

ORDINANCE NO. ____

AN ORDINANCE OF THE TOWNSHIP OF LOWER MAKEFIELD, BUCKS COUNTY, PENNSYLVANIA, ESTABLISHING CHAPTER 152 – “PROPERTIES – BLIGHTED AND VACANT,” ARTICLE I – “NEIGHBORHOOD BLIGHT RECLAMATION AND REVITALIZATION” AND ARTICLE II – “REGISTRATION OF VACANT PROPERTIES”

WHEREAS, the Township of Lower Makefield is a township of the second class, organized and operating in accordance with the laws of the Commonwealth of Pennsylvania; and

WHEREAS, pursuant to the Second Class Township Code of the Commonwealth of Pennsylvania, the Board of Supervisors of Lower Makefield Township (hereinafter referred to as the “Board of Supervisors”) has the authority to enact, amend, and repeal the provisions of the Lower Makefield Township Code of Ordinances (hereinafter referred to as the “Code”); and

WHEREAS, the Board of Supervisors is empowered to enact and enforce ordinances to govern and regulate the construction, alteration, repair, occupation, maintenance, sanitation, lighting, ventilation, water supply, toilet facilities, drainage, use and inspection of all buildings and housing constructed, erected, altered, designed or used for any use or occupancy and the sanitation and inspection of land in accordance with Article XVII-A of the Second Class Township Code; and

WHEREAS, the Board of Supervisors is empowered to enact and enforce ordinances to secure the safety of persons or property within the Township and to prohibit nuisances; and

WHEREAS, the Board of Supervisors has determined that Chapter 152 – “Properties – Blighted and Vacant,” Article I – “Neighborhood Blight Reclamation and Revitalization” and Article II – “Registration of Vacant Properties” should be enacted for the proper management, care and control of the Township and its finances, and the maintenance of peace, good government, health and welfare of the Township and its residents.

NOW, THEREFORE, be it and it is hereby resolved as follows:

1. The Board of Supervisors hereby enacts Chapter 152 – “Properties – Blighted and Vacant,” Article I – “Neighborhood Blight Reclamation and Revitalization” and Article II – “Registration of Vacant Properties” with the contents thereof set forth in Exhibit “A” hereto.
2. All other ordinances, portions of ordinances, or any section of the Code inconsistent with this Ordinance, are hereby repealed.
3. The provisions of this Ordinance are severable. If any section, clause, sentence part or provision thereof shall be held illegal, invalid, or unconstitutional by a court of competent jurisdiction, such decision of the court shall not affect or impair any of the remaining sections, clauses, sentences, parts or provisions of this Ordinance. It is hereby declared to be the intent of the Township Supervisors that this Ordinance would have been adopted if such illegal, invalid or unconstitutional section, clause, sentence or part of a provision had not been included herein.
4. This Ordinance shall be effective five (5) days after enactment.

ENACTED AND ORDAINED BY THE TOWNSHIP OF LOWER MAKEFIELD THIS
____ DAY OF _____ 2018.

BOARD OF SUPERVISORS
TOWNSHIP OF LOWER MAKEFIELD

By: _____,
(Vice) Chairperson

ATTEST:

Kurt Ferguson, Township Manager

Exhibit A

ARTICLE I – Neighborhood Blight Reclamation and Revitalization

§152-1 Short Title.

This Ordinance may be cited as the “Neighborhood Blight Reclamation and Revitalization Ordinance” or the “Blight Ordinance.”

§152-2 Purpose and Intent.

This purpose and intent of this Ordinance is to implement in Lower Makefield Township the provisions of the Act of October 27, 2010 (P.L. 875, No. 90), 53 Pa.C.S. §6101, et seq. known as the “Neighborhood Blight Reclamation and Revitalization Act.”

There are deteriorated properties located in Lower Makefield Township as a result of neglect by their owners in violation of applicable State and municipal codes; and

These deteriorated properties create public nuisances which have an impact on crime and the quality of life of our residents and require significant expenditures of public funds in order to abate and correct the nuisances; and

In order to address these situations, it is appropriate to deny certain governmental permits and approvals in order:

- A. To prohibit property owners from further extending their financial commitments so as to render themselves unable to abate or correct the code, statutory and regulatory violations or tax delinquencies.
- B. To reduce the likelihood that this municipal and other municipalities will have to address the owners’ neglect and resulting deteriorated properties.
- C. To sanction the owners for not adhering to their legal obligations to the Township of Lower Makefield, as well as to tenants, adjoining property owners and neighborhoods.

§152-3 Definitions.

The following words and phrases when used in this Article shall have the meanings given to them in this section unless the context clearly indicates otherwise:

Act - The Act of October 27, 2010 (P.L. 875, No. 90), 53 Pa.C.S. Ch. 61, known as the Neighborhood Blight Reclamation and Revitalization Act.

