

PROPERTY MAINTENANCE CODE

ORDINANCE NO. 184

AN ORDINANCE ADOPTING THE INTERNATIONAL PROPERTY MAINTENANCE CODE AND THE FILING OF LIENS IN RELATION TO THIS ORDINANCE.

BE IT ORDAINED and enacted by the BOROUGH OF EVERSON, Fayette County, Pennsylvania (hereinafter referred to as the Municipality) as follows:

SECTION 1. - ADOPTION OF PROPERTY MAINTENANCE CODE

- 1.1 International Property Maintenance Code – There is hereby adopted in its entirety by the Municipality three (3) copies of which are on file in the office of the Municipality, that certain Code known as the “International Property Maintenance Code,” 2012 Edition, as amended through the effective date of adoption of this Ordinance and as published by the International Code Council or a successor organization, save and except such portions as are hereinafter deleted, modified, or amended.

SECTION 2. - MODIFICATIONS MADE TO CODE

- 2.1 Revisions - The following sections of the International Property Maintenance Code are hereby revised to read as follows:
- 2.2 Section 101.1 – Title. The “name of the jurisdiction” cited to in this section shall be EVERSON BOROUGH.
- 2.3 Section 103.5 Fees. Fees for activities, inspections and services referenced in this Ordinance, and as performed by the code official, contractors on behalf of the code official or municipality, or by the municipality or its employees, shall be established from time to time by resolution of the Borough Council, and shall be available for public inspection at the Borough Office.
- 2.4 Section 106.3 Prosecution of Violation. Any person failing to comply with a notice of violation or order served in accordance with Section 107 shall be deemed guilty of a summary offense, and the violation shall be deemed a strict liability offense.
- 2.5 Section 106.4 - Penalty - Any person, firm or corporation, who shall violate any provision of this code shall, upon conviction thereof, be subject to a fine of not less than Fifty (\$50.00) Dollars nor more than One Thousand (\$1,000.00) Dollars or imprisonment for a term not to exceed thirty (30) days, or both at the discretion of the court. Each day that a violation continues after due notice has been served,

in accordance with the terms and provisions hereof, shall be deemed a separate offense.

- 2.6 Section 112.4 Failure to Comply. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not less than Fifty (\$50.00) Dollars or more than One Thousand (\$1,000.00) Dollars.

- 2.7 Section 202. General Definitions. Section 202 is amended by adding the following definitions:

JUNK VEHICLE. Any vehicle which is without a currently valid license plate or State registration and/or is in a rusted, wrecked, discharged, dismantled, partly dismantled, inoperative, or abandoned condition, and/or for which the certificate of title has been returned to the Pennsylvania Department of Transportation in accordance with the provision of the State Vehicle Code, 75 Pa.C.S.A. §101, *et seq.* Where a certificate of junk has been issued by the Pennsylvania Department of Transportation, such certificate shall be conclusive evidence that the subject vehicle is a junk vehicle; however, where no such certificate has been issued or applied for, the failure to have the vehicle registered shall be prima facie evidence that the subject vehicle is a junk vehicle.

ABANDONED VEHICLE. A vehicle (other than a pedal cycle) shall be presumed to be abandoned, and thus an abandoned vehicle, under any of the following circumstances, but the presumption is rebuttable by a preponderance of the evidence:

- a. The vehicle is physically inoperable and is left unattended on a highway, alley, or other public property for more than 48 hours.
- b. The vehicle has remained illegally on a highway, alley, or other public property for a period of more than 48 hours.
- c. The vehicle is left unattended on or along a highway, alley, or other public property for more than 48 hours and does not bear all of the following:
 - i. A valid registration.
 - ii. A certificate of inspection.
 - iii. An ascertainable vehicle identification number.
- d. The vehicle has remained on private property without the consent of the owner or person in control of the property for more than 48 hours.

- e. The vehicle has remained on private property either with or without the consent of the owner or person in control of the property for a period in excess of 48 hours and which vehicle is physically inoperable or does not bear all of the following:
 - i. A valid registration plate.
 - ii. A certificate of inspection.
 - iii. An ascertainable vehicle identification number.

