I. Call to Order - Pledge of Allegiance - Roll Call
II. Public Hearing - To Allow a Home Automation Installation, Sales and Service Office at 2025 Penfield Road, Located in the Planned Development (PD) Zoning District
III. Communications and Announcements
IV. Public Participation
V. Additions and Deletions to Agenda
VI. Approval of Minutes - October 17, 2018
VII. Petitions
VIII. Resolutions by Function

Law and Finance
18T-206 2018 Budget Transfers - General Fund and Highway Fund
18T-207 Budget Amendments in the General Fund
18T-208 Setting Public Hearing to Consider Amendments to Chapter 220 - Vehicles and Traffic of the Code of the Town of Penfield
18T-209 Setting a Public Hearing to Amend and Supplement the Town of Penfield Code by Adopting the Proposed "Registration of Defaulted and Vacant Property Ordinance"

Public Works
18T-210 Awarding the Contract for the Replacement of a Portion of the Roof at the Community Center

Public Safety - None

Community Services
18T-211 Authorization for Supervisor to Sign Recreation Contracts

IX. Old Business
X. New Business
XI. Public Participation
XII. Executive Session
XIII. Next Meeting: December 19, 2018
XIV. Adjournment

This meeting will be video recorded and broadcast LIVE via the town’s website www.penfield.org and the Town’s Government Access Cable Channel 1303. Questions regarding video coverage contact Penfield TV at (585) 340-8661.
The Regular meeting of the Penfield Town Board was held on Wednesday, December 5, 2018 at 7:00 PM at the Penfield Town Hall, 3100 Atlantic Avenue, Penfield, New York.

Present: R. Anthony LaFountain Supervisor
Linda Kohl Councilwoman
Paula Metzler Councilwoman
Andrew Moore Councilman
Robert Quinn Councilman

Also
Present: Amy Steklof Town Clerk
Richard Horwitz Town Attorney
Jim Costello Director of Developmental Services

Supervisor LaFountain called the meeting to order - The Pledge of Allegiance was led by scouts from Troop 312.

Supervisor LaFountain asked for a moment of silence in memory of George H.W. Bush. He then read the following message which can be found on the Town’s website.

"Today is a National Day of Mourning for our 41st president, George H.W. Bush. As our former president is laid to rest today, citizens throughout the United States honor his service and memory. In our town of Penfield, we also remember and honor the Bush family’s humble Penfield roots. President Bush’s third great-grandparents, Timothy and Lydia Bush, were early Penfield residents. Timothy (1766-1850) worked as a blacksmith in Penfield; he is buried in Oakwood Cemetery alongside Lydia and daughter Lovina. President Bush acknowledged his Penfield lineage in a 1988 letter to former Rep. Frank Horton: “Now I can claim Monroe County as yet another home base.” We are indeed honored to count the Bush family among Penfield’s first families. The Town of Penfield thanks President George H. W. Bush for his lifetime of service to our Nation, and we offer our condolences to the entire Bush family."

Supervisor LaFountain recognized Troop 312 and Scout Leader Chuck Fox. The troop presented to the Town Board two (2) wreaths to be displayed at the east and west entrances of the Town Hall building for the community to see. The troop donated the wreaths in appreciation for the support and guidance the Town has provided them throughout the year.

Councilman Moore thanked Troop 312 for the presentation on behalf of the Town Board.

Councilwoman Metzler gave a special recognition to her nephew, Paul Krenzer, who was a previous member of Troop 312 and had presented the wreaths to the Town in the past. She stated that he now is in Army Basic Training at Fort Benning, Georgia and that the leadership skills he learned from scouting helped prepare him for his endeavors now.

Supervisor LaFountain thanked the scouts for the wreaths and reminded residents that Troop 312 is selling Christmas Trees and wreaths at Bill Grays at the corner of Panorama Trail and Penfield Road.

Public Hearing #1 To Allow a Home Automation Installation, Sales and Service Office at 2025 Penfield Road, Located in the Planned Development (PD) Zoning District

The Town Clerk read the title of the above Public Hearing; said Notice was published in the Penfield Post on November 22, 2018 and was posted on the Town Website and Town Clerk Bulletin Board. 70 postcards were mailed. Town Attorney Horwitz confirmed that this Hearing is in order.
Neeraj Shah, on behalf of his parents Lalit and Surekha Shah, requested a Special Use Permit in reference to 2025 Penfield Road to allow a leading smart home technology provider business to occupy 928 sq. ft. of the 6,000 sq. ft. building located at 2025 Penfield Road (at Sanders Farm Road). The name of the technology provider business is Vivint, Inc. It offers home security, energy management, home automation, local cloud storage and high-speed internet solutions. (For more information on the company, please visit www.vivint.com).

The use of the space will be for general office, equipment storage and distribution, sales recruiting and training use only. Sales people will meet on location for approximately two (2) hours and then go sell in the field. There will be minimal activity at the office. Normal business hours will be from 8:00 AM to 8:00 PM and most work will be done off-site. Customers will generally come to the office by appointment only. There are 73 parking spaces available, but very few people will need to take advantage of the parking lot.

Supervisor LaFountain inquired about signage.

Mr. Shah stated signage was approved through the sign application. There is a 30 sq. ft. sign at that location, made up of four one-quarter panels, one panel for each business.

Public Participation - None

Communications and Announcements

1. Last night the Town of Penfield held its 5th annual menorah lighting ceremony in Schaufelberger Park at the Four Corners of Penfield. Community members along with Town Clerk Amy Steklof, Supervisor R. Anthony LaFountain and councilmembers Linda Kohl and Paula Metzler were in attendance. Thank you to Rabbi Yitzi Hein for bringing a menorah to our Town for the community to light and thank you to Town staff for helping set up the menorah lighting ceremony.

