

ORDINANCE NO. 489

VACANT PROPERTY REGISTRATION

INTRODUCED – February 24, 2020

ADOPTED BY COUNCIL – _____, 2020

AN ORDINANCE OF THE BOROUGH COUNCIL OF THE BOROUGH OF CURWENSVILLE , CLEARFIELD COUNTY, PENNSYLVANIA PROVIDING FOR THE REGISTRATION OF VACANT PROPERTIES; IMPOSING DUTIES UPON PROPERTY OWNERS WITH RESPECT TO SUCH PROPERTIES; PROVIDING FOR INSPECTIONS OF SUCH PROPERTIES; PROVIDING FOR THE REPEAL OF INCONSISTENT ORDINANCES; PROVIDING FOR THE SEVERABILITY OF THE ORDINANCE; AND PROVIDING THAT THE ORDINANCE SHALL TAKE EFFECT AS PROVIDED BY PENNSYLVANIA LAW.

WHEREAS, the Borough Council of the Borough of Curwensville finds that it is necessary to safeguard the safety, health, and welfare of the public by assuring that the Code Officials of the Borough of Curwensville are authorized to enter upon real property and into structures and premises within the Borough to perform inspections thereof and to perform their duties under the Laws of the Commonwealth of Pennsylvania and the Code of the Borough of Curwensville; and

WHEREAS, the Borough Council of the Borough of Curwensville finds that there is a growing concern within the Borough with the failure to properly maintain vacant properties; and

WHEREAS, the Borough Council of the Borough of Curwensville finds that to safeguard the health, safety, and welfare of its citizens, and to encourage owners, lienholders, and realtors of vacant properties to maintain the quality of such properties, it is necessary to establish a systematic inspection and registration program for vacant properties; and

WHEREAS, the Borough Council of the Borough of Curwensville finds that it is necessary to establish and maintain an inventory of vacant properties in the Borough of Curwensville, and

NOW, THEREFORE, BE AND IT IS HEREBY ORDAINED AND ENACTED by the Council of the Borough of Curwensville, Clearfield County, Pennsylvania, as follows:

- SECTION 1: DEFINITIONS
- SECTION 2: REGISTRATION OF VACANT PROPERTY
- SECTION 3: OWNERS DUTIES
- SECTION 4: INSPECTIONS
- SECTION 5: ANNUAL FEES
- SECTION 6: MISCELLANEOUS
- SECTION 7: REPEALER
- SECTION 8: INVALIDITY
- SECTION 9: EFFECTIVE DATE

SECTION 1 - DEFINITIONS:

Except where the context clearly indicates otherwise, the terms used herein shall have the meanings ascribed to them in the Borough's Property Maintenance Code codified as Chapter 85 of the Code of the Borough of Curwensville. Additionally, the following words shall have the meaning ascribed to them in this section except where the context clearly indicates or requires a different meaning:

Abandoned- Any building, structure, or property that, in the sole opinion of the Borough, has become both vacant and blighted due to, but not limited to, any of the following: Foreclosure, Tax sale, Bankruptcy, Divorce, or Death.

Blighted Property- Any building, structure, or property that has visible signs of neglect.

- A. Properties that have broken or severely damaged windows, doors, walls, or roofs which create hazardous conditions and encourage trespassing; or
- B. Properties cited for public nuisance pursuant to the Curwensville Borough Code; or
- C. Properties that endanger the public health, safety, or welfare because the properties or improvements thereon are dilapidated, deteriorated, or violate minimum health and safety standards or lack maintenance as required by one or more of the applicable codes.

Borough: The Borough of Curwensville, Clearfield County, Pennsylvania.

Code Enforcement Official/Code Official: The code enforcement officers and officials of the Borough of Curwensville as defined in the Property Maintenance Code and other Ordinances of the Borough of Curwensville.

Codes: Any state or local code or ordinance adopted, enacted or in effect in and for the Borough of Curwensville, including, but not limited to, the Property Maintenance Code codified in Chapter 85 of the Code of the Borough of Curwensville and the International Property Maintenance Code.

County: The County of Clearfield, Pennsylvania.

Owner: Any person, agent, operator, property management group, housing authority or fiduciary having legal, equitable or other interest in any real property; as recorded in the official records of the state, county or municipality as holding title to the real property; or otherwise having control of the real property, including the guardian of the estate of such person and the executor or administrator of such person's estate. When used in this Ordinance in a clause proscribing any activity or imposing a penalty, the term as applied to partnerships and associations, shall mean each general partner; as applied to corporations, the officers thereof; and as applied to limited liability companies, the members and any managers thereof.