Blighted property – Any of the following:

- A. Premises which, because of physical condition or use, have been declared by a court of competent jurisdiction as a public nuisance at common law or have been declared a public nuisance in accordance with the local housing, building, plumbing, fire and related codes and ordinances; or
- B. Premises which, because of physical condition, use or occupancy, are considered an attractive nuisance to children, including, but not limited to, abandoned wells, shafts, basements, excavations and unsafe fences or structures; or
- C. A dwelling which, because it is dilapidated, unsanitary, unsafe, vermin-infested or lacking in the facilities and equipment required the Township Code of Ordinances, has been designated by the Township as unfit for human habitation; or
- D. A structure which is a fire hazard or is otherwise dangerous to the safety of persons or property; or
- E. A structure from which the utilities, plumbing, heating, water, sewage or other facilities have been disconnected, destroyed, removed or rendered ineffective so that the property is unfit for its intended use;
- F. A vacant or unimproved lot or parcel of ground in a predominantly built-up neighborhood which, by reason of neglect or lack of maintenance, has become a place for accumulation of trash and debris or a haven for rodents or other vermin; or
- G. An unoccupied property which has been tax delinquent for a period of two years; or
- H. A property which is vacant but not tax delinquent and which has not been rehabilitated within one year of the receipt of notice to rehabilitate from the Township or other appropriate code enforcement agency.

Building - A residential, commercial or industrial building or structure and the land appurtenant to it.

Code or Municipal Code - A building, housing, property maintenance, fire, health or other public safety ordinance enacted by the Township. The term does not include a subdivision and land development ordinance or a zoning ordinance enacted by the Township or any other municipality.

Court – The Court of Common Pleas of Bucks County.

Mortgage lender – A business association defined as a “banking institution” or “mortgage lender” under 7 Pa.C.S. Ch. 61 (relating to mortgage loan industry licensing and consumer protection) that is in possession of or holds title to real property pursuant to, in enforcement of or to protect rights arising under a mortgage, mortgage note, deed of trust or other transaction that created a security interest in the real property.

Municipal permits – Privileges relating to real property granted by the Township of Lower Makefield that are building permits issued pursuant to the Code of Ordinances of the Township of Lower Makefield, and zoning permits, special exceptions, conditional uses and variances granted under Chapter 200 – Zoning. The term does not include decisions on the substantive validity of a zoning ordinance or map such a validity variance or the acceptance of a curative amendment nor does it include a use and occupancy permit or certificate.

Owner – A holder of the title to residential, commercial or industrial real estate, other than a Mortgage Lender, who possesses and controls the real estate. The term includes, but is not limited to, heirs, assigns, beneficiaries and lessees, provided this ownership interest is a matter of public record, including lessees under leases for which a memorandum of lease is recorded in accordance with the Act of June 2, 1959 (P.L. 254 (vol. 1), No. 86), 21 P.S. § 405.

Public nuisance – Property which, because of its physical condition or use, is regarded as a public nuisance at common law or has been declared by the Township as a public nuisance in accordance with the Property Maintenance Code adopted in Chapter 153, Building Construction Code, Green adopted in Chapter 88, Uniform Construction Code adopted in Chapter 97, any other applicable Ordinance of Lower Makefield Township, or by the Court.

Remediation plan – A plan for the correction of violations of State law or Code that is part of an agreement between the owner and the Township or any other municipality in which the real property containing the violations is located.

Serious violation – A violation of a State law or a Code that poses an imminent threat to the health and safety of a dwelling occupant, occupants in surrounding structures or a passersby.

State law – A statute of the Commonwealth or a regulation of an agency charged with the administration and enforcement of Commonwealth law.

Substantial step – An affirmative action as determined by a property codes official or officer of the court on the part of a property owner or managing agent to remedy a serious violation of a State law or municipal code, including, but not limited to, physical improvements or repairs to the property, which affirmative action is subject to appeal in accordance with applicable law.

Tax delinquent property – Tax delinquent real property as defined under:

- A. The Act of July 7, 1947 (P.L. 1368, No. 542), known as the Real Estate Tax Sale Law; or
- B. The Act of May 16, 1923 (P.L. 207, No. 153), referred to as the Municipal Claim and Tax Lien Act; or
- C. The Act of October 11, 1984 (P.L. 876, No. 171) known as the Second Class City Treasurer's Sale and Collection Act, located in the Township or any other municipality in this Commonwealth; or

D. Any successor law to any of the above statutes.

Township – The Township of Lower Makefield, also known as Lower Makefield Township, a second class township organized and operating pursuant to the Act of May 1, 1933, P.L. 103, No. 69, also known as the “Second Class Township Code,” 53 P.S. §65101, et seq.

Uniform Construction Code – The Act of November 10, 1999 (P.L. 491, No. 45), as amended, 35 P.S. §§7210.101 to 7210.1103 as implemented by Ordinance No. 342, Codified at Chapter 97-Construction Code, Uniform.

§152-4 Actions Against Owner of Property with Serious Code Violations.

A. Actions. In addition to any other remedy available at law or in equity, the Township may institute the following actions against the owner of any real property that is in serious violation of a code or for failure to correct a condition which causes the property to be regarded as a public nuisance:

1. A proceeding in law.

a. An in personam action may be initiated for a continuing violation for which the owner takes no substantial step to correct within six months following receipt of an order to correct the violation, unless the order is subject to a pending appeal before the administrative agency or court; and/or

b. As authorized by the Act, the Township reserves the right to recover in a single action under this section, an amount equal to any penalties imposed against the owner and any costs of remediation lawfully incurred by or on behalf of the Township to remedy any code violation.

2. A proceeding in equity.

B. Asset attachment.

1. General Rule – A lien may be placed against the assets of an owner of real property that is in serious violation of a code or is regarded as a public nuisance after a judgment, decree or order is entered by a court of competent jurisdiction against the owner of the property for an adjudication under subsection (A) (relating to actions).

