

NO. 2262
AN ORDINANCE

AN ORDINANCE OF THE BOROUGH OF HANOVER, YORK COUNTY, PENNSYLVANIA, REQUIRING OWNERS OF VACANT PROPERTIES IN THE BOROUGH TO REGISTER SAID PROPERTIES WITH THE BOROUGH; REQUIRING OWNERS TO PAY REGISTRATION AND INSPECTION FEES FOR SAID PROPERTIES; PROVIDING FOR THE INSPECTION OF SAID VACANT PROPERTIES BY THE BOROUGH; AND PROVIDING PENALTIES FOR THE VIOLATION OF THE ORDINANCE.

BE IT ENACTED AND ORDAINED by the Council of the Borough of Hanover, York County, Pennsylvania, and it is hereby enacted and ordained by the authority of the same as follows:

I PURPOSE AND ENFORCEMENT.

The purpose of this Ordinance is to require property owners to register vacant buildings and to require payment of registration fees to assist the Borough in protecting the public health, safety and welfare, to monitor the number of vacant buildings in the Borough, to 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, and to promote efforts to rehabilitate such vacant buildings. The provisions of this Ordinance are applicable to the owners of vacant buildings as set forth herein and are in addition to and not in lieu of any and all other applicable provisions of the Codified Ordinances of the Borough of Hanover. Administration and enforcement of this Ordinance shall be the responsibility of the Borough Manager, or his designee(s). The Borough Manager or his designee(s) shall have the authority to institute summary criminal proceedings as a means of enforcement of this Ordinance. The Borough Manager shall provide a list of registered property to the Chief of Police, The Fire Chief, Code Enforcement Personnel, and the Public Safety Committee of the Borough Council.

II DEFINITIONS.

For the purposes of this Ordinance, where terms are not defined, such terms shall have ordinarily accepted meanings such as the context implies. The following words shall have the meanings respectively ascribed to them as follows:

- (a) "Boarded" means a building, structure or dwelling unit subject to the provisions of this Ordinance if in place of one or more exterior doors, other than a storm door, or of one or more windows, there is a sheet or sheets of plywood or similar material covering the space for such door or window.
- (b) "Dwelling unit" means a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.
- (c) "Notice" means written notice of a violation or requirement under this Ordinance mailed, pursuant to first class mail, proof of mailing, to the last known address of the owner of the property in question.
- (d) "Occupied" as applied to a building or structure subject to the provisions of this Ordinance means where one or more persons actually conduct a lawful business or reside in all or any

part of the building as the 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 Ordinance, evidence offered to prove that a building is so occupied may include, but shall not be limited to, the regular receipt of mail through the U.S. Postal Service; proof of continual telephone, electric, gas, heating, water and sewer services; a valid Borough business license; the most recent, federal, state, or local income tax statements indicating that the subject property is the official business or residence address of the person or business in question; or proof of occupancy through a Borough inspection.

(e) "Open" means a building or structure or dwelling unit subject to the provisions of this Ordinance in which any one or more exterior doors, other than a storm door, is broken, open and/or closed, but, without a properly functioning lock to secure it, or if one or more windows is broken or not capable of being locked and secured from intrusion or any combination of the same.

(f) "Owner" means any person, firm, corporation or other legal entity having a legal or equitable interest in the property as evidenced by documents recorded in the official records of York County or the Borough of Hanover, or otherwise having legal control of the property, including the guardian of the estate of any person and the personal representative of the estate of a deceased person.

(g) "Vacant" as applied to a building or structure subject to the provisions of this Ordinance means no person or persons actually, currently conduct a lawfully licensed business, or lawfully reside or live in 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 non-transient basis.

III REGISTRATION AND PAYMENT OF FEE.

The requirements of this article shall be applicable to each owner of any building whether governmental, industrial, commercial, residential or institutional or owned by a non-profit or a for-profit organization in which the building in total shall have been vacant for more than 45 days. Each such owner shall cause to be filed a notarized registration statement, which shall include the street address and parcel number of each such vacant building, the names and addresses of all owners, as herein described, and any other information deemed necessary by the Borough. The registration statement and, where applicable, registration fee, shall be filed with and/or paid to the Borough Treasurer on or before November 15, or if November 15 falls on Saturday or Sunday by the following Monday, of each year. For purposes of this action, the application initially shall be due on November 15, 2017. For purposes of this Ordinance, the following shall also be applicable:

(a) If the owner is a corporation, the registration statement shall provide the names and residence address of the corporation and the name of a responsible corporate officer to whom correspondence and notices from the Borough may be sent.

