

Summary of Changes to Ordinance 15:

1. *Section III.B.1:* Changes to this section clarify that guest cottages, workshops, studios or lawful businesses are not considered vacant if they are used regularly.
2. *Section III.B.2:* An ADU is considered occupied if any one of the dwellings on the leasehold is occupied.
3. *Section III.B.3:* All leaseholds must be occupied for a minimum of 90 days per year.
4. *Section III.B.3:* Evidence that a leasehold is occupied is clarified. At least two in a list of five types of evidence of occupation are required.
5. *Section VII:* The maximum number of fee waivers is changed from one to two.

REVISED Ordinance # 15	EXISTING Ordinance # 15
REGISTRATION OF VACANT DWELLINGS AND ANNUAL REGISTRATION FEES	REGISTRATION OF VACANT DWELLINGS AND ANNUAL REGISTRATION FEES
<p>I. Purpose. The purpose of this ordinance is to require the registration of all vacant dwellings and the payment of registration fees to assist the Village of Arden in protecting the public health, safety and welfare, as well as to encourage occupancy for civic engagement in the Village of Arden; to monitor the number of vacant dwellings, to assess the effects of the condition of those dwellings on the Village, particularly in light of fire safety hazards and possible unlawful, temporary occupancy use of vacant dwellings, including illicit drug users and traffickers, and to require of the leaseholder of such vacant dwellings their registration and the payment of related fees, and to promote substantial efforts to rehabilitate such vacant dwellings. The provisions of this ordinance are applicable to the leaseholder of such vacant dwellings as set forth herein.</p> <p>II. Administration. The administration of the registration of vacant dwellings and the registration fee shall be facilitated by the Village Secretary and the Community Planning Committee.</p> <p>III. Definitions. The following words and phrases shall have the meanings respectively ascribed to them as follows:</p>	<p>I. Purpose. The purpose of this ordinance is to require the registration of all vacant dwellings and the payment of registration fees to assist the Village of Arden in protecting the public health, safety and welfare, as well as to encourage occupancy for civic engagement in the Village of Arden; to monitor the number of vacant dwellings, to assess the effects of the condition of those dwellings on the Village , particularly in light of fire safety hazards and possible unlawful, temporary occupancy use of vacant dwellings by transients, including illicit drug users and traffickers, and to require of the leaseholder of such vacant dwellings their registration and the payment of related fees, and to promote substantial efforts to rehabilitate such vacant dwellings. The provisions of this ordinance are applicable to the leaseholder of such vacant dwellings as set forth herein.</p> <p>II. Administration. The administration of the registration of vacant dwellings and the registration fee shall be facilitated by the Village Secretary and the Community Planning Committee.</p> <p>III. Definitions. The following words and phrases shall have the meanings respectively ascribed to them as follows:</p>

A. Dwelling:

A single unit providing complete, independent living facilities for one or persons including permanent provisions for living, sleeping, eating, cooking and sanitation. ADU's [Accessory Dwelling Units] are considered dwellings.

B. Occupied:

1. Any dwelling, including Accessory Dwelling Units [ADUs], is considered occupied if one or more persons resides in any part of the dwelling; uses it for it for personal, non-business purposes such as a guest cottage, workshop or studio; or uses it for business as permitted by New Castle County Code [Section 40.03.420], as the legal occupant(s) or tenant(s) on a permanent basis.

2. ADUs on a leasehold are considered occupied if any dwelling on the leasehold is occupied as described in section B.1 above.

3. A dwelling, including ADUs, is considered to be occupied if there is evidence of periodic occupancy, that exceeds, in the aggregate, ninety (90) days per calendar year, demonstrating that the building is regularly used. This evidence must include, but shall not be limited to at least two (2) of the following:

- i. the regular receipt of mail through the U.S. Postal Service;
- ii. proof of continual usage of standard residential utilities – electricity, water/sewage;
- iii. a valid business license;
- iv. the most recent federal or state income tax statements indicating that the subject property is the official business or residence address of the person or business claiming occupancy.
- v. leases, affidavits, or proof of insurance

C. Vacant: A dwelling shall be deemed to be vacant if it is not occupied as described in section III. B.

A. Dwelling: A single unit providing complete, independent living facilities for one or persons, including permanent provisions for living, sleeping, eating cooking and sanitation. ADUs [Accessory Dwelling Units] are considered a dwelling.