2. The American Red Cross will be holding a Holiday Blood Drive Friday, December 21, 2018 at the Penfield Community Center from 1:00 PM to 6:00 PM. For more information please contact 1-800-RED CROSS or visit www.redcrossblood.org.

3. For tips on how to keep your family safe from vehicle break-ins this time of year, please visit www2.monroecounty.gov/sheriff.

4. As the holidays approach, please remember to shop locally in Penfield for your Christmas tree. Several farms in east and north Penfield offer “cut your own tree” and a selection of pre-cut trees for your convenience. Local scout troops also offer trees for sale. Please support local farms and scout troops.

5. The 2019 Town of Penfield community calendar is out and available. You may pick up the calendar at the Town Hall or the Penfield Community Center.

6. The annual “Wings of Light Luminaria” and open house at the Shepherd Home, 1959 Five Mile Line Road, will be held Monday, December 10, 2018 from 5:00 PM to 7:00 PM. Refreshments will be served and everyone is welcome.

8. Councilwoman Kohl’s next Community Chat will be held on Tuesday, December 18, 2018 from 5:30 PM to 7:00 PM at the Penfield Library, 1985 Baird Road.

9. On Tuesday December 18, 2018 from 4:00 PM to 6:00 PM the Rotary Club of Penfield will be sponsoring bell ringing and caroling at Tops Market in Panorama Plaza to benefit the Salvation Army.

Public Participation

Ed Lindskoog, 40 Willow Pond Way, voiced concern about the traffic on Browncroft Boulevard in front of the Faith Lutheran Church, 2576 Browncroft Boulevard. He stated that it is very difficult for church members to turn in or turn out of the church parking lot and wondered if it would be possible to add a turning lane.

Supervisor LaFountain stated the Town will take a look at the issue and bring it back to the Department of Transportation as an agenda item.

Mr. Lindskoog also asked for an update on the former Mary Cariola Center.

Supervisor LaFountain stated that the Town is reviewing the matter with Code Enforcement and the Town Attorney. He hopes to have more information by year’s end.

Mr. Lindskoog also asked to have vegetation removed that blocks the visibility of drivers when leaving Faith Lutheran Church. He wondered if the Town could look into the issue.

Supervisor LaFountain stated he will have the Town’s Code Enforcement and Department of Public Works look into the issue.

Additions and Deletions to Agenda – None

Approval of Minutes

Councilwoman Kohl moved to approve the Minutes of October 17, 2018 Councilman Quinn seconded and all voted “Aye.”

Petitions – None

Resolutions by Function

Law and Finance

#18T-206 2018 Budget Transfers – General Fund and Highway Fund

By Moore

WHEREAS, the registrations and attendance for programs at the Recreation Department require an increase in the appropriations Playgrounds/Youth account and the Programs for Aging account from program fees collected, and

WHEREAS, the Town Board desires to have an up-to-date budget in relation to current appropriations and revenues,

NOW, BE IT RESOLVED that the attached 2018 budget amendments be approved:

<table>
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<th>Appropriations</th>
<th>Amount</th>
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<td>A00-7140-0004-4017</td>
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</tr>
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</table>
Resolution #18T-206 – Continued

A00-7140-2001-0025 $1,000 A00-7140-0004-4022 $1,000
Youth Supplies Youth Supplies
A00-7140-2001-0011 $5,000 A00-7140-0004-4031 $5,000
Youth Soccer Youth Soccer
A00-7140-2001-0019 $4,800 A00-7140-0004-4032 $4,800
Youth Specialty Youth Specialty
A00-7140-2001-0024 $3,000 A00-7140-0004-4046 $3,000
Swim Instructions Swim Instructions

General Fund: $19,800

Moved: Moore
Seconded: Kohl

Vote: Kohl Aye LaFountain Aye
      Metzler Aye Moore Aye
      Quinn Aye

Adopted

#18T-207 Budget Amendments in the General Fund by Moore

WHEREAS, transfers of funds are necessary for anticipated expenditures and reconciliations as the year end approaches, and,

WHEREAS, the Town Board desires to have an up-to-date budget in relation to current income and expenditures,

NOW, BE IT RESOLVED that the attached budget transfers be approved.

FROM TO AMOUNT
A00-3620-0004-4077 A00-8010-0004-4051 $211
Building Conferences Zoning Legal Notices
A00-3620-0004-4047 A00-8010-0004-4051 $172
Building Safety Equip Zoning Legal Notices
A00-7310-0004-4026 A00-7620-0004-4031 $1,900
Youth Services Teen Adult Recreation Sports
A00-7310-0004-4029 A00-7620-0004-4034 $1,500
Youth Services Challenge Adult Recreation Specialty
A00-7551-0004-4007 A00-7620-0004-4030 $2,100
Youth Services Wellness Adult Recreation Aerobics
A00-7551-0004-4044 A00-7620-0004-4031 $3,000
Youth Services Events Adult Recreation Sports
A00-9010-0008-8000 A00-9950-0009-9001 $120,000
Retirement Contribution Inter-fund Transfer to Capital
A00-9060-0008-8001 A00-9950-0009-9001 $75,000
Medical Insurance Inter-fund Transfer to Capital

General Fund Total: $203,833

FROM TO AMOUNT
DA0-9060-0008-9001 DA0-5110-0004-4103 $20,000
Medical Insurance Highway Repairs Catchbasins

Moved: Moore
Seconded: Quinn

Vote: Kohl Aye LaFountain Aye
      Metzler Aye Moore Aye
      Quinn Aye

Adopted
Penfield Town Board, December 5, 2018

#18T-208 Setting Public Hearing to Consider Amendments to Chapter 220 – Vehicles and Traffic of the Code of the Town of Penfield
By Moore

