

**BOROUGH OF PENNINGTON
ORDINANCE 2017-19**

**AN ORDINANCE CONCERNING REGISTRATION AND MAINTENANCE OF VACANT
BUILDINGS AND AMENDING THE CODE OF THE BOROUGH OF PENNINGTON.**

WHEREAS, the Borough of Pennington is confronted periodically with the presence of deteriorating vacant properties in close proximity to occupied residences and businesses, creating public health problems, reducing the property values of neighboring properties and diminishing the quality of life for residents and business owners;

WHEREAS, Borough Council believes that existing code enforcement measures applicable to these properties should be supplemented to provide for (1) registration of all vacant properties, as defined, to ensure identification of persons and entities responsible for the property and accountable for its condition, (2) affirmative requirements for securing and maintaining the property, and (3) imposition of fines and penalties for non-compliance;

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Pennington that the Code of the Borough of Pennington is hereby amended by supplementing Chapter 136, Nuisances and Public Health, with a new subchapter entitled "Registration and Maintenance of Vacant Properties," which shall read as follows:

1. Definitions

"Abandoned property" is defined as set forth in the Abandoned Properties Rehabilitation Act, N.J.S.A. 55:19-78 et seq., which provides:

- (1) Except as provided in N.J.S.A. 55:19-83, any property that has not been legally occupied for a period of six months and which meets any one of the following additional criteria may be deemed to be abandoned property upon a determination by the public officer that:
 - a. The property is in need of rehabilitation in the reasonable judgment of the public officer, and no rehabilitation has taken place during that six-month period;
 - b. Construction was initiated on the property and was discontinued prior to completion, leaving the building unsuitable for occupancy, and no construction has taken place for at least six months as of the date of determination by the public officer pursuant to this section;
 - c. At least one installment of property tax remains unpaid and delinquent on that property in accordance with Chapter 4 of Title 54 of New Jersey Statutes as of the date of a determination by the public officer pursuant to this section; or
 - d. The property has been determined to be a nuisance by the public officer in accordance with the standards set forth at N.J.S.A. 55:19-82
- (2) A property which contains both residential and non-residential space may be considered abandoned pursuant to N.J.S.A. 55:19-78 et seq. so long as two-thirds or more of the total net square footage of the building was previously legally occupied as residential space and none of the residential space has been legally occupied for at least six months at the time of the determination of abandonment by the public officer and the property meets the criteria of either Subsection (1)(a) or Subsection (1)(d) of this definition.

"Evidence of vacancy" means:

(1) Any condition that on its own or combined with other conditions present would lead a reasonable person to believe that the property is or has been vacant for three or more months. Such evidence would include, but is not limited to, evidence of the existence of two or more of the following conditions at a property: overgrown or dead vegetation; accumulation of newspapers, circulars, flyers or mail; past-due utility notices or disconnected utilities; accumulation of trash, junk or debris; the absence of window coverings such as curtains, blinds or shutters; the absence of furnishings or personal items consistent with residential habitation; statements by neighbors, delivery agents, or government employees that the property is vacant or abandoned; infestation by insects, vermin, rats or other pests; windows or entrances that are boarded up or closed off; multiple window panes that are damaged, broken or unrepaired; doors that are smashed, broken, unhinged or continuously unlocked; or any uncorrected violation of a municipal building, housing or similar code during the preceding year.

(2) Property determined to be "abandoned property" as defined herein and in the Abandoned Properties Rehabilitation Act, N.J.S.A. 55:19-78 et seq. shall also be deemed to be vacant property.

"Owner" shall include the title holder, any agent of the title holder having authority to act with respect to a vacant property, any foreclosing entity subject to the provisions of N.J.S.A. 46:1 OB-51, or any other entity determined by the Borough of Pennington to have authority to act with respect to the property.

“Vacant property” means , in addition to any property determined to be an “abandoned property,” any building used or to be used as a residence which is not legally occupied or at which substantially all lawful construction operations or residential occupancy has ceased for a period of at least three months, and any commercial property that has not been legally occupied or at which substantially all lawful construction operations have ceased for a period of at least three months. Any property that contains all building systems in working order, is being maintained on a regular basis, has not been cited by the Borough for any violation of municipal ordinance within such time and is being actively marketed by its owner for sale or rental shall not be deemed vacant.

2. Registration Requirement

A. The owner of any vacant property as defined herein shall, within 3 days after the building becomes vacant property or within 30 days after assuming ownership of the vacant property, whichever is later, file a registration statement for each such vacant property with the Borough Construction Code Official on forms provided by that office for such purposes. The registration shall remain valid until the end of the calendar year. The owner shall be required to renew the registration annually, no later than January 31, as long as the building remains vacant property and shall pay a registration or renewal fee in the amount prescribed in Chapter 98 of the Borough Code for each vacant property registered.