(b) If an estate, the name(s) and address(es) of the personal representative(s) of the estate;

(c) If a trust, the name and address of all trustees;

(d) If a limited liability company, the name(s) and address(es) of all members and managers;

(e) If a partnership, the names and residence addresses of all partners;

(f) If any other form of unincorporated association, the names and residence addresses of all principals of the association;

(g) If an individual person, the name and residence address of that individual person.

IV REGISTRATION STATEMENT: LOCAL AGENT.

(a) If none of the persons listed in Section III is shown 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 and who is authorized to accept service of process on behalf of the owners and who shall be designated as a 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 registration statements as herein authorized and in connection herewith.

(b) Registration shall be required for all vacant buildings, whether vacant and secure, vacant and open or vacant and boarded, and shall be required whenever any building has remained vacant for 45 consecutive days or more. In no instance shall the registration of a vacant building and the payment of registration fees be construed to exonerate the owner, agent or responsible party from responsibility for compliance with any requirement of the Borough Property Maintenance Code, Building Code, Fire Code or other applicable federal, state or municipal laws, ordinances or regulations. One registration statement may be filed to include all vacant buildings of the owner so registering.

(c) The owner of a vacant property as of November 15th of each year shall be responsible for the filing of his/her registration statement and, where applicable, paying a non-refundable registration fee. Said fee shall be billed by the Borough Treasurer and shall be established from time to time by resolution of the Borough Council. The registration fee shall be paid for each vacant building owned by the owner notwithstanding the inclusion of multiple buildings or structures included on one registration statement.

In addition to the registration fee, the owner of a vacant property shall pay a property inspection fee as billed by the Borough Treasurer. The amount of said fee shall be established from time to time by resolution of the Borough Council. The inspection fee shall be paid for each vacant building owned by the owner notwithstanding the inclusion of multiple buildings or structures included on one registration statement.

(1) Council hereby approves the initial registration fee for vacant buildings within the Borough to be imposed in accordance herewith as \$100.00 per building.

(2) Council hereby approves the initial inspection fee for vacant properties within the Borough to be imposed in accordance herewith as \$150.00 per building (This fee shall include an initial inspection and one re-inspection. Subsequent re-inspections shall be charged at \$75.00 each.

(3) Upon the registration of a property, an Inspector authorized by the Borough may conduct an inspection of the property to determine if it complies with the Property Maintenance Code, Fire Code, Building Code and all other applicable laws, ordinances and regulations. If the building is found to be in violation of any such codes, laws, ordinances or regulations, the Borough shall issue a notice of violation as per the requirements of each such code, law, ordinance or regulation violated or refer the matter to the appropriate federal, state or county agency for enforcement proceedings. With respect to matters to be enforced by the Borough, Borough officials shall direct that the owner comply with the enforcement notice. The Inspector authorized by the Borough may conduct additional inspections of a property when he/she determines that there has been a modification of a structure or building, a change of use of a structure or building, damage to a structure or building from any source, a potential or actual violation of any law, ordinance or regulation applicable thereto, or a determination by the Inspector that circumstances have changed with respect to the condition or use of any structure or building on the property.

(4) The Inspector is authorized and directed to make inspections at any reasonable hour to determine compliance with the Property Maintenance Code, Fire Code or any other applicable code, law, ordinance or regulation. For this purpose, the Inspector is authorized to enter and examine any building, structure, yard, or portions thereof and every owner, operator, tenant or occupant shall allow the Inspector, his agents or assistants, access thereto.

V USES OF PAID FEES AND FINES.

Registration fees shall be dedicated to a line item in the budget for the enforcement and administration of the Vacant Property Registration requirements within this Ordinance. Fines for violations of this Ordinance shall be deposited in to the Borough's General Fund to be used for general purposes.

VI ONE-TIME WAIVER OF REGISTRATION FEE.

