

**ORDINANCE NO. 2017-04
BOROUGH OF LANSFORD**

**AN ORDINANCE OF THE BOROUGH OF LANSFORD, COUNTY OF
CARBON AND COMMONWEALTH OF PENNSYLVANIA
IMPLEMENTING THE PENNSYLVANIA NEIGHBORHOOD BLIGHT
RECLAMATION AND REVITALIZATION ACT.**

WHEREAS, the Borough of Lansford is a municipal corporation organized and existing under the laws of the Commonwealth of Pennsylvania, including but not limited to the Borough Code; and

WHEREAS, the Legislature of the Commonwealth of vests the Borough of Lansford with the power and authority to make and adopt all such ordinances, bylaws, rules and regulations not inconsistent with or restrained by the Constitution and laws of this Commonwealth, as is expedient or necessary for the proper management, care and control of, inter alia, the Borough's finances, the maintenance of peace, good government, safety and welfare of the Borough, its trade, commerce and manufactures; and

WHEREAS, there are deteriorated properties located in the Borough of Lansford because of neglect by their owners in violation of applicable state and municipal codes; and

WHEREAS, these deteriorated properties create public nuisances that 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

WHEREAS, in order to address these situation, 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; and

(b) to reduce the likelihood that other municipalities will have to address the owners' neglect and resulting deteriorated properties; and

(c) to sanction the owners for not adhering to their legal obligations to the commonwealth and its municipalities, as well as to tenants, adjoining property owners and neighborhoods;

WHEREAS, this Ordinance is intended to provide Lansford the full powers, rights and entitlements afforded pursuant to the Neighborhood Blight Reclamation and Revitalization Act, passed by the Pennsylvania State Legislature and signed into law as Act 90 of 2010 (53 Pa. C.S. § 6101 et. seq.); and

NOW THEREFORE this 13th day of September 2017, it is hereby Enacted and Ordained by the Council of the Borough of Lansford as follows:

NEIGHBORHOOD BLIGHT RECLAMATION AND REVITALIZATION

SECTION 1: TITLE

This Ordinance shall be known as the Lansford Borough Blight Reclamation and Revitalization Ordinance.

SECTION 2: PURPOSE

The Borough Council finds it to be the best interest of the residents of the Borough of Lansford to provide for certain protections and safeguards in order to address deteriorated properties, public nuisances and properties in serious violation of State law and/or municipal codes. Such protections and safeguards include denial of permits, and actions at law and in equity to address deteriorated properties, which impact upon crime, quality of life of our residents and require expenditure of public funds to correct and/or abate nuisances, violations and delinquent municipal services accounts.

SECTION 3: DEFINITIONS

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

“AGENT” any director, officer, servant, employee or other person authorized to act on behalf of a corporation or Association and, in the case of an unincorporated Association, a member of such Association.

“BOARD” shall mean and refer to the Zoning Hearing Board or other body granted jurisdiction to render decisions in accordance with the Municipalities Planning Code, the State Borough Code, the Code of the Borough of Lansford, or any board authorized to act in a similar manner by law.

“BLIGHTED PROPERTY” any of the following:

(1) 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, including nuisance and dangerous building ordinances.

(2) 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.

(3) A dwelling which, because it is dilapidated, unsanitary, unsafe, vermin infested or lacking in facilities and equipment required under the property maintenance code of the municipality, has been designated by the municipal department responsible for enforcement of the code as unfit for human habitation.

(4) A structure which is a fire hazard or is otherwise dangerous to the safety of person or property.

(5) 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.

(6) A vacant or unimproved lot or parcel of ground in a predominately 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.

(7) An unoccupied property which has been tax delinquent for a period of two (2) years.

(8) A property which is vacant but not tax delinquent and which has not been rehabilitated within one (1) year of the receipt of notice to rehabilitate from the appropriate code enforcement agency.

“BOROUGH” shall refer to the Borough of Lansford, County of Carbon, Commonwealth of Pennsylvania.