Person: Any natural person, partnership, association, limited liability company, corporation, firm or other similar entity.

Responsible Agent or Manager: Any person or entity who or which aids in the sale of residential Property or who takes responsibility for the care or supervision of the Property, including

responsible agents as defined by the Borough's Ordinances.

Vacant Property: Any building, structure or property that is not legally occupied.

SECTION 2

REGISTRATION OF VACANT PROPERTY

- A. Every Owner or Responsible Agent of a Vacant Property shall register the Vacant Property with the Borough on a form provided by the Borough by January 31st of each year.
- B. Failure to register will result in a \$300.00 per building fine.

SECTION 3

OWNER'S DUTIES

It shall be the duty of every Owner or Responsible Agent of Any Vacant Property to:

A. General

- 1. Keep and maintain the property in compliance with all applicable codes, ordinances, and provisions of all applicable local and state laws and regulations, including but not limited to the International Property Maintenance Code and the codes of the Borough of Curwensville. Keep and maintain all Property in good and safe condition.
- 2. Submit a Registration for each Property.
- 3. Include on the registration form the following:
 - a. Whether or not the property has a mortgage.
 - b. Proof of insurance.
 - c. Proof of services. (*Water, Sewer, Electric, Gas, etc.*)

B. Designation of Responsible Agent

- 1. If the owner of a Property is not a full-time resident of the County of Clearfield, then, without disclaiming responsibility, the owner shall designate a person to serve as the responsible agent who does reside within the County of Clearfield. If the owner is a corporation, a separate responsible agent shall be appointed unless an officer of the corporation is appointed as the responsible agent and such officer lives within the County of Clearfield. If the owner is a partnership or a limited liability company, a responsible agent shall be required if a partner or member does not reside within the County of Clearfield. Said partner or member shall perform

the same function as a responsible agent.

2. The owner or operator must provide the Code Official with the name, address, and daytime telephone number of a designated responsible agent, who shall be an individual and who shall reside within the County of Clearfield, Pennsylvania. A post office box shall not be considered a valid address.
3. A Responsible Agent must be authorized to receive notices and communications necessary or deemed to be appropriate under the terms of the Codes of the Borough of Curwensville and to accept service of process of initial and subsequent pleadings on behalf of the Owner or operator which may be necessary or deemed to be appropriate for the enforcement of the Codes of the Borough of Curwensville ; provided, however that nothing contained herein shall effect the right of the Borough of Curwensville to submit notices and communications directly to the Owner, rather than to the responsible agent, or to serve process and initial and subsequent pleadings in any other manner permitted by law.
4. The designation of Responsible Agent shall not be valid unless signed by both the Owner and the Responsible Agent.
5. Any Owner or Responsible Agent or any Owner of Property who subsequently changes her/his place of residence or who changes the designation of a Responsible Agent shall notify in writing the Borough Secretary within 30 days after such change.
6. No Owner, Manager, or Responsible Agent may offer for rent or sale or assist in offering for rent or sale, by advertising or otherwise, any vacant property without first ascertaining, in a prior writing, that the Property is properly registered with the Borough of Curwensville.

JOINT RESPONSIBILITY: If the Owner has appointed an Agent, Manager or Responsible Agent, the Agent, Manager or Responsible Agent shall be jointly responsible to fulfill all of the obligations set forth in this Section.

SECTION 4

INSPECTIONS

- A. It shall be the duty of all Owners, Agents, and Managers to provide access to the Borough officials to all properties subject to inspections hereunder and failure to permit such access shall be deemed a violation of the Ordinance.
- B. For purposes of enforcing this Ordinance, the Code Enforcement Official or his designee may seek to obtain an administrative warrant issued by a competent authority for the purpose of compelling an inspection of a property.
- C. If requested, the Code Enforcement Official or his authorized representative shall disclose

proper credentials of their respective offices for the purpose of inspecting any and all structures and property in the performance of their duties under this Ordinance.

D. In addition to the inspections referenced above, the Code Enforcement Official shall also inspect properties upon any of the following occurrences:

1. Prior to the initial occupancy of substantially rehabilitated properties OR
2. Prior to the sale of any vacant property.