BE IT RESOLVED, that the Town Board of the Town of Penfield will hold a Public Hearing at the Penfield Town Hall, Penfield 3100 Atlantic Avenue, Penfield, New York 14526 on January 2, 2019, at 7:00 PM to consider an amendment to Chapter 220 – Vehicles and Traffic of the Code of the Town of Penfield as follows:

§ 220-19.1 Handicapped Parking.
No person shall park, stand or stop a vehicle in any area designated as a place for handicapped parking or off-loading unless the vehicle bears a valid permit, displayed on the vehicle dashboard or sun visor, issued under section one thousand two hundred three-a or a registration issued under section four hundred four-a of the New York Vehicle and Traffic Law and such vehicle is being used for the transportation of a severely disabled or handicapped person; and

BE IT FURTHER RESOLVED, that the Town Board of the Town of Penfield, acting as lead agency pursuant to the requirements of the State Environmental Quality Review Act (SEQRA) and the Penfield Environmental Quality review Law (PEQR) has classified this action as a Type II action; and

BE IT FURTHER RESOLVED, that the Town Clerk be and hereby is directed to post and publish a Notice of said Public Hearing pursuant to Law.

Moved: Moore
Seconded: Metzler

Vote: Kohl  Aye   LaFountain  Aye
       Metzler  Aye   Moore  Aye
       Quinn  Aye

Adopted

#18T-209 Setting a Public Hearing to Amend and Supplement the Town of Penfield Code by Adopting the Proposed “Registration of Defaulted and Vacant Property Ordinance” by Moore

WHEREAS, the Town Board of the Town of Penfield desires to protect the public health, safety, and welfare of the citizens of the Town of Penfield and maintain a high quality of life for the citizens of the Town through the maintenance of structures and properties in the Town of Penfield; and

WHEREAS, the Town Board recognizes properties with defaulted mortgages and subject to foreclosure action or foreclosed upon and vacant properties (hereinafter referred to as “Registrable Properties”) located throughout the Town lead to a decline in community and property value; create nuisances; lead to a general decrease in neighborhood and community aesthetics; create conditions that invite criminal activity; and foster an unsafe and unhealthy environment; and

WHEREAS, the Town Board has already adopted property maintenance codes to regulate building standards for the exterior of structures and the condition of the property as a whole; and

WHEREAS, the Town Board recognizes in the best interest of the public health, safety, and welfare a more regulated method is needed to discourage Registrable Property Owners and Mortgagees from allowing their properties to be abandoned, neglected or left unsupervised; and

WHEREAS, the Town Board has a vested interest in protecting neighborhoods against decay caused by Registrable Property and concludes that it is in the best interests of the health, safety, and welfare of its citizens and residents to impose registration requirements of
Registrable Property located within the Town of Penfield to discourage Registrable Property Owners and Mortgagees from allowing their properties to be abandoned, neglected or left unsupervised; and

WHEREAS, the Town Board finds that the adoption of the proposed ordinance will assist the Town in protecting neighborhoods from the negative impact and conditions that occur as a result of vacancy, absentee ownership, and lack of compliance with existing Town regulations and laws; and

NOW, THEREFORE, BE IT

RESOLVED, that the Town Board of the said Town of Penfield shall hold a Public Hearing at the Penfield Town Hall, 3100 Atlantic Avenue, in the Town of Penfield, New York on January 2, 2019, at 7:00 PM on said date, to consider the said proposal and to hear all persons interested on the question of considering the adoption of an ordinance entitled “Registration of Defaulted Mortgage and Vacant Property.” A Summary of said ordinance is attached hereto and made a part hereof known as Schedule “A”; and be it further

RESOLVED, that a copy of this Resolution, certified by the Town Clerk, shall be published at least once in the official newspaper of the Town, the first publication thereof to be not less than ten (10) days before the date set for said Hearing as aforesaid. A copy of this Resolution shall be posted on the official signboard of the Town as prescribed by Law.

See Schedule “A” at the end of the Minutes

Moved: Moore
Seconded: Kohl

Vote:
- Kohl Aye
- Metzler Aye
- LaFountain Aye
- Quinn Aye
- Moore Aye

Adopted

Public Works

#18T-210 Awarding the Contract for the Replacement of a Portion of the Roof at the Community Center by Metzler

WHEREAS, sealed bids were sought and requested in a Manner prescribed by Law to furnish the Department of Public Works with a service contract that would provide the Town of Penfield with the purchase and installation of roofing materials for a portion of the roof at the Community Center,

AND WHEREAS, on November 9th, 2018 at 11:00 AM local time the following sealed bids were received, opened, and read publicly from the following list of suppliers:

Elmer W. Davis, Inc.
J&B Installations, Inc.
Spring Sheet Metal & Roofing, LLC

AND WHEREAS, the bid received from Spring Sheet Metal & Roofing, LLC was the lowest bid and meets the expectation and specifications of the bid package for a 75 mil roof with a 25 year warranty for a total cost of $465,300.00,

AND WHEREAS, the Town Board with approval to enter into a contract with Spring Sheet Metal, further approves and amendment to the 2018 Adopted Budget increasing General Fund Inter-fund Transfer to Capital appropriations to the amount of $465,300 using $270,300 from General Fund Unassigned Fund Balance,
NOW, THEREFORE, BE IT RESOLVED, that a contract be and hereby is awarded to: Spring Sheet Metal & Roofing, LLC, 678 South Clinton Ave., Rochester, NY 14620 to provide and install roofing material for a portion of the roof at the Community Center. This resolution and the bid submitted by Spring Sheet Metal & Roofing, LLC shall constitute the contract. This agreement to be reviewed and approved by the Town Attorney.