2. Limitations under the Act. – In proceedings under the Act, except as otherwise allowed by law, where the owner is an association or trust no lien shall be imposed upon the individual assets of any limited partner, shareholder, member or beneficiary of the owner.

- C. Reservation of rights and remedies under law other than the Act. The Township reserves all rights and remedies existing under statutes other than the Act, its ordinances implementing them, and applicable case law to obtain recovery for the costs of preventing and abatement of code violations and public nuisances to the fullest extent allowed by law from mortgage lenders; trustees, and members of liability companies, limited partners who provide property management services to the real property as well as general partners of owners; and officers, agents, and operators that are in control of a property as an owner or otherwise hold them personally responsible for code violations as well as owners themselves. Such owners, mortgage lenders, partners, members of limited liability companies, trustees, officers, agents and operators in control of a real property with code violations shall be subject to all actions at law and in equity to the full extent authorized by such statutes, ordinances and applicable case law. Such action may be joined in one lawsuit against responsible parties with an action brought under the Act.

§152-5 Denial of Permits.

A. Permit Application Form.

1. In addition to the requirements set forth in the governing ordinance, regulations or rules for the specific municipal permit being applied for under the ordinances referenced in the definition of “municipal permit” in §152-3, all applications for a municipal permit shall include:
 - a. If the owner is an individual, the home address of the owner.
 - b. If the owner is an entity, its registered office and principal place of business, type of entity, in what state it was formed, and whether the entity has qualified to do business as a foreign entity in Pennsylvania by filing with the Corporation Bureau of the Pennsylvania Department of State under title 15 of the Pennsylvania Consolidated Statutes.
 - i. The home address of at least one responsible officer, member, trustee, or partner shall be also be included.
 - c. The applications shall also include a provision requiring the owner to disclose real properties owned by the owner both inside of the Township as well as in all other municipalities of the Commonwealth:
 - i. In which there is a serious violation of State law or a code and the owner has taken no substantial steps to correct the violation within six months following notification of the violation; and
 - ii. For which fines or other penalties or a judgment to abate or correct were imposed by a magisterial district judge or municipal court, or a judgment at law or in equity was imposed by a court of common pleas; and

iii. Real property owned in the Commonwealth by the owner for which there is a final and unappealable tax, water, sewer or refuse collection delinquency on account of the actions of the owner. This provision shall require the owner to disclose the street address, tax parcel number, municipality, and county of each such real property. The provision shall require the disclosure be under penalty as provided in 18 Pa.C.S. § 4904(a) for an unsworn falsification to a government officer or employee (public servant) performing official functions.

2. All applicants for a municipal permit shall accurately complete the Permit Applicant Disclosure Form as from time-to-time adopted by Resolution of the Board of Supervisors subject to a penalty as described in 18 Pa.C.S. § 4904.

B. Municipal Permit Denials and Appeals.

1. Permit Denial.

a. The Township under subsection (B)(1)(f), shall deny issuing to an applicant a municipal permit if the applicant owns real property in any municipality for which there exists on the real property:

i. A final and unappealable tax, water, sewer or refuse collection delinquency on account of the actions of the owner; or

ii. A serious violation of State law or a code where the owner has taken no substantial steps to correct the violation within six months following notification of the violation and for which fines or other penalties or a judgment to abate or correct were imposed by a magisterial district judge or municipal court, or a judgment at law or in equity was imposed by a court of common pleas. However, no denial shall be permitted on the basis of a property for which the judgment, order or decree is subject to a stay or supersedeas by an order of a court of competent jurisdiction or automatically allowed by statute or rule of court until the stay or supersedeas is lifted by the court or a higher court or the stay or supersedeas expires as otherwise provided by law. Where a stay or supersedeas is in effect, the property owner shall so advise the municipality seeking to deny a municipal permit.

b. The Township shall not deny a municipal permit to an applicant if the municipal permit is necessary to correct a violation of State law or a code, provided all other conditions for the issuance of a municipal permit have been met.

- c. The municipal permit denial shall not apply to an applicant's delinquency on taxes, water, sewer or refuse collection charges that are under appeal or otherwise contested through a court or administrative process.
- d. In issuing a denial of a municipal permit based on an applicant's delinquency in real property taxes or municipal charges or for failure to abate a serious violation of State law or a code on real property that the applicant owns in this Commonwealth, the Township shall issue the denial in writing and indicate the street address, municipal corporation and county in which the property is located and the court and docket number for each parcel cited as a basis for the denial. The denial shall also state that the applicant may request a letter of compliance from the appropriate State agency, municipality or school district, in a form specified by such entity as provided in the Act. The denial shall be delivered by U.S. Certified, Registered, or Express Mail, Return Receipt Requested (and such receipt is obtained or delivery refused); personal service in manner provided by the Pennsylvania Rules of Court for Civil Procedure for original process; hand delivery by a member of the codes enforcement staff; or a private delivery service that provides for a receipt (and such receipt is obtained or delivery refused).
- e. The information on the real property forming the basis for a municipal permit denial may be obtained by any official, or other employee or agent of the Township from the information disclosed by the owner in accordance with Section (A) or any other reliable information obtained through a search of records using governmental systems online or through direct contact with the office maintaining the systems such as the court docket systems maintained by the Administrative Office of the Pennsylvania Courts, county/city department of records, offices of the recorder of deeds, municipal and county tax collectors and treasurers, county tax claim bureaus, prothonotary and clerk of court, private online fee based search services, and free searches on the Internet. Prior to making a determination on whether to deny a municipal permit, the Township using the services of the Township Manager, including his or her designee(s), Director of Planning and Zoning, or his or her designees, the Code Enforcement or other municipal staff or contracted service provider may conduct a search using the sources described in this Subsection (B)(1)(e).

