

BILL NO.: 3

INTRODUCED: August 19, 2014

BY: Councilman Aaron Zolbrod

ENACTED: September 16, 2014

ORDINANCE NO.: 1508

CITY OF CONNELLSVILLE

VACANT AND ABANDONED REAL PROPERTY REGISTRATION ORDINANCE
ORDINANCE NO.: 1508

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CONNELLSVILLE, FAYETTE COUNTY, PENNSYLVANIA, REQUIRING THE REGISTRATION OF ABANDONED REAL PROPERTY AND VACANT BUILDINGS AND STRUCTURES WITH A NOTARIZED REGISTRATION AND THE PAYMENT OF REGISTRATION FEES; SETTING FORTH DEFINITIONS; PROVIDING FOR THE APPLICABILITY OF THE ORDINANCE; PROVIDING FOR THE DESIGNATION OF LOCAL AGENTS; PROVIDING FOR THE POSTING OF SUCH PROPERTY; IMPLEMENTING A DUTY TO AMEND THE REGISTRATION; ESTABLISHING THE FEES FOR REGISTRATION AND APPLICABLE WAIVERS THEREFROM; PROVIDING PROCEDURES FOR APPEALS; PROVIDING THAT DELINQUENT REGISTRATION FEES SHALL BE A LIEN ON SUCH PROPERTY; PROVIDING FOR ANNUAL AND COMPLIANCE INSPECTIONS; SETTING FORTH PROVISIONS REGARDING RIGHTS OF ENTRY INTO SUCH PROPERTY AND REGARDING SEARCH WARRANTS AND NOTICES; PROVIDING PROVISIONS FOR SPECIAL REQUESTED INSPECTIONS AND NOTICES; PROVIDING FOR THE ADMINISTRATION AND ENFORCEMENT OF THE ORDINANCE; SETTING FORTH VIOLATIONS AND PENALTIES; PROVIDING FOR COMPLIANCE WITH OTHER CODES; DECLARING THAT THE PROVISIONS OF THIS ORDINANCE ARE NONEXCLUSIVE; PROVIDING FOR THE REPEAL OF INCONSISTENT ORDINANCES; PROVIDING FOR AN EFFECTIVE DATE FOR THE ORDINANCE.

WHEREAS, the City of Connellsville recognizes an increase in the number of abandoned real properties and vacant buildings and structures located throughout the City of Connellsville; and

WHEREAS, the presence of abandoned real properties and vacant buildings and structures leads to infestation by rodents and vermin, a decline in property value, creates attractive nuisances, and leads to a general decrease in neighborhood and community aesthetics; and

WHEREAS, the City of Connellsville has already adopted property maintenance and fire codes to regulate building standards and the condition of properties as a whole; and

WHEREAS, abandoned real properties and vacant buildings and structures present a serious threat to the public health and safety of the community; and

WHEREAS, abandoned real properties and vacant buildings and structures present a particular threat to emergency service personnel who may need to respond to and address emergencies in or around such abandoned real properties and vacant buildings and structures; and

WHEREAS, emergency service personnel who respond to and address emergencies in or around such property should know basic information concerning such abandoned real properties and vacant buildings and structures in order to quickly contact the owner, holder, or possessor of such property and to determine the safety and the occupancy of such property; and

WHEREAS, the presence of abandoned real properties and vacant buildings and structures may discourage prospective buyers from purchasing real property within the City of Connellsville; and

WHEREAS, many abandoned real properties and vacant buildings and structures are the responsibility of mortgage lenders who, upon giving of a notice of default to the mortgagor, or upon becoming a mortgagee in possession, or upon becoming holder of title pursuant to a mortgage foreclosure sale, fail to adequately secure and maintain such properties; and

WHEREAS, many abandoned real properties and vacant buildings and structures are owned, held, or possessed by persons not residing or having a business presence locally, who are unaware of the condition of their respective properties or are unable or unwilling to address the poor condition of their respective properties; and

WHEREAS, the cost and expense of addressing and remediating the public nuisance resulting from abandoned real properties and vacant buildings and structures has often fallen on the City of Connellsville, which has been forced to expend valuable and limited City resources to address and remediate such public nuisances; and