2.8 Section 302.4 Weeds. All premises and exterior property, including but not limited to vacant lots, shall be maintained. No weeds, grasses, lawns or vegetation (other than trees, shrubs, vegetables, or ornamental flowers), shall be permitted to grow in excess of ten (10") inches in height. All noxious weeds shall be prohibited.

2.9 Section 302.8. Motor Vehicles. Section 302.8 is amended by adding the following sentences to the end of the first paragraph:

"No junk or abandoned vehicle shall be stored outside any private or public property, including, but not limited to, vacant lots, streets or alleys in the municipality.

2.10 The following sections are added to the International Property Code adopted herein:

Section 302.8.1. Removal of Vehicles. Any police officer may remove or cause to be removed to the place of business of the operator of a wreck or to a nearby garage or other place of safety any vehicle found upon a lot, street or alley in the municipality under any of the following circumstances;

- a. Report has been made that the vehicle has been stolen or taken without the consent of its owner.
- b. The person or persons in charge of the vehicle are physically unable to provide for the custody or removal of the vehicle.
- c. The person driving or in control of the vehicle is arrested for an alleged offense for which the officer is required by law to take the person arrested before an issuing authority without unnecessary delay.
- d. The vehicle is in violation of section 3353 of the Motor Vehicle Code of Pennsylvania (relation to prohibitions in specified places) except for overtime parking.

- e. The vehicle is an abandoned vehicle, junk vehicle, or inoperable motor vehicle as defined in this ordinance or the International Property Maintenance Code. The officer shall comply with the provisions of subsection (d) and Chapter 73 of the Motor Vehicle Code, (relating to abandoned vehicles and cargos).

Section 302.8.2. Notice to owner prior to removal.

a. Prior to removal of an abandoned vehicle, junk vehicle or inoperable motor vehicle bearing a registration plate, certificate of inspection or vehicle identification number plate by which the last registered owner of the vehicle can be determined, the police department shall send a notice by certified mail to the last registered owner of the vehicle informing the owner that unless the vehicle is moved to a suitable location within seven (7) days of the date notice is mailed, the vehicle will be removed under this section and held at a suitable facility where it may be reclaimed by the owner in accordance with the provisions of section 7306 of the Motor Vehicle Code of Pennsylvania (relating to payment of costs upon reclaiming vehicle). If the abandoned vehicle, junk vehicle or inoperable vehicle does not bear an identifiable registration plate, certificate of inspection or vehicle identification number plate, the notice may be secured to the vehicle.

b. If, within the seven (7) day period, the owner so requests, the owner shall be given an opportunity to explain to the police officer or department why the owner believes the vehicle should not be removed. If the police officer or department determines that the vehicle shall, nonetheless, be removed, the owner shall be given an additional 48 hours to remove the vehicle, have it removed or demand a hearing, which shall conform to the requirements of 2 Pa. C.S. Ch. 5 Subch. B (relating to practice and procedure of local agencies). The police officer or department shall inform the owner of the right to a hearing by delivering to the owner a notice warning the owner that, unless the vehicle is removed or a hearing is demanded, the owner shall be subject to the provisions of section 7306 of the Motor Vehicle Code. If, as a result of the hearing, it is determined that the vehicle will be removed, the owner shall be given an additional 48 hours to remove the vehicle or have it removed. The hearing shall be before a civilian officer or employee of the municipality in which the vehicle is located.

Section 106.5.1. Abatement of Nuisance- Should the property owner fail to correct any one or more conditions of non-compliance listed in the Notice provided by the Code Enforcement Officer, the Borough may choose to correct the condition, which shall be considered the abatement of a nuisance.

Section 106.5.2. Costs and Penalty for Abatement - The Borough shall be entitled to recover the cost of the abatement of a nuisance, plus ten percent (10%) of the cost as an administrative expense.

Section 106.5.3. The Borough may file as a municipal lien any fine levied against an owner of property pursuant to this Ordinance.