f. Zoning Hearing Board

- i. Municipal permits may be denied by a board in accordance with the requirements of this section to the extent that approval of the municipal permit is within the jurisdiction of the board. For purposes of this section, "Board" shall mean the Lower Makefield Township Zoning Hearing Board granted jurisdiction to render decisions in accordance with the Act of July 31, 1968 (P.L. 805, No.

247), known as the “Pennsylvania Municipalities Planning Code”, 53 P.S. §10101, et seq. or successor statute.

- ii. In any proceeding before a board other than the Board of Supervisors, the Township may appear to present evidence that the applicant is subject to a denial by the board in accordance with this section.
 - iii. For purposes of this subsection, a municipal permit may only be denied to an applicant other than an owner if:
 - a. The applicant is acting under the direction or with the permission of an owner; and
 - b. The owner owns real property satisfying the conditions of Subsection (B)(1)(a)
2. Applicability of other laws. – A denial of a municipal permit shall be subject to the provisions of 2 Pa.C.S. Ch. 5 Subch. B (relating to practice and procedure of local agencies) and 7 Subch. B (relating to judicial review of local agency action) or the Pennsylvania Municipalities Planning Code, for denials subject to the Act.
- a. The Township shall review the Permit Applicant Disclosure Form and the searches, if any, in accordance with Subsection (B)(1)(e) prior to any plan or construction reviews or inspections to determine if such a review or inspection is unnecessary due to a municipal permit being denied under this Subsection (B).
 - b. Right of appeal. The owner shall have a right to appeal the denial of a municipal permit in accordance with the applicable law governing such municipal permit. In the case of a denial by the Township, the appeal shall be made with 30 days of the denial to the Board of Appeals established under the Uniform Construction Code unless the owner has submitted to the Board of Appeals proof before the expiration of the 30 days that the owner is seeking proof of compliance under Section (B)(3), in which case the municipal permit and the denial shall be held in abeyance until the forty-five day period for obtaining proof of compliance under Subsection (B)(3) has expired. In case of a denial by the Lower Makefield Zoning Hearing Board the appeal shall be to the court of common pleas.
 - i. With respect to a denial under the grounds authorized by the Act, the denial may only be reversed for the following reasons:
 - a. An authentic proof of compliance letter in accordance Subsection (B)(3).

- b. Evidence of substantial steps taken to remedy a serious violation set forth on the denial confirmed by an order of the Court or the Township.
- c. Evidence of an approved remedial plan to address a serious violation set forth on the denial.
- d. Evidence of a timely appeal or administrative contest of a tax, water sewer, or refuse collection delinquency.
- e. A failure of a state agency, school district or municipality to issue a proof of compliance within 45 days of a request.
- f. A failure of a state agency or municipality to provide the relief required under section 6144 of the Act, or its successor section or statute, to an heir or devisee.
- g. Any other verifiable evidence that establishes by a preponderance of the evidence that a serious violation or collection delinquency of tax, water, sewer, or refuse accounts does not exist.

- ii. With respect to denials for reasons other than those authorized by the Act, the provisions of the Uniform Construction Code or applicable zoning law shall govern. The owner shall be informed of the right, time and place to make an appeal.

3. Proof of Compliance.

- a. All municipal permits denied in accordance with this subsection shall be withheld until an applicant obtains a letter from the appropriate State agency, municipality or school district indicating the following:
 - i. The property in question has no final and unappealable tax, water, sewer or refuse delinquencies; or
 - ii. The property in question is now in State law and code compliance; or
 - iii. The owner of the property has presented and the appropriate State agency or municipality has accepted a plan to begin remediation of a serious violation of State law or a code. Acceptance of the plan may be contingent on:

- a. Beginning the remediation plan within no fewer than thirty (30) days following acceptance of the plan or sooner, if mutually agreeable to both the property owner and the municipality.
- b. Completing the remediation plan within no fewer than 90 days following commencement of the plan or sooner, if mutually agreeable to both the property owner and the municipality.

b. In the event that the appropriate State agency, municipality or school district fails to issue a letter indicating tax, water, sewer, refuse, State law or code compliance or noncompliance, as the case may be, within 45 days of the request, the property in question shall be deemed to be in compliance for the purpose of this section, provided a copy of the request has been delivered to the municipality where the municipal permit has been applied for in accordance with Subsection (B)(3)(d). The appropriate State agency, municipality or school district shall specify the form in which the request for a compliance letter shall be made.

c. Letters required under this section shall be verified by the appropriate municipal officials before issuing to the applicant a municipal permit.

d. An owner seeking to obtain a proof of compliance in order to obtain a municipal permit that would otherwise be denied shall submit a copy of the owner's request for proof of compliance within five days of the date that request is sent to the appropriate State agency, municipality or school district, to the municipality from which a municipal permit is sought or submit the copy of the request with the application for the municipal permit if such application is made at a later date.