“BUILDING” shall mean and refer to a residential, commercial or industrial building or structure and the land appurtenant to it.

“CODE” shall mean and refer to a building, housing, property maintenance, fire, health or other public safety ordinance enacted by the Borough. The term does not include a subdivision and land development ordinance or a zoning ordinance enacted by a municipality.

“COURT” shall mean and refer to the appropriate court of common pleas or magisterial district judge court.

“MORTGAGE LENDER” shall mean and refer to 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.

“MUNICIPALITY” shall mean and refer to a city, borough, incorporated town, township or home rule, optional plan or optional charter municipality or municipality authority in this Commonwealth and any entity formed pursuant to Subchapter A or Chapter 23 (relating to intergovernmental cooperation).

“MUNICIPAL PERMITS” shall mean and refer to privileges relating to real property granted by a municipality, including, but not limited to, building permits, exceptions to zoning ordinances and occupancy permits. The term includes approvals pursuant to land use ordinances other than decision on the substantive validity of a zoning ordinance or map or the acceptance of a curative amendment.

“MUNICIPAL SERVICES” shall mean and refer to services provided at a cost by the Borough or other municipal entity, including water service, sanitary sewer services, electric service, refuse collection and parking allotments/facilities, which benefit individual properties and also serve to benefit the overall welfare, safety and health of all residents of the Borough.

“OWNER” shall mean and refer to 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.

“PUBLIC NUISANCE” shall mean and refer to property which, because of its physical condition or use, is regarded as a public nuisance at common law or has been declared by the appropriate official a public nuisance in accordance with a municipal code.

“SERIOUS VIOLATION” shall mean and refer to a violation of a State law or a municipal code that poses an imminent threat to the health and safety of a dwelling occupant, occupants in surrounding structures or passerby.

“STATE LAW” shall mean and refer to a statute of the Commonwealth or a regulation of an agency charged with the administration and enforcement of Commonwealth law.

“SUBSTANTIAL STEP” shall mean and refer to an affirmative action as determined by a property code 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” shall mean and refer to tax delinquent real property as defined under the act of July 7, 1947 (P.L. 1368, No. 542), known as the Real Estate Tax Sale Law; the act of May 16, 1923 (P.L. 207, No. 153), referred to as the Municipal Claim and Tax Lien Law; or 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 any municipality in this Commonwealth.

SECTION 4: ACTIONS

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

- (A) (1) An in personam action may be initiated for a continuing violation for which the owner takes no substantial step to correct within six (6) 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.
- (2) Notwithstanding any law limiting the form of action for the recovery of penalties by a municipality for the violation of a code, the Borough may 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 Borough to remedy any code violation.
- (B) A proceeding in equity.

SECTION 5: ASSET ATTACHMENT

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 section 4A (relating to actions). Nothing in this section shall be construed to authorize, in the case of an owner that is an association or trust, a lien on the individual assets of the general partner or trustee, except as otherwise allowed by law.

SECTION 6: OUT-OF-STATE OWNERS SERVICE OF PROCESS UPON ASSOCIATION AND TRUSTS.

(A) A person who lives or has a principal place of residence outside this Commonwealth, who owns property in this Commonwealth against which code violations have been cited and the person is charged under 18 Pa.C.S. (relating to crimes and offenses), and who has been properly notified of the violations may be extradited to this Commonwealth to face criminal prosecution to the full extent allowed and in the manner authorized by 42 Pa.C.S. Ch, 91 (relating to detainers and extradition).

(B) Where, after reasonable efforts, service of process for a notice or citation for any code violation for any real property owned by a partnership, limited liability company, or other association or trust cannot be accomplished by handing a copy of the notice or citation to an agent, executive officer, partner or trustee of the corporation, association or trust or to the manager, trustee or clerk in charge of the property, the delivery of the notice or citation may occur by registered, certified or United States express mail, accompanied by a delivery confirmation: (1) to the registered office of the association or citation trust; (2) where the

association or trust does not have a registered office, to the mailing address used for real estate tax collection purposes, if accompanied by the posting of a conspicuous notice to the property and by handing a copy of the notice or citation to the person in charge of the property at that time; or (3) in the case of a corporation, notice shall be sent to the registered office on file with the Department of State.