B. Occupied: Any dwelling shall be deemed to be occupied if

- 1. one or more persons actually resides in all or any part of the primary dwelling or conducts a lawful business as the licensed business-occupant, or as the legal or equitable leaseholder/occupant(s) or tenant(s) on a permanent, non-transient basis, or any combination of the same or,
- 2. 100% of any leaseholder ADU's are occupied as described in section 1 or,
- 3. a leaseholder who maintains a dwelling for transient use shows evidence of continual periodic occupancy, such as leases, affidavits, or proof of insurance for this use.
- 4. Evidence offered to prove that a building is so occupied may include, but shall not be limited to, the regular receipt of delivery of regular mail through the U.S. Postal Service; proof of continual telephone, electric, gas, heating, water and sewer services, a valid business license, or the most recent federal or state income tax statements indicating that the subject property is the official business or residence address of the person or business claiming occupancy.

C. Vacant: A dwelling shall be deemed to be vacant if

- 1. no person or persons actually, currently resides in or conducts a lawfully licensed business in any part of the building as the legal or equitable leaseholder or tenant-occupant(s), or leaseholder occupants, or tenant(s) on a permanent, nontransient basis or,
- 2. less than 100% of any leasehold ADUs are occupied as described in section 1 or,
- 3. a leaseholder who maintains a dwelling for transient use has a period between occupancies of more than 12 months and/or cannot provide evidence of lease affidavits or proof of insurance for this use.

D. Leaseholder: A leaseholder of the premises or any lesser estate therein, a mortgagee, a vendee-in-possession, assignee or rents, receiver, executor, trustee, lessee, agent or any other person, firm or corporation that is directly or indirectly in control of a building subject to the provisions of this section and as set forth below.

IV. Applicability: The requirements of this ordinance shall be applicable to each leaseholder of residential property consisting of one or more vacant dwellings that shall have been vacant for more than one (1) year. Each such leaseholder shall cause to be filed a notarized registration statement, which shall include the street address and parcel number of each such vacant building, the names and addresses of all leaseholders. The registration fee(s) as required by subsection IV of this ordinance shall be billed by the Village Secretary in November and shall be paid by January 31 of each year. For purposes of this section the following shall also be applicable:

(A) If the leaseholder is a corporation the registration statement shall provide the names and residence addresses of all officers and directors of the corporation and shall be accompanied by a copy of the most recent annual franchise tax report filed with the secretary of state;

(B) If an estate, the name and residence address of the executor of the estate;

(C) If a trust, the name and address of all trustees, grantors and beneficiaries;

(D) If a partnership the names and residence addresses of all partners with an interest of ten percent or greater;

(E) If any other form of unincorporated association the names and residence addresses of all principals with an interest of ten percent or greater;

(F) If an individual person, the name and residence address of that individual person.

V. Registration statement and fees; local agent. If none of the persons listed, as above, is shown at an address within the state, the registration statement also shall provide the name and address of a person who resides within the state and who is authorized to accept service of process on behalf of the owners and who shall be designated as a responsible, local party or agent, both for purposes of notification in the event of an emergency affecting the public health safety or welfare and for purposes of service of any and all notices or registration statements as herein authorized and in connection herewith.

D. Leaseholder: A leaseholder of the premises or any lesser estate therein, a mortgagee, a vendee-in-possession, assignee or rents, receiver, executor, trustee, lessee, agent or any other person, firm or corporation that is directly or indirectly in control of a building subject to the provisions of this section and as set forth below.