§152-6 Miscellaneous; Conflict with other provisions; Inherited property.

- A. Conflict with other law. In the event of a conflict between the requirements of this Ordinance and Federal requirements applicable to demolition, disposition or redevelopment of buildings, structures or land owned by or held in trust for the Government of the United States and regulated pursuant to the United States Housing Act of 1937 (50 Stat. 888, 42 U.S.C. § 1437 et seq.), or successor statute, and the regulations promulgated thereunder, the Federal requirements shall prevail.
- B. Relief for inherited property. Where property is inherited by will or intestacy, the devisee or heir shall be given the opportunity to make payments on reasonable terms to correct code violations or to enter into a remediation plan in accordance with Section

6131(b)(1)(iii) of the Act, or its successor statute, and Section 152-5(B)(3)(a)(iii) (relating to municipal permit denial) with Lower Makefield Township to avoid subjecting the devisee's or heir's other properties to asset attachment or denial of permits and approvals on other properties owned by the devisee or heir.

- C. Exemptions. This Article shall not apply to any building, structure, or property owned by the United States, the Commonwealth, the Township, nor any of their respective agencies or political subdivisions.

§152-7 Repealer.

All ordinances or parts of ordinances in conflict herewith be and are hereby repealed, except any ordinance or parts of ordinances that authorize greater remedies than this Ordinance are preserved.

§152-8 Severability.

The provisions of this Ordinance are severable. If any section, clause, sentence part or provision thereof shall be held illegal, invalid, or unconstitutional by a court of competent jurisdiction, such decision of the court shall not affect or impair any of the remaining sections, clauses, sentences, parts or provisions of this Ordinance. It is hereby declared to be the intent of the Township Supervisors that this Ordinance would have been adopted if such illegal, invalid or unconstitutional section, clause, sentence or part of a provision had not been included herein.

ARTICLE II – Registration of Vacant Properties.

§152-9 Short Title.

This Ordinance may be cited as the “Registration of Vacant Properties Ordinance” or “Vacant Properties Ordinance.”

§152-10 Purpose and enforcement.

- A. The purpose of this article requiring the registration of all vacant buildings and the payment of registration fees is:
 - a. To assist the Township in protecting the public health, safety and welfare;
 - b. To monitor the number of vacant buildings in the Township;
 - c. 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;
 - d. To require owners of such vacant buildings and structures to register and pay related fees; and
 - e. To promote substantial efforts to rehabilitate such vacant buildings and structures.
- B. The provisions of this article are applicable to the owners of such vacant buildings as set forth herein and are in addition to and not in lieu of any and all other applicable provisions of the ordinances of the Township of Lower Makefield and all relevant codes and/or regulations adopted therein.
- C. Administration and enforcement of this article shall be under the control of the Township Manager or his or her designee(s).

§152-11 Definitions.

For the purposes of this article, 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:

Abandoned Real Property – Any real property located in the Township of Lower Makefield, whether vacant or occupied, that is in default on a mortgage, has had a “lis pendens” action filed against it by the lender holding a mortgage on the property, is subject to an ongoing foreclosure action by the lender, is subject to an application for a tax deed or pending tax assessor's lien sale or sheriff's sale of real estate, or has been transferred to the lender under a deed in lieu of foreclosure. The designation of a property as “abandoned real property” shall remain in place until

such time as the property is sold or transferred to a new owner, the foreclosure action has been dismissed, and any default on the mortgage has been cured.

Actively Marketing - Unless considered as “abandoned real property” as defined above, an owner who, individually or through an agent, has placed a “for sale” or “for lease” sign on the property with accurate contact information, which is also provided to the Township, and has done at least one of the following:

- A. Engaged the service of a real estate licensee, whose name, address, telephone number and e-mail will be provided to the Township;
- B. Listed the property in the Multiple Listing Service (MLS); or
- C. Distributed printed advertisements.

Boarded - A building, structure or dwelling unit subject to the provisions of this article 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.

Building - Any structure having a roof and used or intended to be used for the shelter of people, animals or property. The term “building” shall include a “dwelling unit.”

Default - A mortgagee has initiated forbearance and/or foreclosure proceedings against the mortgagor.

Dwelling Unit – A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Exterior – The facade, windows, doors, roof and all other parts of the exterior of a building or structure.

Exterior and Major Systems Maintenance – The safe and lawful maintenance of the facade, windows, doors, roof and all other parts of the exterior of the building or structure and the maintenance of its major systems consisting of the roof, the electrical and plumbing systems, the water supply system, the sewer system, and the sidewalk, driveway, if any, and/or area of the lot, as applicable, in a manner consistent with the requirements of the codes of the Township of Lower Makefield, including, without limitation, the 2018 International Property Maintenance Code.

Major Systems - The roof, the electrical and plumbing systems, the water supply system, or the sewer system of a building or structure, and the sidewalk, driveway, if any, and/or area of the lot upon which a building or structure is situated.

Mortgagee - Any bank, mortgage company, lender, partnership, firm, corporation, or natural person having a legal or equitable interest in the property; or is the entity noted in documents recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the holder of a mortgage, guardian of the

estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

Notice – Written notice of a violation or requirement under this article mailed, pursuant to first-class mail, to the last known address of the owner of the property in question.