Moved: Metzler
Seconded: Moore

Vote: Kohl Aye LaFountain Aye
      Metzler Aye Moore Aye
      Quinn Aye

Adopted

Public Safety - None

Community Services

#18T-211 Authorization for Supervisor to Sign Recreation Contracts
   by Kohl

BE IT RESOLVED, that the Town Board authorizes the Town Supervisor to sign the following Recreation Contracts:

Penfield Sport & Fitness, 667 Panorama Trail W., Rochester, NY 14625, Artho Aqua Class, Water Yoga, Swim Lessons - 6 month - Age 3, Boot Camp, and Weight Loss for Wellness, 1/13/19 - 5/21/19, for a fee of 70% of the total program revenue. Vouchers to be submitted 2/6, 3/20, 4/3, and 6/5/19.

Ready to Respond Training Services, Domenic Danesi, 1440 Long Pond Road, Rochester, NY 14626, Babysitting – 1/21/19 & 4/6/19, and Safety First for Children - 1/21/19 & 4/6/19, for a fee of 70% of the total program revenue. Vouchers to be submitted 2/6/19 and 4/3/19.

Gymnastics Training Center, 2051 Fairport Nine Mile Point Road, Penfield, NY 14526, Gymnastics Camp – 4/15/19 – 4/19/19, and Beginner Gymnastics – 2/4/18 – 5/13/19 for a fee of 75% of the total program revenue. Vouchers to be submitted 3/20, 4/17 and 5/15/19.

McWherter Equestrian LLC, 132 Country Manor Way, Apt. 19, Webster, NY 14580, Horseback Riding Intro, 3/30/19 – 4/27/19, for a fee of 70% of the total program revenue. Voucher to be submitted 5/1/19.

Perinton Youth Hockey, PO Box 1001, Fairport, NY 14450, Intro to Ice Skating and Hockey, 1/5/19 – 2/23/19, for a fee of 70% of the total program revenue. Voucher to be submitted 1/16/19 and 2/20/19.

Eagle Vale Golf Club, 4344 Nine Mile Point Road, Fairport, NY 14450, Junior Golf, On Course Golf Lessons, and Beginner - Intro to Golf, 4/24/19 – 5/18/19 for a fee of 70% of the total program revenue. Voucher to be submitted 5/15/19.

Martha Sweeney, 74 Redwood Drive, Penfield, NY 14526, Painting and Drawing, 1/21/19 – 6/17/19, for a fee of 70% of the total program revenue. Vouchers to be submitted 2/6, 3/20, 4/17 and 6/19/19.

Ruth Star, 50 Peaceful Trail, Rochester, NY 14609, Cooking with Ruth, 2/5/19 – 5/11/19, for a fee of 75% of the total program revenue. Vouchers to be submitted 2/6, 2/20, 3/6, 3/20, 4/3, 4/17, and 5/15/19.

Kathryn Boone, KB Dog Training, 105 Highwood Road, Rochester, NY 14609, Dog Obedience Classes – Beginner, Puppy Kindergarten and Introduction to Scent Work, 1/12/19 – 5/18/19 for a fee of 70% of the total program revenue less expenses. Vouchers to be submitted 2/20/19 and 5/15/19.
(Resolution #18T-211 - Continued)

Therese Bason, 10 Hampton Lane, Fairport, NY 14450, Barre 1/19/19 -
6/8/19 and Pilates Mat with Therese 1/15/19 - 6/4/19, for a fee of 75% of
the total program revenue per class for 10 or less registrants or a fee of 70% of the total program revenue per class for over 10 registrants. Vouchers to be submitted semi-monthly.

Victory Fitness, 52 Depew Street, Rochester, NY 14611, Forever Fit
1/8/19 - 6/27/19, Line Dancing Workout 1/10/19 - 6/27/19, Yogalates
1/10/19 - 6/27/19, and Zumba Gold 1/9/19 - 6/26/19, for a fee of 75% of the total program revenue per class for 10 or less registrants or a fee of 70% of the total program revenue per class for over 10 registrants. Vouchers to be submitted 1/16, 2/20, 4/17, 5/1 and 6/19/19.

Moved: Kohl
Seconded: Quinn

Vote: Kohl Aye LaFountain Aye
      Metzler Aye Moore Aye
      Quinn Aye

Adopted

Old Business- None

New Business - None

Public Participation

Ed Lindskoog, 40 Willow Pond Way, stated that there is handicap parking
on the east side of Faith Lutheran Church. He feels it needs to be
restriped.

Supervisor LaFountain stated he will have Code Enforcement and the Fire
Marshal look into the issue. He suggested to have someone from Faith
Lutheran contact the Building and Zoning Department to schedule an
appointment for them to come out and analyze the situation and make sure
it meets the State code.

Mr. Lindskoog also asked whether the Town helps with plowing back snow
banks if they get too high due to winter plowing.

Supervisor LaFountain stated if private plowers are placing snow either
in the right-of-way, or impacting sidewalk plowing, the Town will reach
out to the property owner. Tips on snowplowing can be found on the
Town’s website. If private snowplows are violating the Town’s plowing
policy, the Sheriff’s office is notified. He also stated that any
plowing issues should be brought to the attention of Eric Tait, Director
of Department of Public Works for review.

Supervisor LaFountain recognized County Legislator George J. Hebert for
the 15th Legislative District. Supervisor LaFountain wished Legislator
Hebert good luck on the 2019 County Budget which will be finalized next
Tuesday.

Executive Session - None

Next Meeting - December 19, 2018

Adjournment

Supervisor LaFountain adjourned the meeting at 7:47 PM.