WHEREAS, the cost and expense of addressing and remediating the public nuisance resulting from abandoned real property and vacant buildings and structures that are not one- or two-family dwellings is generally much higher than the cost and expense of addressing and remediating the public nuisance resulting from abandoned real property and vacant buildings and structures that are one- or two-family dwellings; and

WHEREAS, there are instances where responsible owners or interest holders are in periods of transition between purchasing, selling, or improving abandoned real properties and vacant buildings and structures, in good faith, for which reason exceptions to registration requirements are appropriate; and

WHEREAS, the City of Connellsville has a vested interest in protecting the City of Connellsville against the decay caused by abandoned real properties and vacant buildings and structures and concludes that it is in the best interest of the citizens and residents to impose registration and posting requirements on such properties located within the City of Connellsville; and

WHEREAS, under Section 2320 of the Third Class City Code, 53 P.S. § 37320, *et seq.*, the City of Connellsville has the power to determine, identify, and abate public nuisances, such that [a]ny condition or usage whatsoever in or about the buildings, structures or land, or the streets or private ways and places, or elsewhere, within the city, whether public or private, if determined by the board of health to be detrimental to the public health shall constitute a public nuisance;" and

WHEREAS, under the Third Class City Code, 53 P.S. § 37435, City Council has the "power to enact, make, adopt, alter, modify, repeal and enforce...ordinances, resolutions, rules and regulations, not inconsistent with or restrained by the Constitution of Pennsylvania and laws of this Commonwealth, that are either of the following: (1) expedient or necessary for the proper management, care and control of the city and its finances and the maintenance of peace, good government, safety and welfare of the city and its trade, commerce and manufactures; (2) necessary to the exercise of the powers and authority of local self-government in all municipal affairs;" and

WHEREAS, under the Third Class City Code, 53 P.S. § 37409, City Council "may prohibit the accumulations of ashes, garbage, solid waste and other refuse materials upon private property;" and

WHEREAS, under Section 2307 of the Third Class City Code, 53 P.S. § 37307, the Board of Health has the duty "to prevent or diminish the introduction of further spread of infectious or contagious diseases and otherwise to protect and increase the public health by regulating communication with places of infection or contagion,...by abating or removing all nuisances which the board shall deem prejudicial to the public health; and the board shall make all such rules and regulations as to it appear proper for the preservation or improvement of the public health, consistent with this article and the laws of the Commonwealth of Pennsylvania;" and

WHEREAS, under Section 2308 of the Third Class City Code, 53 P.S. § 37308, the Board of Health has the authority "[t]o enter upon any premises whatsoever within the city...which premises are suspected or infectious or contagious disease or of any other nuisance prejudicial to the public health, or of the danger of them, for the purpose of examining the premises or of preventing, confining or abating public nuisances...[t]o conduct investigations and to hold public hearings in the performance of its duties and powers...[t]o provide...for the prevent, abatement and removal of conditions found by it to be detrimental to the public health as public, not private, nuisances;" and

WHEREAS, the City Council of the City of Connellsville desires to exercise its authority under the aforementioned statutory provisions and other provisions of the laws of the Commonwealth of Pennsylvania.

BE IT ENACTED AND ORDAINED by the City Council of the City of Connellsville, Fayette County, Commonwealth of Pennsylvania, and it is hereby enacted and ordained as follows:

Section 1. Findings; Intent and Purpose.