SECTION 7: MUNICIPAL PERMIT DENIALS

(A) The Borough or a Board or a municipal official may deny issuing an applicant a Municipal Permit if the applicant owns real property in any municipality for which there exists on the real property:

(1) Tax and/or Municipal service delinquencies on account of the actions of the owner; or

(2) a Serious Violation and the Owner has taken no Substantial Step to correct the Serious 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 that Borough or Board seeking to deny a municipal permit. The Borough or Board 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.

(B) 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.

(C) 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 code on real property that the applicant owns in this Commonwealth, the Borough or Board shall 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 this section.

(D) All Municipal Permits denied in accordance with this subsection may be withheld until an applicant obtains a letter from the appropriate state agency, municipality or school district indicating the following:

(1) The property in question has no final and unappealable tax, water, sewer or refuse delinquencies;

(2) the property in question is now in state law and code compliance; or

(3) 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, a borough or municipal 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 ninety (90) days following commencement of the plan or sooner, if mutually agreeable to both the property owner and the municipality.

(E) 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 forty-five (45) days of the request, the property in question shall be deemed to be in compliance for the purpose of this section. The appropriate state agency, municipality or school district shall specify the form in which the request for a compliance letter shall be made. Letters required under this section shall be verified by the appropriate municipal officials before issuing to the applicant a Municipal Permit.

(F) Boards, including the Borough Zoning Hearing Board, may deny approval of Municipal Permits – which includes special exception approval and variance relief – if warranted as set forth above to the extent that approval of such a Municipal Permit is within the jurisdiction of the Board.

(G) In any proceeding before a Board other than the governing body of the Borough, the Borough may appear to present evidence that the applicant is subject to a denial by the board in accordance with this section.

(H) For purposes of this subsection, a Municipal Permit may only be denied to an applicant other than an Owner if the applicant is acting under the direction or with the permission of an Owner; and the Owner owns real property that is subject to denial as set forth above.

(I) A denial of a Municipal Permit shall be subject to the provisions of 2 Pa.C.S. Chs. 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 denial subject to the act.

SECTION 8: CONFLICT WITH OTHER LAW

In the event of a conflict between the requirements of this chapter 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.) and the regulations promulgated thereunder, the federal requirements shall prevail.

SECTION 9: 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 agreement under section 7 (relating to municipal permit denial) with a municipality 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.

SECTION 10: CONSTRUCTION

Nothing in this chapter shall be construed to abridge or alter the remedies now existing at common law or by statute, but the provisions of this chapter are in addition to such remedies.

SECTION 11: ENACTMENT

This Ordinance shall take effect five (5) days after enactment.

ORDAINED AND ENACTED by the Council of the Borough of Lansford in lawful session duly assembled, this 8th day of November, 2017.

BOROUGH OF LANSFORD

Attest: Jill Seigendall BY: Martin Ditsky
Jill Seigendall, Secretary/Treasurer Martin Ditsky, President

APPROVED this 8th day of November, 2017.

James Romankow
James Romankow, Mayor

PROOF OF PUBLICATION

THE TIMES NEWS, LLC

LEHIGHTON, CARBON COUNTY, PENNSYLVANIA
TAMAQUA, SCHUYLKILL COUNTY, PENNSYLVANIA

Commonwealth of Pennsylvania)
)
County of Carbon) ss.

Scott A. Masenheimer, being duly sworn according to law does depose and say:

1. THAT The Times News, LLC is a newspaper of general circulation published each weekday, except holidays, by Pencor Services, Inc. Its places of business are Lehighton, Carbon County, Pennsylvania and Tamaqua, Schuylkill County, Pennsylvania .

2. THAT The Times News, LLC was established on May 1, 1967, as the immediate successor to the Jim Thorpe-News, which was established on April 1, 1927.