IV. Applicability: The requirements of this ordinance shall be applicable to each leaseholder of residential property consisting of one of more vacant dwellings that shall have been vacant for more than one (1) year. Each such leaseholder shall cause to be filed a notarized registration statement, which shall include the street address and parcel number of each such vacant building, the names and addresses of all leaseholders. The registration fee(s) as required by subsection IV of this ordinance shall be billed by the Village Secretary in November and shall be paid by January 31 of each year. For purposes of this section the following shall also be applicable:

(A) If the leaseholder is a corporation the registration statement shall provide the names and residence addresses of all officers and directors of the corporation and shall be accompanied by a copy of the most recent annual franchise tax report filed with the secretary of state;

(B) If an estate, the name and residence address of the executor of the estate;

(C) If a trust, the name and address of all trustees, grantors and beneficiaries;

(D) If a partnership the names and residence addresses of all partners with an interest of ten percent or greater;

(E) If any other form of unincorporated association the names and residence addresses of all principals with an interest of ten percent or greater;

(F) If an individual person, the name and residence address of that individual person.

V. Registration statement and fees; local agent. If none of the persons listed, as above, is shown at an address within the state, the registration statement also shall provide the name and address of a person who resides within the state and who is authorized to accept service of process on behalf of the owners and who shall be designated as a responsible, local party or agent, both for purposes of notification in the event of an emergency affecting the public health safety or welfare and for purposes of service of any and all notices or registration statements as herein authorized and in connection herewith.

Registration is required whenever a dwelling has been vacant for more than one year. A dwelling is considered vacant if **periods of occupancy do not total more than 90 days within a one-year period.** Registering a vacant building and paying registration fees does not exempt the owner, agent, or responsible party from complying with any other building or housing code requirements.

One registration statement may be filed to include all vacant buildings of the owner so registering. The leaseholder of the vacant property as of **January** 1 of each year shall be responsible for the payment of the non-refundable registration fee. Said fee shall be billed by the Village and based on the duration of the vacancy as determined by the following scale:

- (i.) No fee for properties that are vacant for less than one year;
- (ii.) \$500.00 for properties that are vacant for at least one year but less than two years;
- (iii.) \$1,000.00 for properties that are vacant for at least two years but less than three years;
- (iv.) \$2,000.00 for properties that are vacant for at least three years but less than five years;
- (v.) \$3,500.00 for properties that are vacant for at least five years but less than ten years; and
- (vi.) \$5,000.00 for properties that are vacant for at least ten years, plus an additional \$500.00 for each year in excess of ten years.

VI. Appeal rights. The leaseholder shall have the right to appeal the imposition of the registration fees to the Village upon written notification to the Town Secretary no later than 30 calendar days from the date of the billing statement. On appeal, the leaseholder shall provide satisfactory evidence of occupancy, as defined in section III.

VII. Waiver of registration fee. The leaseholder shall have the right to apply for a waiver of the imposition of the registration fees to the Village upon written notification to the Town Secretary no later than 30 calendar days from the date of the billing statement for the registration fee. A waiver of the registration fee may be granted by the Village through a majority vote at the next regular Town Assembly meeting upon application from the leaseholder within 30 calendar days from the date of the bill for the registration fee. Waivers may be granted by the Village if the leaseholder:

Registration shall be required for all vacant dwellings, and shall be required whenever any dwelling has remained vacant for more than one (1) year or more. In no instance shall the registration of a vacant building and the payment of registration fees be construed to exonerate the owner agent or responsible party from responsibility for compliance with any other building or housing code requirement.

One registration statement may be filed to include all vacant buildings of the owner so registering. The leaseholder of the vacant property as of November 1 of each year shall be responsible for the payment of the non-refundable registration fee. Said fee shall be billed by the Village and based on the duration of the vacancy as determined by the following scale:

- (i.) No fee for properties that is vacant for less than one year;
- (ii.) \$500.00 for properties that are vacant for at least one year but less than two years;
- (iii.) \$1,000.00 for properties that are vacant for at least two years but less than three years;
- (iv.) \$2,000.00 for properties that are dwelling vacant for at least three years but less than five years;
- (v.) \$3,500.00 for properties that are vacant for at least five years but less than ten years; and
- (vi.) \$5,000.00 for properties that are vacant for at least ten years, plus an additional \$500.00 for each year in excess of ten years.