Occupied - Unless considered as “abandoned real property” as defined above. as applied to a building or structure subject to the provisions of this article means where one or more persons actually conducts a lawful business or resides in all or any part of the building as the licensed business-occupant, or as the legal or equitable owner/occupant(s) or tenant(s) on a permanent, nontransient basis, or any combination of the same. For purposes of this article, evidence offered to prove that a building is so occupied may include, but shall not be limited to, the regular receipt of delivery of regular mail 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 Township tax statements indicating that the subject property is the official business or residence address of the person or business claiming occupancy; or proof of tenant occupied property license inspection.

Open - A building or structure or dwelling unit subject to the provisions of this article 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.

Owner - Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or Township as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

Property - Any building or structure or real estate situate in the Township of Lower Makefield.

Public Nuisance - A public nuisance is:

- A. Any building or structure which because of physical condition or use has been declared a public nuisance in accordance with the local housing, building, plumbing, fire and related codes.
- B. Any building or structure which because of physical condition, use or occupancy is considered an attractive nuisance to children or other unauthorized person.
- C. Any building or structure which because it is dilapidated, unsanitary, unsafe, insect or vermin infested or lacking in the facilities and equipment required by the Lower Makefield Township Code Ordinances has been designated by the Township as a public nuisance.
- D. Any building or structure which is a fire hazard or is otherwise dangerous to the safety of person or property.

- E. Any building or structure from which water, plumbing, heating, sewage or other facilities have been disconnected, destroyed, removed or ineffective so that the property creates a hazard to neighboring properties.
- F. Any building or structure which by reason of neglect or lack of maintenance has become a place for accumulation of trash and debris or a haven for rodents and other vermin.
- G. Any building or structure which lacks an operable fire-protection system meeting the requirements of all applicable provisions of the Code of Township of Lower Makefield.
- H. Any building or structure which as a result of its dilapidated, unsanitary, unsafe, insect or infested condition creates a danger or a risk of danger to a neighboring property.

Structure - Any man-made object having an ascertainable stationary location on or in land or water, whether or not affixed to the land.

Township - The Township of Lower Makefield, also known as Lower Makefield Township, a second class township organized and operating pursuant to the Act of May 1, 1933, P.L. 103, No. 69, also known as the “Second Class Township Code,” 53 P.S. §65101, et seq.

Vacant - As applied to a building or structure subject to the provisions of this article means no person or persons actually, currently conducts a lawfully licensed business, or lawfully resides or lives 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.

§152-12 Applicability; Registration

- A. The requirements of this chapter shall be applicable to all abandoned real property and every vacant building and structure in the Township of Lower Makefield where the owner is not actively marketing the building or structure and the building or structure is not boarded and each owner of any building, whether governmental, commercial, residential or institutional or owned by a nonprofit or a for-profit organization.
- B. Registration shall be required for all abandoned real property and any vacant buildings and structures, whether vacant and secure, vacant and open, or vacant and boarded where the mortgagee or owner is not actively marketing the building or structure.

§152-13 Registration for Abandoned Real Property.

- A. Any mortgagee who holds a mortgage on real property located within the Township of Lower Makefield shall perform an inspection of the property to determine vacancy or occupancy, upon default by the mortgagor. The mortgagee shall, within ten (10) days of the inspection, register the property with the Township, or its designee(s), on forms or website access provided by the Township, 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. If the property is occupied but remains in default, it shall be inspected by the mortgagee or his or her designee(s) monthly until either:
 - 1. The mortgagor or other party remedies the default; or
 - 2. The property is found to be vacant or shows evidence of vacancy, at which time it is deemed abandoned, and the mortgagee shall, within ten (10) days of that inspection, update the property registration to a vacancy status on forms provided by the Township.
- C. Registration of Abandoned Property. Registration pursuant to this section shall contain the name of the mortgagee and the mortgage servicer, the direct mailing address of the mortgagee and the mortgage servicer, a direct contact name and telephone number for both parties, e-mail address for both parties, the tax map parcel number of the property, and the name and twenty-four-hour contact phone number of the property management company responsible for the security and maintenance of the property.
 - 1. Local Agent. If none of the persons identified in the registration statement pertaining to abandoned real property as a mortgagee thereof is shown on the registration statement to have an address within the Commonwealth of Pennsylvania, the registration statement shall also 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 mortgagee or mortgagees 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.
- D. All registration fees must be paid directly from the mortgagee, servicer, trustee, or owner. Third-party registration fees are not allowed without the consent, in writing, of the Township and/or its authorized designee(s).
- E. This section shall also apply to properties that have 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.
- F. Properties subject to this section shall remain under the annual registration requirement and the inspection, security and maintenance standards of this chapter as long as they remain vacant, in default, or identified as a public nuisance.
- G. Pursuant to any administrative or judicial finding and determination that any property is in violation of this chapter, the Township may take the necessary action to ensure compliance

with the chapter and place a lien on the property for the cost of the work performed to benefit the property and bring it into compliance with the chapter.

- H. For purposes of this chapter, registration statements required under this section initially shall be due no later than September 1, 2019, and annually on September 1 each year after.

§152-14 Registration Statement for Vacant Property.