3. THAT the affiant is the General Manager, of The Times News, LLC and as such is authorized by the publisher, Pencor Services Inc., to take this affidavit.

4. THAT the affiant is not interested in the subject matter of the notice or advertising.

5. THAT all of the allegations of this affidavit as to time, place and character of publication are true.

6. THAT copy of the notice or advertising attached hereto was printed and published in the regular daily editions and issues of The Times News, LLC on the following dates:

OCTOBER 17, 2017

Scott A. Masenheimer

Sworn to and subscribed before me, this 18 day of October A.D., 2017

Rebeka Costenbader

NOTARIAL SEAL
Rebeka Costenbader, Notary Public
Lehighton Borough, Carbon County
My Comm. Expires November 17, 2020

PUBLIC NOTICE

Notice is hereby given that the Borough of Lansford will conduct a public meeting on November 8, 2017 at 6:30 p.m. in the Borough Building, 1 West Ridge Street, Lansford, Pennsylvania.

The purpose of the public meeting is to discuss, inform and receive public comments on proposed Ordinances for the Borough of Lansford. The proposed Ordinance of the Borough of Lansford, Carbon County, Pennsylvania is summarized as follows:

ORDINANCE NO. 2017-04
BOROUGH OF LANSFORD

AN ORDINANCE OF THE BOROUGH OF LANSFORD, COUNTY OF CARBON AND COMMONWEALTH OF PENNSYLVANIA IMPLEMENTING THE PENNSYLVANIA NEIGHBORHOOD BLIGHT RECLAMATION AND REVITALIZATION ACT.

NEIGHBORHOOD BLIGHT RECLAMATION AND REVITALIZATION
SECTION 1: TITLE

This Ordinance shall be known as the Lansford Borough Blight Reclamation and Revitalization Ordinance.

SECTION 2: PURPOSE

The purpose is to address deteriorated properties, public nuisances and properties in serious violation of state law and borough property maintenance codes.

SECTION 3: DEFINITIONS

Section 3 sets forth the definitions to be used within said ordinance.

SECTION 4: ACTIONS

Section 4 sets forth remedies at law and in equity that the Borough may institute to enforce said ordinance.

SECTION 5: ASSET ATTACHMENT

Section 5 provides authority for the Borough to place a lien against the assets of an owner of real property in violation of the municipalities property maintenance code.

SECTION 6: OUT-OF-STATE OWNERS SERVICE OF PROCESS UPON ASSOCIATION AND TRUSTS

Section 6 sets forth the manner by which an out of state owner of property shall be served process under this ordinance.

SECTION 7: MUNICIPAL PERMIT DENIALS

Section 7 provides authority for the Borough to deny municipal permits for violation of this ordinance and for violations of the property maintenance code.

SECTION 8: CONFLICT WITH OTHER LAW

Section 8 provides that in the event of conflict between this ordinance and other laws, state or federal requirements shall prevail over that section and all remaining provisions of the ordinance shall remain intact.

SECTION 9: RELIEF FOR INHERITED PROPERTY

Section 9 provides for an owner of property inherited by Will or intestacy shall have a reasonable time to correct code violations and enter into a remediation agreement with the Borough.

SECTION 10: CONSTRUCTION

Section 10 sets forth that nothing in this ordinance shall be construed to abridge or alter remedies at common law or by statute.

SECTION 11: ENACTMENT

This Ordinance shall take effect five (5) days after enactment. Complete copies of all proposed Ordinances are available for public inspection at the Borough Office located at 1 West Ridge Street, Lansford, Pennsylvania, complete copies of summarized Ordinances are available at The Carbon County Law Library, Carbon County Courthouse, Broadway, Jim Thorpe, Pennsylvania and The Times News, Tamaqua Office, Broad and Pine Streets, Tamaqua, Pennsylvania.

MICHAEL S. GREEK, ESQUIRE
SOLICITOR
BOROUGH OF LANSFORD
42 E. Patterson St., P.O. Box 19