- (a) The foregoing “whereas” clauses are hereby ratified and confirmed as being the findings of the City of Connellsville and, therefore, the basis and rationale for enacting this ordinance.
- (b) This ordinance is adopted to (1) assist the City of Connellsville in protecting the public health, safety, and welfare; (2) protect the safety of emergency services personnel; (3) monitor the number of abandoned real properties and vacant buildings and structures in the City of Connellsville; (4) assess the effects of the conditions of those buildings on nearby businesses, buildings, structures, properties, and the neighborhoods in which they are located, particularly in light of the fire safety hazards and unlawful, temporary occupancy by transients, including illicit drug users and traffickers; (5) address the deterioration and blight of City neighborhoods caused by abandoned real properties and vacant buildings and structures located within the City of Connellsville, and to identify, regulate, limit, and reduce the number of abandoned real properties and vacant buildings and structures located within the City of Connellsville; (6) require the owners, interest holders, or local agents of such abandoned real properties and vacant buildings and structures to register and pay related fees; (7) establish a registration process as a mechanism to protect neighborhoods from becoming blighted due to the lack of adequate maintenance and security of abandoned real properties and vacant buildings and structures; (8) promote substantial efforts to rehabilitate such abandoned real properties and vacant buildings and structures; and (9) offset the cost and expense associated with addressing and remediating the public nuisance resulting from abandoned real property and vacant buildings and structures. The provisions of this ordinance are in addition to and not in lieu of any and all other applicable provisions of the ordinances of the City of Connellsville and all relevant policies, procedures and/or regulations adopted pursuant thereto.

Section 2. Definitions. For the purposes of this ordinance, where terms are not defined, such terms shall have ordinarily accepted meanings such as the context implies. The following terms shall have the meanings respectively ascribed to them as follows:

“Abandoned real property” shall mean any real property, including but not limited to one or more vacant buildings or structures, without respect to occupancy or vacancy, but excluding unimproved real property, that is subject to a mortgage and is either (i) in default on such mortgage for which a mortgagee has obtained a judgment in foreclosure; (ii) in default on such mortgage and subject to an application or proceedings for a tax deed or pending tax

claim bureau or tax assessor sale for unpaid property taxes; (iii) in default on such mortgage and subject to an application or proceedings for a sheriff sale for unpaid claims, debts, or obligations; or (iv) in default on such mortgage and has been transferred to a mortgagee by a deed in lieu of foreclosure, or any similar document. The designation of real property as "abandoned real property" shall continue and remain in place until such time as the real property is sold or transferred to a new owner, the foreclosure action is dismissed, or any default on the mortgage has been cured.

"Actively marketed property" shall mean property that has been offered for sale or rent by the owner or interest holder, excluding any mortgagee, with (i) the placement of a "for sale" or "for lease" sign on the property with accurate contact information, a copy of which is also provided to the code enforcement officer, and (ii) at least one of the following:

- (i) Engagement of a licensed real estate agent whose name, address, telephone number, and email address, if applicable, is provided to the code enforcement officer with a copy of the listing or other agreement for the sale or rent by the owner or interest holder, for the sale or rental of the property;
- (ii) Listing of the property in a recognized, regional multiple listing service (MLS), evidence of which is provided to the code enforcement officer; or
- (iii) Distribution of printed or electronic advertisements offering the property for sale or rent in a publication of general circulation or on a website or online service with a national scope and presence that provides for the sale of real property (including eBay and Craigslist), a proof of publication and copy of which is provided to the code enforcement officer.

"Board of Health" shall mean the Board of Health of the City.

"City" shall mean the City of Connellsville, Fayette County, Pennsylvania.

"City Council" shall mean the City Council of the City.

"Code Enforcement Officer" shall mean the code enforcement officer of the City, or such other duly appointed official, employee, representative, or agent of the City and authorized to enforce this ordinance.

"Dangerous Public Nuisance" shall mean abandoned real property or a vacant building or structure in a condition that is detrimental to the public health and presents a clear, immediate, and substantial danger to public health or safety or to the health or safety of any person occupying or in the immediate vicinity of such abandoned real property or vacant building or structure.

"Default" shall mean the condition, status, or event where a mortgagee has initiated a foreclosure action or proceeding against a mortgagor.

"Dwelling" shall mean a building, or such portion thereof, which is designed for and/or occupied in whole or in part as a residence for one (1) or more dwelling units, not including

hotels, motels, bed and breakfasts, hostels, boarding houses, group homes or residences, or facilities for the elderly.

“Dwelling Unit” shall mean one (1) or more rooms for living purposes, together with separate cooking and sanitary facilities, which are accessible from the outdoors, either directly or by an access shared with other dwelling units, which is used, or intended to be used, by one (1) family or person.