Amy Steklof, RMC/CMC
Town Clerk
Schedule “A”

Summary of Ordinance Entitled “Registration of Defaulted and Vacant Property”

The purpose and intent of this Ordinance is to establish a process to address the deterioration, crime, and decline in value of the Town of Penfield neighborhoods caused by property with defaulted mortgages or vacant/abandoned property. The town’s further intent is to establish a registration program as a mechanism to help protect neighborhoods from becoming blighted through lack of adequate maintenance for properties that are in mortgage default or defaulted or are vacant/abandoned.

The Ordinance provides for definitions of certain terms used in the Ordinance and further provides for a system of registration of vacant properties or properties in mortgage default. The Ordinance provides requirements for registrations, property inspections, registration fees, maintenance, security, payment of cash, a cash bond or letter of credit in the sum of ten thousand ($10,000.00) dollars to secure the continued maintenance of property throughout foreclosure proceedings, ordinance enforcement remedies, both civil and criminal, fines, penalties, and monetary liens on non-compliant properties.

A copy of the proposed Ordinance is on file in the Town Clerk’s office and on the town’s website at www.penfield.org.

Chapter 260

REGISTRATION OF DEFAULTED MORTGAGE AND VACANT PROPERTY

§260-1. Title.

This chapter shall hereinafter be known and cited as the “Registration of Defaulted Mortgage and Vacant Property” ordinance of the Town of Penfield.

§260-2. Purpose and Intent.

It is the purpose and intent of this chapter is to establish a process to address the deterioration, crime, and decline in value of Town of Penfield neighborhoods caused by property with defaulted mortgages located within the Town, and to identify, regulate, limit and reduce the number of these properties located within the Town. It has been determined that owner-occupied structures are generally better maintained when compared to vacant structures, even with a diligent off-site property owner. Vacant structures or structures owned by individuals who are economically strained and unable to meet their mortgage obligations are often not properly or diligently maintained, which contribute to blight, declined property values, and have a negative impact on social perception of the residential areas where they are located. It is the Town’s further intent to establish a registration program as a mechanism to help protect neighborhoods from becoming blighted through the lack of adequate maintenance of properties that are vacant/abandoned or are in default or defaulted.


The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

**Default** shall mean that the mortgagor has not complied with the terms of the mortgage on the property, or the promissory note, or other evidence of the debt, referred to in the mortgage.

**Enforcement Officer** shall mean any law enforcement officer, building official, zoning inspector, code compliance officer, fire inspector, building inspector, or other person authorized by the Town of Penfield to enforce the applicable code(s).

**Evidence of Vacancy** shall mean any condition that on its own, or combined with other conditions present, would lead a reasonable person to believe that the property is vacant. Such conditions may include, but are not limited to: overgrown and/or dead vegetation; past due utility notices and/or disconnected utilities; accumulation of trash junk or debris; abandoned vehicles, auto parts and/or materials; the absence of furnishings and/or personal items consistent with habitation or
occupancy; the presence of an unsanitary, stagnant swimming pool; the accumulation of newspapers, circulars, flyers and/or mail; statements by neighbors, passers-by, delivery agents or government agents; and/or the presence of boards over doors, windows or other openings in violation of applicable code.

**Foreclosure or Foreclosure Action** shall mean the legal process by which a mortgagee, or other lien holder, terminates or attempts to terminate a property owner's equitable right of redemption to obtain legal and equitable title to the real property pledged as security for a debt or the real property subject to the lien. The legal process is not concluded until the property obtained by the mortgagee, lien holder, or their designee, by certificate of title, or any other means, is sold to a non-related bona fide purchaser in an arm’s length transaction to satisfy the debt or lien.

**Mortgagee** shall mean the creditor, including but not limited to, trustees; mortgage servicing companies; lenders in a mortgage agreement; any agent, servant, or employee of the creditor; any successor in interest; or any assignee of the creditor’s rights, interests or obligations under the mortgage agreement; or any other person or entity with the legal right to foreclose on the real property, excluding governmental entities.

**Owner** shall mean every person, entity, or mortgagee, who alone or severally with others, has legal or equitable title to any real property as defined by this chapter; has legal care, charge, or control of any such property; is in possession or control of any such property; and/or is vested with possession or control of any such property. The property manager shall not be considered the owner.

**Property Manager** shall mean any party designated by the owner as responsible for inspecting, maintaining and securing the property as required in this chapter.

**Real Property** shall mean any residential or commercial land and/or buildings, leasehold improvements and anything affixed to the land, or portion thereof identified by a property parcel identification number, located in the Town limits.

**Registrable Property** shall mean:

(a) Any real property located in the Town, whether vacant or occupied, that is encumbered by a mortgage in default, is subject to an ongoing foreclosure action by the mortgagee or trustee, has been the subject of a foreclosure action by a mortgagee or trustee and a judgement has been entered, or has 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. The designation of a “default/foreclosure” property as “registrable” shall remain in place until such time as the property is sold to a non-related bona fide purchaser in an arm’s length transaction or the foreclosure action has been dismissed and any default on the mortgage has been cured; or

(b) Any property that is vacant for more than thirty (30) days or any cancellation of utility or service, whichever occurs first.

**Registry** shall mean a web-based electronic database of searchable real property records, used by the Town to allow mortgagees and owners the opportunity to register properties and pay applicable fees as required in this chapter.

**Semi-Annual Registration** shall mean six (6) months from the date of the first action that requires registration, as determined by the Town, or its designee, and every subsequent six (6) months. The date of the initial registration may be different than the date of the first action that required registration.

**Utilities and Services** shall mean any utility and/or service that is essential for a building to be habitable and/or perform a service necessary to comply with all Town codes. This includes, but is not limited to, electrical, gas, water, sewer, lawn maintenance, pool maintenance, and snow removal.