Section 106.5.4. The Borough may file as a municipal lien the cost to abate any nuisance or emergency pursuant to this Ordinance. Any such lien must be filed within six months of the completion of the work.

Section 106.5.5. The Borough may file as a municipal lien the cost to repair, vacate and/or remove any dangerous building pursuant to this Ordinance. Any such lien must be filed within six months of the completion of the repair, vacation or removing of the building.

Section 106.5.6. The Borough may add reasonable attorney's fees to any municipal lien filed pursuant to this Ordinance, provided Notice procedures are followed.

Section 106.5.7. Any municipal lien filed pursuant to this Ordinance shall accrue interest at the rate of ten percent (10%) per annum from the date of filing until paid.

Section 106.5.8. The Borough may recover reasonable attorney's fees and costs for the collection of any fine, abatement cost, emergency repair cost, or vehicle towing and storage costs, incurred pursuant to this Ordinance.

- 2.11 Section 304.14. This section is amended by inserting "April 1 to October 1" in the space provided for dates.
- 2.9 Section 602.3. This section is amended by inserting "October 1 to May 1" in the space provided for dates.
- 2.10 Section 602.4. This section is amended by inserting "October 1 to May 1" in the space provided for dates.

SECTION 3. - GENERAL PROVISIONS

3.1 Saving Clause - Nothing in this Ordinance or in the International Property Maintenance Code hereby adopted shall be construed to affect any suit or proceeding now pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action accrued or existing, under any act or ordinance repealed hereby. No right or remedy of any character shall be lost, impaired, or affected by this Ordinance.

3.2 Validity - The invalidity of any section or provision of this Ordinance conflicting with the provisions of this Ordinance be, and the same is hereby repealed, insofar as the same affects this Ordinance.

3.3 Conflict of Ordinance - Any ordinance or part of ordinances conflicting with the provisions of this ordinance be, and the same is hereby repealed insofar as the same affects this ordinance. The following Ordinances are specifically repealed: 148 and 171.

3.4 Severability - In the event of any provision, section, sentence, clause, or part of this Ordinance being held to be invalid, such invalidity shall not affect or impair any remaining provision, section, sentence, clause, or part of the Ordinance, it being the intent of the Borough that such remainder shall be and shall remain in full force and effect and for this purpose the provisions of this Ordinance are hereby declared to be severable.

3.5 Subsequent Legislation - In the event of any legislation by the Commonwealth of Pennsylvania becoming effective dealing with the same or similar matter as that included herein, such shall remain in full force and effect if it is more restrictive, and not inconsistent with such legislation, but if such legislation is more restrictive than, inconsistent with, or both, then this Ordinance shall be interpreted according to such legislation and shall be superseded to the extent necessary to give such legislation appropriate effect. However, all the remainder of the Ordinance shall be and shall remain in full force and effect and for this purpose the provisions of this Ordinance are hereby declared to be severable.

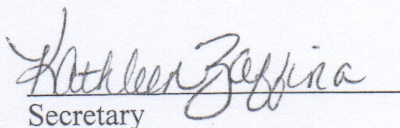
3.6 Effective Date

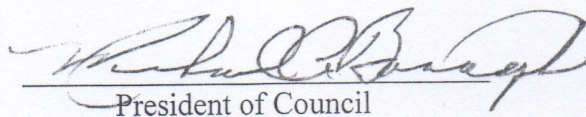
This Ordinance shall be effective five (5) days after adopted by the Council and approved by the Mayor.

ENACTED AND ORDAINED, this 15th day of October, 2012.

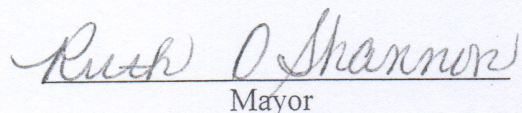
BOROUGH OF EVERSON

ATTEST:


Secretary


President of Council

This Ordinance examined and approved by me this 15 day of Oct, 2012.


Mayor