilitation.

Form to be completed. Prior to the issuance of permits for the rehabilitation of the condemned property, the owner and/or mortgagee shall complete the form available in the Township's Code Enforcement Office which shall state, inter alia, the following:

- (1) Name of the owner of the property;
- (2) Address of the owner of the property;
- (3) Name and address of responsible person (if owner is not an individual);
- (4) Contact phone number for owner and responsible person;

- (5) Location of the property, including PIN number and street address;
- (6) Deed book and page number for the condemned property;
- (7) Timeline for completion of the rehabilitation of the condemned property;
- (8) Detailed description of the work to be completed;
- (9) Name, address and phone number of contractor(s) performing work on the condemned property.

Documents to be provided. Prior to the issuance of permits for the rehabilitation of the condemned property, the owner and/or mortgagee shall provide the Township with the following documentation:

- (1) Copy of deed to the condemned property;
- (2) Verification of payment for all applicable taxes, sewer and recycling fees.

Final inspection/issuance of certificate of occupancy. Upon completion of the foregoing requirements and the construction/rehabilitation of the condemned property within the rehabilitation time frame, the owner, mortgagee and contractor shall notify the Township of Newport, and final inspection shall be conducted at the condemned property. If the condemned property passes the final inspection, the condemned property shall be removed from "condemned property" status and a valid certificate of occupancy issued. If the final inspection results in a failure, the Township's inspector shall provide the owner and the contractor with a list of items which need to be corrected in accordance with the Township's applicable property inspection ordinances. If, in the opinion of the Office of Code Enforcement, after a consultation with and report from a structural engineer, the condemned property cannot be safely removed from the condemned property status, or if the completion of the work cannot be completed within the rehab timeframe, or after any reasonable extension, the Code Officer may provide a certified, written notice to the owner of the Township's intent to demolish the condemned property. The owner and/or mortgagee may appeal this determination within ten (10) days of the receipt of the notice. The demolition, unless the condemned property is in immediate danger of collapse, a serious threat to public safety or to property, shall occur upon the expiration of the appeal period.

Appeals. All appeals concerning any matter in this section shall be appealed to the Board Appeals of the Township of Newport, consistent with the terms and conditions of the Board of Appeals.

12. 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 and may bring the violations before the District Justice as soon as possible to address the conditions of the property.

The Code Enforcement Officer shall have the authority to require the mortgagee and/or owner of record of any property affected by this section to implement additional maintenance and/or security measures including, but not limited to, securing any and all doors, windows or other openings or other measures as may be reasonably required to help prevent further decline of the property.

If there is a finding that the condition of the property is posing a serious threat to the public health, safety and welfare, then the Code Enforcement Officer may direct the Township to abate the violations and charge the owner and mortgagee with the cost of the abatement.

If the mortgagee or owner does not reimburse the Township for the cost of temporarily securing the property, or of any abatement directed by the Code Enforcement Officer within thirty (30) days of the Township sending the mortgagee or owner the invoice, then the Township may place a municipal lien on the property with such cost, along with an administrative fee to recover the administrative personnel services.

13. Severability.

If any provision, paragraph, word, section, or subsection of this Part is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, or subsection shall not be affected and shall remain in full force and effect.

14. Superseding the International Property Maintenance Code.

The provisions of this Ordinance shall supersede the International Property Maintenance Code for violations contained herein.

15. Conflict.

Any Ordinance or part of an Ordinance conflicting with the provisions of this Ordinance shall be and the same is hereby repealed to the extent of such conflict.

16. Effective Date.

This Ordinance shall be effective thirty (30) days after its passage and approved in the manner prescribed by law.

ENACTED AND ORDAINED by the Commissioners of Newport Township on this 6th day of December, 2021.


Secretary

NEWPORT TOWNSHIP

President of Commissioners

Vacant Property Registration Form 2021-2022

TOWNSHIP OF NEWPORT

351 W. Kirmar Ave., Nanticoke, Pa 18634

Phone: (570) 735-4735

Fax: (570)-735-5595

Email: joe.hillan@newporttownship.org

Vacant Property Street Address:

Vacant Property PIN #:

Property Owner Name:

Property Owner Address:

Property Owner Phone Number:

If Owner is not an Individual:

Responsible Person's Name:

Address of Responsible Person:

Responsible Person's Phone Number:

Payment

Please check appropriate box below for payment amount. Check or money order can made payable to

(Check Box)	# of Units	Structure/Unit	Annual Fee
		Commercial building	\$450
		Single family residence	\$350
		Duplex	\$250/unit
		Apartment building	\$250/unit
		Vacant land	\$200

"Township of Newport".

Signature: _____

Date: _____

Notary: _____

Total: _____