VI. Appeal rights. The leaseholder shall have the right to appeal the imposition of the registration fees to the Village upon written notification to the Town Secretary no later than 30 calendar days from the date of the billing statement. On appeal, the leaseholder shall provide satisfactory evidence of occupancy, as defined in section III.

VII. One time waiver of registration fee. The leaseholder shall have the right to a waiver of the imposition of the registration fees to the Village upon written notification to the Town Secretary no later than 30 calendar days from the date of the billing statement. A one-time waiver of the registration fee may be granted by the Village through a majority vote at the next regular meeting upon application from the leaseholder within 30 calendar days from the date of the bill for the registration fee. Waivers may be granted by the Village if the leaseholder;

- (i.) Demonstrates with satisfactory proof that he/she is in the process of demolition, rehabilitation, or other substantial repair of the vacant dwelling; and
- (ii.) Objectively demonstrates the anticipated length of time for the demolition, rehabilitation, or other substantial repair of the vacant dwelling; or
- (iii.) Provides satisfactory proof that he/she is attempting to sell or lease the property during the vacancy period.
- (iv.) Has paid all past due vacant registration fees and all other financial obligations and debts owed to the Village which are associated with the vacant property.

With regard to an extension of a waiver only, the time period of the extension commences on the date of the written decision granting the extension. **A leaseholder may receive up to two waivers of registration fees for the same property.**

VIII. Delinquent registration fees as a lien. After the leaseholder is given notice of the registration fee due, except for those leaseholders that have properly perfected an appeal pursuant to subsection VI and VII above, and the owner fails to pay the amount due, said amount shall constitute a debt due and owing to the Village, and shall constitute a lien in accordance with Title 25, Section 2901 of the Delaware Code and the Village may commence a civil action to collect such unpaid debt.

IX. Duty to amend registration statement. If the status of the registration information changes during the course of any calendar year, it is the responsibility of the leaseholder, responsible party or agent for the same to contact the Town Secretary within 30 days of the occurrence of such change and advise the Town Secretary in writing of those changes.

X. Violations; penalties. The failure or refusal for no reason of any leaseholder, or agent of a leaseholder acting on behalf of the leaseholder, to register a vacant dwelling or to pay any fees required to be paid pursuant to the provisions of this ordinance, within 30 days after they become due shall constitute a violation and will be fined in the amount of \$100.00 for each failure or refusal to register, or for each failure or refusal to pay a required vacant dwelling fee, as applicable.

- (i.) Demonstrate with satisfactory proof that he/she is in the process of demolition, rehabilitation, or other substantial repair of the vacant dwelling; and
- (ii.) Objectively demonstrates the anticipated length of time for the demolition, rehabilitation, or other substantial repair of the vacant dwelling; or
- (iii.) Provides satisfactory proof that he/she is attempting to sell or lease the property during the vacancy period.
- (iv.) Has paid all past due vacant registration fees and all other financial obligations and debts owed to the Village which are associated with the vacant property.

With regard to an extension of a waiver only, the time period of the extension shall commence on the date of the written decision granting the extension and, in no event shall an extension exceed one year. An extension of a waiver shall only be granted once.

VIII. Delinquent registration fees as a lien. After the leaseholder is given notice of the registration fee due, except for those leaseholders that have properly perfected an appeal pursuant to subsection VI and VII above, and the owner fails to pay the amount due, said amount shall constitute a debt due and owing to the Village, and shall constitute a lien in accordance with Title 25, Section 2901 of the Delaware Code and the Village may commence a civil action to collect such unpaid debt.

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X. Violations; penalties. The failure or refusal for no reason of any leaseholder, or agent of a leaseholder acting on behalf of the leaseholder, to register a vacant dwelling or to pay any fees required to be paid pursuant to the provisions of this ordinance, within 30 days after they become due shall constitute a violation and will be fined in the amount of \$100.00 for each failure or refusal to register, or for each failure or refusal to pay a required vacant dwelling fee, as applicable.