E. The Code Enforcement Official may also inspect properties upon any of the following occurrences:

1. Upon a change in ownership;
2. Upon receipt of complaints OR
3. For any other reasonable cause.

F. Registration, Inspection, Non-Compliance, and Reinspection.

1. REGISTRATION: The Code Official shall, upon receipt of an application for a registration, inspect the property.
2. INSPECTION: The Code Official may inspect each vacant property at least once annually following registration. These periodic inspections shall occur notwithstanding more frequent inspections which may be required in the investigation of complaints regarding the property.
3. NON-COMPLIANCE: In the event that the property is not in compliance with the Codes of the Borough of Curwensville, the Code Official shall notify the applicant in writing and shall specify the non-compliance with the Code. Upon abatement of the violations, the Code Official shall inspect the Property. If any violation still exists, re-inspections shall be scheduled. For any re-inspections the fee shall be \$75 per property.
4. NOTICE: If the Code Enforcement Official, upon completion of the inspection, finds that the applicable codes have not been met, the Code Enforcement Official shall issue notices and, if appropriate, may commence enforcement actions under the procedures set forth in the code which has been violated or under any other applicable Ordinance of the Borough. Notice provided to an Agent shall be deemed notice provided to the Owner. The following notices shall be issued to the Owner of the Property and the Responsible Agent:
 - a. If the Code Enforcement Official finds violations of the property under the Property Maintenance Code, in addition to the remedies under the Property Maintenance Code, the Code Enforcement Official shall:
 - i. Issue a notice of violation that establishes a timeline for abatement; and
 - ii. If, after the abatable period expires, an inspection reveals that the violations are not corrected and arrangements satisfactory to the Code Enforcement Official have not been made further legal action will be taken.

SECTION 5

VACANT PROPERTY ANNUAL FEES

ANNUAL FEE

AMOUNT OF TIME STRUCTURE IS VACANT <i>(Regardless of Owner)</i>	FEE
Structure vacant for up to, but not more than, 2 years	\$200.00
Structure vacant for more than 2 years but less than 3	\$400.00
Structure vacant for more than 3 years but less than 4	\$800.00
Structures vacant for more than 4 years but less than 5	\$1000.00
Structures vacant for 5 years or longer	\$1500.00

CHANGE OF OWNERSHIP: The fee schedule will NOT reset with change of ownership.

To have a property removed from the vacant property registration, the owner must:

1. Have the property inspected by the Borough Code Officer.
2. Show proof of available services.
3. Show proof of occupancy.

HOMESTEAD EXCEPTION- Upon approval of Borough Council, Vacant Properties that are family owned due to immediate family member death or hospitalization and maintained for personal use only in accordance with Curwensville Borough Code are exempt from the annual fee. Proof of Power of Attorney, Court Order of Guardianship, or Short Certificate for the Estate may be required.

SECTION 6

MISCELLANEOUS:

- A. Codes Violations. Nothing in this Ordinance shall preclude or prohibit the Code Enforcement Officer or his designee from identifying any violations of the Codes and taking lawful action in connection therewith.
- B. Registration with the Borough is not a representation by the Borough that property, building, or structure is in compliance with the Curwensville Borough Code.
- C. It is the right of every resident to report any alleged violation of Borough Codes to the appropriate Borough official. A property owner shall not seek retaliation for the reporting of alleged Code violations.

SECTION 7

REPEALER: All ordinances or resolutions or parts of ordinances or resolutions insofar as they are inconsistent herewith are hereby repealed and rescinded.

SECTION 8

INVALIDITY: In the event any provision, section, sentence, clause or part of this Ordinance shall be held to be invalid, such invalidity shall not affect or impair any of the remaining provisions, sections, sentences, clauses or parts of this Ordinance; it being the intent of the Borough of Curwensville that the remainder of the Ordinance shall be and shall remain in full force and effect.

SECTION 9

EFFECTIVE DATE: This Ordinance shall become effective as provided by the laws of the Commonwealth of Pennsylvania.

DULY ORDAINED AND ENACTED this ____ day of _____, 2020, by the Council of the Borough of Curwensville, Clearfield County, Commonwealth of Pennsylvania, in lawful session duly assembled.

ATTEST:

BOROUGH OF CURWENSVILLE:

Borough Secretary

Council President

Mayor

(Seal of the Borough of Curwensville)