- A. Registration Statement for Vacant Property. The owner of any building that has been vacant for more than forty-five (45) consecutive days shall file a registration statement with the Township. The registration statement shall include the street address and tax map parcel number of each such vacant building, the names and addresses of all owners, working telephone numbers, and any other information deemed necessary by the Township Manager or his or her designee(s). All owners and/or agents are required to supply a point of contact or an emergency contact person(s) and a working telephone number that has service 24 hours a day and seven days a week.

1. For purposes of this chapter, the following shall also be applicable:

- a. If the owner is a corporation, the registration statement shall provide the names and resident addresses of all officers and directors of the corporation and shall be accompanied by a copy of the most recent relevant filing with the secretary of state;
- b. If the owner is an estate, the registration statement shall provide the name and business address of the executor of the estate;
- c. If the owner is a trust, the registration statement shall provide the name and business address of all trustees, grantors and beneficiaries;
- d. If the owner is a partnership, the registration statement shall provide the names and residence addresses of all partners with an ownership interest in the property of 10% or greater;
- e. If the owner is any other form of unincorporated association, the registration statement shall provide the names and residence addresses of all partners with an ownership interest in the property of 10% or greater;
- f. If the owner is an individual, the registration statement shall provide the name and residence address of that person.

2. Registration shall be required for all vacant buildings, whether vacant and secure, vacant and open, or vacant and boarded, and where such building has remained vacant for forty-five (45) consecutive days or more. 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 other building code

or housing code requirement. One registration statement may be filed to include all vacant buildings of the owner so registering, but the payment of all fees described herein are required for each property so registered.

3. Each registration statement shall be valid for a period of one year. If the property remains vacant upon the expiration of the registration statement, the owner of the building shall be required to submit a new registration statement to the Township Manager or his or her designee(s).
- B. Local Agent. If none of the persons identified in the registration statement as an owner or agent thereof is shown on the registration statement to have an address within the Commonwealth of Pennsylvania, the registration statement shall also 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 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.
- C. For purposes of this chapter, registration statements required under this section initially shall be due no later than September 1, 2019, and annually on September 1 each year after.

§152-15 Registration Fees.

A nonrefundable fee in accordance with the Housing Inspection Fee Schedule Resolution shall be paid for any building registered within forty-five (45) days of first becoming vacant and shall be renewed on an annual basis with a fee in accordance with the Housing Inspection Fee Schedule Resolution.

§152-16 Waiver of Registration Fees.

- A. Upon written application of the owner and upon satisfaction of the requirements set forth below, the Board of Supervisors may grant a waiver of the registration fee referenced in Section 152-15. The waiver shall automatically expire after six (6) months from the date the property first becomes vacant. Upon expiration of the waiver, all provisions of this chapter shall apply. No more than four waivers shall be granted per property. The waiver shall be granted if the owner satisfactorily demonstrates the all of following:
1. The owner is in the process of demolition, rehabilitation, or other substantial repair of the vacant building; and
 2. The anticipated length of time for the demolition, rehabilitation or other substantial repair of the vacant building; and
 3. The owner is actively attempting to sell or lease the property at reasonable terms, including price, during the vacancy period; and

4. All past due vacant registration fees, if any, and all other financial obligations and/or debts owed to the Township in connection with the vacant property have been paid.
- B. The initial application shall be submitted to the Township Manager, or his or her designee(s), who shall review the application and make a recommendation to the Board of Supervisors based on the criteria set forth above. The Board of Supervisors shall consider the Township Manager's recommendation within sixty (60) days of the date of receipt of the written application. In the event that the Board of Supervisors does not act within this time period, the application shall be deemed approved.
- C. At all times, the burden of proof shall remain upon the owner of the building to demonstrate that the waiver is appropriate in light of the above factors. It is recommended that the owner submit any available photos, plot plan, layout plan, price, agent and information with the application for fee waiver to demonstrate the active marketing of the property.

§152-17 Inspection.

- A. At the time of registration, the Township shall conduct an inspection of the premises, and advise the owner of any conditions that violate the Township property maintenance code or similar codes, and shall advise the owner of the actions necessary to abate such violation or violations.
- B. Annual inspections. An inspection of the registered abandoned real estate or vacant building may be performed by the Township annually or as necessary. If violations are identified, the Township shall issue a notice of violation as per the requirements of the Township of Lower Makefield's Property Maintenance Code or Fire Code and give notice to the mortgagee or owner to comply with the codes with a reasonable time to cure. If the violations are not corrected within the time given, the property shall be declared a public nuisance in accordance with this Article.
- C. Complaint inspections. Nothing in this section shall preclude a Township official, or his or her designee(s) from performing an inspection upon receipt of a complaint of violation of any Township ordinances.
- D. Search warrant. If any mortgagee, owner, local agent or other person in charge of a building or structure subject to the provisions of this chapter refuses, impedes, inhibits, interferes with, restricts or obstructs entry and access to every part of the structure or premises where inspection authorized by this chapter is sought, the appropriate Township official may apply for an administrative search or inspection warrant to a court of competent jurisdiction and shall supply all necessary affidavits and testimony to indicate that there is a reasonable or probable cause to conduct such an inspection.
- E. Notice. All notices scheduling an inspection shall be mailed via regular mail to the owner of record, with a copy mailed via regular mail to the local agent if applicable.