**Vacant** shall mean any parcel of land in the Town that contains any building or structure that is not lawfully occupied.

This chapter applies to defaulted and vacant property within the Town of Penfield.

§260-5. Establishment of a registry.

The Town of Penfield, or its designee, shall establish a registry cataloging each registrable property within the Town, containing the information required by this chapter.

§260.6 Inspection and registration of defaulted mortgage.

(a) Any mortgagee who holds a mortgage on real property located within the Town shall perform an inspection of the property upon it being in default or defaulted by the mortgagor or prior to the issuance of a notice of default.

(b) Property inspected pursuant to subsection (a) above that remains in default or defaulted, shall be inspected every thirty (30) days by the mortgagee or mortgagee’s designee. If an inspection shows a change in the property’s occupancy status the mortgagee shall, within ten (10) days of that inspection, update the occupancy status of the property registration.

(c) Within ten (10) days of the date any mortgagee declares its mortgage to be in default or defaulted, the mortgagee shall register the real property with the Town Registry, and, at the time of registration, indicate whether the property is vacant, and if so shall designate in writing a property manager to inspect, maintain and secure the real property subject to the mortgage in default or defaulted. A separate registration is required for each defaulted property.

(d) Initial registration pursuant to this section shall contain at a minimum the name of the mortgagee, the mailing address of the mortgagee, e-mail address, telephone number and name of the property manager and said person’s address, e-mail address, and telephone number.

(e) At the time of initial registration each registrant shall pay a non-refundable semi-annual registration fee of $300 for each defaulted property. Subsequent semi-annual registrations of defaulted properties and fees in the amount of $300 are due within ten (10) days of the expiration of the previous registration. Said fees shall be used to offset the costs of: (1) registration and registration enforcement, (2) code enforcement and mitigation related to defaulted properties, and (3) for any related purposes as may be adopted in the policy set forth in this chapter. Said fees shall be deposited to an account within the Town's Finance Department dedicated to the cost of implementation and enforcement of this ordinance, and fulfilling the purpose and intent of this chapter.

(f) If the defaulted mortgage and/or servicing on a property is sold or transferred, the new mortgagee is subject to all the terms of this chapter. Within ten (10) days of the transfer, the new mortgagee shall register the property or update the existing registration. The previous mortgagee(s) will not be released from the responsibility of paying all previous unpaid fees, fines, and penalties accrued during that mortgagee’s involvement with the defaulted property.

(g) If the mortgagee sells or transfers the defaulted property in a non-arm’s length transaction to a related entity or person, the transferee is subject to all the terms of this chapter. Within ten (10) days of the transfer, the transferee shall register the property or update the existing registration. Any and all previous unpaid fees, fines, and penalties, regardless of who the mortgagee was at the time registration was required, including but not limited to unregistered periods during the foreclosure process, are the responsibility of the transferee and are due and payable with the updated registration. The previous mortgagee will not be released from the responsibility of paying all previous unpaid fees, fines, and penalties accrued during that mortgagee’s involvement with the defaulted property.

(h) If the defaulted property is not registered, or the registration fee is not paid within thirty (30) days of when the registration or renewal is required pursuant to this section, a late fee equivalent to ten percent (10%) of the semi-annual registration fee shall be charged for...
every thirty-day period (30), or portion thereof, the property is not registered and shall be
due and payable with the registration.

(i) This section shall also apply to properties that have been the subject of a foreclosure sale
where title is transferred to the mortgagee as well as any properties transferred to the
mortgagee under a deed in lieu of foreclosure or by any other legal means.

(j) Properties subject to this section shall remain subject to the semi-annual registration
requirement, and the inspection, security, and maintenance standards of this section as long
as the property remains defaulted.

(k) Failure of the mortgagee and/or property owner of record to properly register or to modify
the registration to reflect a change of circumstances as required by this ordinance is a
violation of this chapter and shall be subject to enforcement by any of the enforcement
means available to the Town.

(l) If any property is in violation of this chapter the Town may take the necessary action to
ensure compliance with and/or place a lien on the property for the cost of the outstanding
obligation and any additional cost incurred to bring the property into compliance.

§260-7. Inspection and registration of real property that is not subject to a mortgage in
default.

(a) Any owner of vacant property located within the Town shall within ten (10) days after the
property becomes vacant, or within ten (10) days after assuming ownership of the property,
whichever is later, register the real property with the Town Registry.

(b) Initial registration pursuant to this section shall contain at a minimum the name of the
owner, the mailing address of the owner, e-mail address, and telephone number of the
owner, and if applicable, the name and telephone number of the property manager and said
person’s address, e-mail address, and telephone number.

(c) At the time of initial registration each registrant shall pay a non-refundable semi-annual
registration fee of $300 for each vacant property. Subsequent semi-annual registrations of
vacant properties and fees in the amount of $300 are due within ten (10) days of the
expiration of the previous registration. Said fees shall be used to offset the costs of: (1)
registration and registration enforcement, (2) code enforcement and mitigation related to
vacant properties, and (3) for any related purposes as may be adopted in the policy set forth
in this chapter. Said fees shall be deposited to an account within the Town's Finance
Department dedicated to the cost of implementation and enforcement of this ordinance, and
fulfilling the purpose and intent of this chapter.

(d) Each individual property on the registry that has been registered for twelve (12) months or
more prior to the effective date shall have thirty (30) days to renew the registration and pay
the $300 semi-annual registration fee. Properties registered less than twelve (12) months
prior to the effective date shall renew the registration every six (6) months from the
expiration of the original registration renewal date and shall pay the $300.