B. Any owner of a building that meets the definition of a “vacant property” prior to the effective date of this ordinance shall file a registration statement for that property on or before 30 days from the effective date of this ordinance. The registration statement shall include the information required under this section as well as any additional information that the Construction Code Official may reasonable require.

C. The owner shall notify the Construction Code Official within 30 days of any change in the registration information by filing an amended registration statement on a form provided by the Construction Code Official for such purpose.

D. The registration statement shall be deemed prima facie proof of the statements therein contained in any administrative enforcement proceeding or court proceeding instituted by the Borough of Pennington against the owner or owners of the building.

3. Required Contents of Registration Statement

The registration statement shall include the name, street address, email address and telephone number of a natural person 21 years of age or older, designated by the owner or owners as the authorized agent for receiving notices of code violations and for receiving process in any court proceeding or administrative enforcement proceeding, on behalf of such owner or owners in connection with the enforcement of any applicable code. The designated agent must have a contact number that will be available 24 hours per day on an emergency basis. The statement shall also include the name of the person responsible for maintaining and securing the property, if different from the designated agent. An owner who is a natural person and who meets the requirements of this section as to availability of a contact number on a twenty-four-hour emergency basis may designate himself or herself as agent.

4. Receipt of Notices

By designating an authorized agent ,the owner consents to receive any and all notices of code violations concerning the registered vacant property and all process in any court proceeding or administrative enforcement proceeding brought to enforce code provisions concerning the registered building by service of the notice or process on the authorized agent. Any owner who has designated an authorized agent under the provisions of this section shall be deemed to consent to the continuation of the agent's designation for the purpose of this section until the owner notifies the Borough of Pennington of a change of the authorized agent or until the owner files a new annual registration statement The designation of an authorized agent in no way releases the owner from any requirement of this section.

5. Required Access to the Property

After filing a registration statement or a renewal of a registration statement, the owner of any vacant property shall provide access to the Construction Code Official if requested, following reasonable notice, during the period covered by the initial registration or any subsequent renewal. If an inspection is required of the interior of the property due to complaints or other cause, the fee for such inspection shall be the same as that for a certificate of occupancy inspection as provided in Chapter 98 of the Borough Code.

6. Registration Fees.

The registration fee for each building, initially and annually, is set forth in Chapter 98 of the Borough Code.

7. Additional Requirements for Owners of Vacant Property

The owner of any building that has become vacant as defined herein, and any person

maintaining, operating or collecting rent for any such building that has become vacant shall, immediately:

A. Post a sign affixed to the inside of the building indicating the name, street address, email address and telephone number of the owner, the owner's authorized agent for the purpose of service of process, and the person responsible for the day-to-day supervision and management of the building, if such person is different from the owner holding title or authorized agent. The sign shall be of a size and placed in such a location so as to be legible from the nearest public street or sidewalk, whichever is nearer, but shall be no smaller than 15 inches by 17 inches; and

B. Enclose and secure the building against unauthorized entry as provided in the applicable provisions of the Borough Code, and maintain the sign required in Subsection A above until the building is again legally occupied or demolished or until repair or rehabilitation of the building is complete; and

C. Make provision for the maintenance of the lawn and yard, including regular grass cutting as required by the applicable provisions of the Borough Code; and

D. Make provision for the cessation of the delivery of mail, newspapers and circulars to the property; and

E. Make provision for the winterizing of the property by the cessation of water service to the property and the draining of water lines; and

F. Make provision for the cessation of electric or gas utility services to the property; and

G. Make provision for the regular maintenance of the exterior of the property.

8. Violations and Penalties

A. Any owner who is not in full compliance with this section or who otherwise violates any provision of this section or of the rules and regulations issued hereunder shall be subject to a fine of not less than \$500 and not more than \$1,000 for each offense. Every day that a violation continues shall constitute a separate and distinct offense. Fines assessed under this section shall be recoverable from the owner and shall be a lien on the property.

B. For purposes of this section, failure to file a registration statement in time, failure to provide correct information on the registration statement, failure to comply with the provisions of Section 7, or such other matters as may be established by the rules and regulations of the Borough shall be deemed to be in violation of this ordinance.

9. Severability of Ordinance Provisions

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

BE IT FURTHER ORDAINED, by the Borough Council of the Borough of Pennington, that Chapter 98 of the Code of the Borough is amended by adding to Miscellaneous Non-Land Use Fees, at Section 98-30.C:

Registration of Vacant Building, as required by Chapter 136, initially and annually: \$250.

BE IT FURTHER ORDAINED, that this Ordinance shall be effective upon passage and publication as required by law.

Introduced: November 13, 2017
Advertised: November 17, 2017
Public Hearing: December 4, 2017
Adoption: December 4, 2017
Final Publication: December 8, 2017

ATTEST:

APPROVED:

Elizabeth Sterling, Borough Clerk

Anthony Persichilli, Mayor