- F. Failure to appear for inspection. If the mortgagee, owner, or his or her local agent cannot be available at the proposed time, said mortgagee, owner or local agent shall provide no less than twenty-four (24) hours' written notice to the Township Manager or his or her designee(s). Upon failure to give such written notice or upon failure to gain entry, an administrative fee in accordance with the Housing Inspection Fee Schedule Resolution will be assessed against the owner. For each rescheduling beyond the second rescheduling, an administrative fee in accordance with the Housing Inspection Fee Schedule Resolution shall be assessed. Failure to pay the administrative fee shall, at the discretion of the Township, constitute a violation of this chapter and/or the applicable Township code. Failure of a mortgagee, owner or his/her local agent to appear for a scheduled inspection shall be considered probable cause for obtaining a search warrant to inspect the premises.
- G. Special requested inspections. Whenever an owner, mortgagee, purchaser or other interested party requests a special inspection of a property regulated by this chapter, or a certification that a property is in compliance with this chapter or other applicable Township ordinances pertaining to structural condition, if such request is made in connection with the sale, conveyance, transfer, financing or refinancing of such property, the requestor shall pay a fee in accordance with the Housing Inspection Fee Schedule Resolution to the Township to defray the expenses of making such inspection, which fee may be changed from time to time by resolution of the Board of Supervisors.

§152-18 Appeal Rights.

- A. Upon notification from the Township that a property is vacant and requires registration, the owner shall have the right to appeal the imposition of the registration fees to the Board of Supervisors, upon filing an application in writing accompanied by a nonrefundable filing fee in accordance with the Housing Inspection Fee Schedule Resolution to the Township no later than thirty (30) calendar days from the date of the notice. On appeal, the owner shall bear the burden of providing satisfactory objective proof that the property is occupied, per the definition of the term "occupied" set forth in Section 152-11.
- B. Public nuisance and exterior or major systems non-code compliance. The mortgagee or owner shall have the right to appeal the determination that a building or structure is a public nuisance or the exterior or major systems are non-code compliant to the Lower Makefield Township Board of Appeals, established under Section 97-5, upon filing an appeal in writing to the Township no later than ten (10) business days after notification of said determination. On appeal, the mortgagee or owner shall bear the burden that the property is not a public nuisance and the exterior and/or major systems, as applicable, are code compliant.

§152-19 Delinquent Registration as Lien.

After the owner is given notice that the registration fee(s) referenced in Section 152-15 above is due, and the owner fails to pay the amount due, said amount shall constitute a debt due and owing to the Township, and the Township may file a municipal lien against the property as provided for by law, as well as take all other available legal action in order to collect such debt.

§152-20 Duty to Amend Registration Statement.

If the status of the registration information changes during the course of any calendar year, it is the responsibility of the owner, or the responsible person or agent of the owner, to contact the Township Manager or his or her designee(s) within thirty (30) days of the change and advise the Township Manager or his or her designee(s) in writing of those changes.

§152-21 Exceptions.

This Article shall not apply to any building, structure, or property owned by the United States, the Commonwealth, the Township, nor any of their respective agencies or political subdivisions.

§152-22 Compliance with Other Codes.

In no instance shall the registration of abandoned real estate or a vacant building and the payment of registration fees be construed to exonerate the owner, local agent or other responsible party from responsibility for compliance with any other Township code or ordinance.

§152-23 Violations and Penalties.

- A. The failure or refusal for any reason of any owner, or agent of an owner acting on behalf of the owner, to register a vacant building or to pay the registration fee required in this Article, or to otherwise fail to comply with the provisions of this Article, shall constitute a summary offense punishable upon conviction thereof by a fine of not less than \$100.00 nor more than \$500.00 for each failure or refusal to register, or for each failure or refusal to pay a required vacant building fee, as applicable. Each day that a violation of this Article continues shall constitute a separate offense. The penalties imposed under this Article shall be in addition to the cost of prosecution and reasonable attorney's fees, and also be in addition to the registration fee in accordance with the Housing Inspection Fee Schedule Resolution pursuant to Section 152-15.
- B. In addition, the Township may institute suits, in equity or at law, to restrain, prevent, or abate a violation of this Article. Such proceedings may be initiated before any court of competent jurisdiction. The expense of such proceedings shall be recoverable from the violator in any manner as may now or hereafter be provided by law.

§152-24 Nonexclusive Remedies.

The penalty, collection and lien provisions of this chapter shall be independent, non-mutually exclusive separate remedies, all of which shall be available to the Township as may be deemed appropriate for carrying out the proposes of this chapter. The remedies and procedures provided in this Article for violation hereof are not intended to supplant or replace to any degree the remedies and procedures available to the Township in the case of a violation of any other Township Code or Ordinance, whether or not such other code or ordinance is referenced in this chapter, and

whether or not an ongoing violation of such other code or ordinance is cited as the underlying ground for a finding of a violation of this chapter.

§152-25 Repealer.

All ordinances or parts of ordinances in conflict herewith be and are hereby repealed, except any ordinance or parts of ordinances that authorize greater remedies than this Ordinance are preserved.

§152-26 Severability.

The provisions of this Ordinance are severable. If any section, clause, sentence part or provision thereof shall be held illegal, invalid, or unconstitutional by a court of competent jurisdiction, such decision of the court shall not affect or impair any of the remaining sections, clauses, sentences, parts or provisions of this Ordinance. It is hereby declared to be the intent of the Township Supervisors that this Ordinance would have been adopted if such illegal, invalid or unconstitutional section, clause, sentence or part of a provision had not been included herein.