(e) If the property is sold or transferred, the new owner is subject to all the terms of this
chapter. Within ten (10) days of the transfer, the new owner shall register the vacant
property or update the existing registration. The previous owner(s) will not be released
from the responsibility of paying all previous unpaid fees, fines, and penalties accrued
during that owner’s involvement with the vacant property.

(f) If the vacant property is not registered, or either the registration fee or the semi-annual
registration fee is not paid within thirty (30) days of when the registration or semi-annual
registration is required pursuant to this section, a late fee shall be equivalent to ten percent
(10%) of the semi-annual registration fee shall be charged for every thirty (30) day-period,
or portion thereof, the property is not registered and shall be due and payable with the
registration. This section shall apply to the initial registration and registrations required by
subsequent owners of the vacant property.
(g) Properties subject to this section shall remain subject to the semi-annual registration requirement, and the inspection, security, and maintenance standards of this section as long as the property is vacant.

(h) Failure of the owner to properly register or to modify the registration to reflect a change of circumstances as required by this ordinance is a violation of this chapter and shall be subject to enforcement by any of the enforcement means available to the Town.

(i) If any property is in violation of this chapter the Town may take the necessary action to ensure compliance with and place a lien on the property for the cost of the outstanding obligation and any additional cost incurred to the property into compliance.

(j) Properties registered as a result of this section are not required to be registered again pursuant to the defaulted mortgage property section.


(a) Properties subject to this chapter shall be kept free of weeds, overgrown brush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspaper circulars, flyers, notices, except those required by federal, state or local law, discarded personal items including, but not limited to, furniture, clothing, large and small appliances, printed material, or any other items that give the appearance that the property is abandoned.

(b) Registrable property shall be maintained free of graffiti or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior structure.

(c) Front, side, and rear yards, including landscaping, of registrable property shall be maintained in accordance with the applicable code(s) at the time registration is required.

(d) Registrable yard maintenance shall include, but not be limited to, grass, ground covers, bushes, shrubs, hedges or similar plantings, decorative rock or bark or artificial turf/sod. Acceptable maintenance of yards and/or landscape shall not include weeds, gravel, broken concrete, asphalt or similar material.

(e) Maintenance shall include, but not be limited to, watering, irrigation, cutting and mowing of required ground cover or landscape and removal of all trimmings.

(f) Pools and spas of shall be maintained so the water remains free and clear of pollutants and debris and shall comply with the regulations set forth in the applicable code(s).

(g) Failure of the mortgagee, owner, and transferees to properly maintain the property as required by this chapter may result in a violation of the applicable code(s) and issuance of a citation or notice of violation in accordance with the applicable code of the Town of Penfield. Pursuant to a finding and determination by the Town of Penfield, by an enforcement officer, Town Board, or a court of competent jurisdiction, the Town may take the necessary action to ensure compliance with this section.

(h) In addition to the above, the property is required to be maintained in accordance with the applicable code(s) of the Town.


Any mortgagee who commences a foreclosure proceeding against a property located in the Town shall, in addition to all other requirements of this chapter, provide cash, a cash bond, or a letter of credit to the town in a form acceptable to the Town, in the sum of ten thousand dollars ($10,000.00), to secure the continued maintenance of the property throughout the foreclosure proceeding and reimburse the Town for any expenses incurred in inspecting, securing, repairing and/or making said property safe by any legal means, including but not limited to, demolition. The cash, cash bond, or letter of credit must be provided to the Town within forty-five (45) days of a foreclosure proceeding being commenced. The $10,000.00 cash, cash bond, or letter of credit provided to the Town shall remain valid for a period of one (1) year from the date of said cash, cash bond, or letter of credit being provided. A person, business, organization, bank or lender who has commenced a
foreclosure proceeding shall, thereafter, annually provide the Town with cash, a cash bond, or a revised letter of credit in an amount that will cause the total sum being held by the Town to equal $10,000.00. Such renewal shall be submitted prior to the expiration of the one (1) year period and shall continue annually until the foreclosure proceeding is no longer pending and the structure that is the subject of the foreclosure proceeding is being lawfully occupied. At such time, all sums being held by Town under this section will be released to the mortgagee that provided the cash, cash bond, or letter of credit.

§260-10. Security requirements.

(a) Properties subject to these sections shall be maintained in a secure manner so as not to be accessible to unauthorized persons.

(b) A “secure manner” shall include, but not be limited to, the closure and locking of windows, doors, gates and other openings of such size that may allow a child to access the interior of the property or structure. Broken windows, doors, gates, and other openings of such size that may allow a child to access the interior of the property or structure must be repaired. Broken windows shall be secured by re-glazing of the window.

(c) If a property is registrable, and the property has become vacant or blighted, a property manager shall be designated by the mortgagee and/or owner to perform the work necessary to bring the property into compliance with the applicable code(s), and the property manager must perform regular inspections to verify compliance with the requirements of this chapter, and any other applicable laws.

(d) In addition to the above, the property is required to be secured in accordance with the applicable code(s) of the Town of Penfield.

(e) When a property subject to this chapter becomes vacant, it shall be posted with the name and twenty-four (24) hour contact telephone number of the property manager. The property manager shall be available to be contacted by the Town Monday through Friday between 9:00 a.m. and 5:00 p.m., legal holidays excepted. The sign shall be placed in a window facing the street and shall be visible from the street. The posting shall be no less than eighteen (18) inches by twenty-four (24) inches and shall be of a font that is legible from a distance of forty-five (45) feet. The posting shall contain the following language with supporting information:

THIS PROPERTY IS MANAGED BY _______________________________.
THE PROPERTY MANAGER’S ADDRESS _______________________________.
AND IS INSPECTED ON A REGULAR BASIS. ____________________________.
THE PROPERTY MANAGER CAN BE CONTACTED:
BY TELEPHONE AT _________________________________________________.
OR BY EMAIL AT _________________________________________________.