A one-time, one year waiver of the registration fee may be granted by the Borough Manager upon application of the owner and upon review and advice of the Borough Solicitor, if the owner:

(a) Demonstrates with satisfactory proof to the Borough Manager that he/she has submitted valid architectural or building plans, based on the Borough's building permit and/or planning application procedures, and otherwise has shown good faith efforts to rehabilitate, demolish, or otherwise substantially repair, improve or remove the vacant building; or

(b) Demonstrates with satisfactory proof to the Borough Manager that he/she is actively marketing the property for sale/lease. Actively marketing will be defined as an owner having placed a "for sale" or a "for lease" sign on the exterior of the property with accurate contact information, which information is provided to the Borough and has done at least one of the following:

(1) Engaged the services of a licensed real estate broker, whose name, address, telephone number and email will be provided to the Borough Manager;

(2) Placed weekly advertisements in print or electronic media;

(3) Distributed printed advertisements;

(4) Has listed the property for sale or lease in the local Multi Listing Service (MLS).

VII TWO-YEAR WAIVER.

Upon application by the owner and satisfaction of Section VI, the Borough Manager may, upon advice and review of the Borough Solicitor, grant a two-year waiver of the registration fee if the owner meets the criteria for a charitable non-profit organization as defined by Section 501(c)(3) of the Internal Revenue Code or if the building owner is the United States, Commonwealth of Pennsylvania or a subdivision thereof, or a county, municipality or school district or a related department, agency or authority.

VIII DECISION ON APPLICATION FOR WAIVER.

Within 30 days after the waiver application is received by the Borough Manager, and upon review and advice by the Borough Solicitor, the Borough Manager or designee shall grant or deny the waiver in writing, and mail the written decision to the owner. If the owner properly submitted an application for a waiver to the Borough Manager and the Borough Manager has rendered a decision which the owner seeks to appeal, the owner must file an application in writing within 15 calendar days of mailing of the Borough Manager's decision, with the Public Safety Committee of the Borough Council, stating the basis for the appeal. If the Public Safety Committee determines that the appeal should be granted, it shall recommend to the full Borough Council that the Borough Manager's decision should be vacated and shall recommend what, in its judgement, is an appropriate remedy or disposition of the application. If the Public Safety Committee determines that the appeal should not be granted, it shall make such recommendation to the Borough Council. The Borough Council shall render the final decision of the appeal, after consideration of the determination of the Public Safety Committee,

the recommendation of the Borough Manager and any relevant staff or third-party reports or documentation. The Borough Manager shall be afforded an opportunity to present the basis of his decision to both the Public Safety Committee and to the Borough Council.

IX DELINQUENT REGISTRATION FEES AS A LIEN.

If the owner fails to pay the registration or inspection fee when due, the registration shall be deemed incomplete, the owner shall be in violation hereof and he/she/it shall be subject to penalty as set forth below.

X DUTY TO AMEND REGISTRATION STATEMENT.

If the status of the registration information changes, including, but not limited to, the ownership of the Property, it is the responsibility of the owner to contact the Borough Manager within 30 days of the occurrence of such change and to provide the Borough with an amended registration in writing detailing such changes.

XI VIOLATIONS AND PENALTIES.

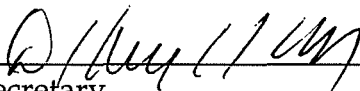
The failure or refusal for any reason of an owner to file a registration statement or to pay any fees required to be paid pursuant to the provisions of this Ordinance or any other violation of the provisions of this Ordinance shall constitute a summary offense punishable upon conviction thereof by a fine not to exceed one thousand dollars (\$1,000) per violation and/or imprisonment as provided by law for summary offenses. Each day in which an owner is in violation of the terms hereof and each section of the Ordinance violated shall be considered separate offenses for which the above penalties may be imposed.

This Ordinance shall become effective five (5) days after the enactment hereof.

ENACTED AND ORDAINED this 27th day of September, 2017.

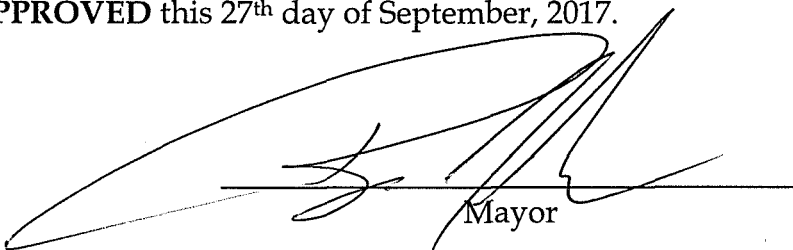
ATTEST:

**BOROUGH COUNCIL OF THE
BOROUGH OF HANOVER**


Secretary

By: 
Council President

APPROVED this 27th day of September, 2017.


Mayor