(f) The posting required in subsection (e) above shall be placed on the interior of a window facing the street to the front of the property so that it is visible from the street, or secured to the exterior of the building/structure facing the street to the front of the property so that it is visible from the street or if no such area exists, on a stake of sufficient size to support the posting in a location that is at all times visible from the street to the front of the property but not readily accessible to vandals. Exterior posting shall be constructed of and printed with weather-resistant materials.

(g) Failure of the mortgagee and/or property owner of record to properly inspect and secure a property subject to this chapter, and post and maintain the signage noted in this section, is a violation and shall be subject to enforcement by any of the enforcement means available to the Town. The Town may take the necessary action to ensure compliance with this section, and recover costs and expenses in support thereof.


The provisions of this chapter are cumulative with and in addition to other available remedies. Nothing contained in this chapter shall prohibit the Town from collecting on fees, fines, and
penalties in any lawful manner; or enforcing its codes by any other means, including, but not limited to, injunction, abatement, or as otherwise provided by law or ordinance.


All registrable property is at risk of being a public nuisance and if vacant or blighted can constitute a public nuisance, the abatement of which pursuant to the police power is hereby declared to be necessary for the health, welfare, and safety of the residents of the Town of Penfield.


(a) If the enforcement officer has reason to believe that a property subject to the provisions of this chapter is posing a serious threat to the public health, safety, and welfare, the enforcement officer may temporarily secure the property at the expense of the mortgagee or owner, and may bring the violations before the Town Board or a court of competent jurisdiction as soon as possible to address the conditions of the property. Nothing herein shall limit the Town from abating any nuisance or unsafe condition by any other legal means available to it.

(b) The enforcement officer, Town Board or a court of competent jurisdiction shall have the authority to require the mortgagee or owner affected by this section, to implement additional maintenance and/or security measures including, but not limited to, securing any and all doors, windows or other openings, employment of an on-site security guard or other measures as may be reasonably required to help prevent further decline of the property.

(c) If there is a finding that the condition of the property is posing a serious threat to the public health, safety, and welfare, then the enforcement officer, Town Board or a court of competent jurisdiction may direct the Town of Penfield to abate the violations and charge the mortgagee or owner with the cost of the abatement.

(d) If the mortgagee or owner does not reimburse the Town of Penfield for the cost of temporarily securing the property, or of any abatement directed by the enforcement officer, Town Board or a court of competent jurisdiction, within thirty (30) days of the Town sending the mortgagee or owner the invoice then the Town may lien the property with such cost, along with an administrative fee as determined in the Town of Penfield to recover the administrative personnel services. In addition to filing a lien the Town may pursue financial penalties against the mortgagee or owner as prescribed by law.

(e) The Town may contract with an entity to implement this chapter, and, if so, any reference to the enforcement officer herein shall include the entity the Town of Penfield contracts with for that purpose.

§260-14. Opposing, obstructing enforcement officer; penalty.

Whoever opposes, obstructs or resists any enforcement officer, the Town Board, or any person authorized by the Town of Penfield in the discharge of duties as provided in this chapter shall be punishable as provided in the applicable code(s) or by a court of competent jurisdiction.


Any enforcement officer or any person authorized by the Town to enforce the sections here within shall be immune from prosecution, civil or criminal, for reasonable, good faith entry upon real property while in the discharge of duties imposed by this chapter.

§260-16. Administration, enforcement and penalties.

Unless otherwise provided for in this chapter, a violation of this chapter is declared unlawful.

(a) This chapter shall be administered and enforced by the Town Board and/or the enforcement officer by taking any and all actions prescribed for corrections of violations and for non-compliance of the provisions of this chapter or any other applicable requirements of law. Such actions shall include, but not be limited to, issuing appearance tickets to designated person(s) to appear in a local criminal court in
connection with the alleged violation of this chapter or any order made thereunder pursuant to the New York State Criminal Procedure Law.

(b) Penalties for offenses. Any person who fails to comply with any provision of this chapter or fails to comply with any notice, order or directive of the Town of Penfield after expiration of the time for compliance set forth in any such notice, order or directive of the Town shall, upon conviction be punished by a fine of not more than $1,000.00 or by imprisonment not to exceed 15 days, or both, for such violation. In the event of any failure to so comply, each and every day that such violation continues shall constitute a separate offense, and the penalties prescribed above shall be applicable to each such separate offense.

(c) Penalties for offenses under §260-9 “Maintenance secured upon commencement of foreclosure proceeding.” Any person, business, organization, bank or lender who fails to comply with §260-9 shall, upon conviction shall be punished by a fine of not more than $5,000.00 or by imprisonment not to exceed 15 days, or both, for such violation. In the event of any failure to so comply, each and every day that such violation continues shall constitute a separate offense, and the penalties prescribed above shall be applicable to each such separate offense.

§260-17. Amendments.

Registration fees and penalties outlined in this chapter may be modified by either resolution, administrative order, or an amendment to this chapter, passed and adopted by the Town.


It is hereby declared to be the intention of the Town that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this ordinance shall be declared invalid, unenforceable or unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such judgement or decree shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this ordinance.


All ordinances or parts of ordinances in conflict herewith, are hereby repealed and replaced.


It is the intention of the Town of Penfield, that the provisions of this ordinance shall become and be made a part of the Town of Penfield Code; and that the sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and the word “ordinance” may be changed to “section”, “chapter”, or such other appropriate word or phrase in order to accomplish such intentions.

§260-21. Effective Date.

This ordinance shall become effective immediately upon adoption.