“Family” shall mean one (1) or more persons related by blood, marriage or adoption or no more than five (5) unrelated individuals occupying a premises and living as a single housekeeping unit, as distinguished from a group occupying a boarding house, club, fraternity, or hotel.

“Foreclosure” shall mean the legal process by which a mortgagee attempts to enforce the terms of a mortgage or document related thereto against a mortgagor and which legal process is commenced by the filing of a complaint in foreclosure, forbearance, or any similar action in a court of competent jurisdiction.

“Mortgage” shall mean a pledge of real property or a recorded lien or interest in real property to secure payment on a loan, debt, or other obligation.

“Mortgagee” shall mean the person holding a mortgage on real property and thereby a legal or equitable interest in such real property, without regard to whether such person has filed a complaint in foreclosure in any court of competent jurisdiction seeking enforcement of the terms of such mortgage or document related thereto.

“Mortgagor” shall mean the person granting a mortgage on real property to a mortgagee.

“Multi-Family Dwelling” shall mean a dwelling that is designed and constructed solely for the use of three (3) or more families or persons.

“Occupied” shall mean such condition where one or more persons actually conducts a lawful business that complies with all applicable laws and ordinances or resides in all or any part of the building or structure as the legal business-occupant or as the legal or equitable owner-occupant or tenant on a permanent, non-transient basis, or any combination of the same. For purposes of this ordinance, evidence offered to prove that a building or structure is occupied may include, but shall not be limited to, the regular receipt or delivery of regular mail through the United States Postal Service; proof of residence in an assisted living, domiciliary care, personal care, or skilled nursing care home or facility with the intent to return; proof of continual telephone, electric, gas, heating, water, sewer, and trash collection services; valid City, Fayette County, or Commonwealth business and other licenses; the most recent federal or state income tax statements or City gross receipts or mercantile tax statements indicating that the subject property is the official business or residence address of the person claiming current occupancy; or current written leases indicating current occupancy, with receipts of payment of rent thereon.

“One- or Two-Family Dwelling” shall mean a dwelling that is designed and constructed solely for the use of one (1) or two (2) families or persons.

“Owner” shall mean any person having a legal or equitable interest in property; any person identified and noted in documents recorded in the official records of the Commonwealth, Fayette County, or City as holding title or a mortgage to property; or any person having possession and control of property, including a mortgagee, receiver, the guardian of the estate of any such person, and the executor, administrator, or personal representative of any such person, if ordered, directed, or required to take possession or control of real property by a court of competent jurisdiction or applicable governing documents.

“Person” shall mean any natural person, individual, estate, trust, incorporated or unincorporated association, company, cooperative, corporation, firm, limited liability company, partnership, or other legal entity.

“Vacant” shall mean not occupied or unoccupied.

“Vacant Building or Structure” shall mean a building or structure that is vacant.

Section 3. Applicability.

- (a) This ordinance shall be applicable to all abandoned real property and every vacant building and structure located within the geographical confines of the City of Connellsville, Fayette County, Pennsylvania, and to each owner, interest holder, or local agent of any such abandoned real property or vacant building or structure, without regard to whether such owner, interest holder, or local agent is a public, private, governmental, commercial, industrial, residential, institutional, non-profit, or for-profit person.
- (b) Notwithstanding the foregoing, this ordinance shall not be applicable to any land bank which is the owner, possessor, receiver, conservator, or interest holder of any abandoned real property or vacant building or structure located within the geographical confines of the City of Connellsville, Fayette County, Pennsylvania, and in which the City belongs or participates, if such non-applicability is an express condition of such affiliation or participation or is otherwise agreed to, in writing, by the City.

Section 4. Registration of Abandoned Real Property.

- (a) Abandoned real property shall be registered with the City on an annual basis, for each calendar year, by a mortgagee of such abandoned real property in accordance with this section. Each mortgagee and each mortgagee’s respective local agent shall be jointly and severally responsible for compliance with the registration and other requirements of this Section.
- (b) Abandoned real property shall be registered with the City within one hundred and eighty (180) days of the date such property becomes abandoned real property, and annually thereafter by March 15, for each subsequent calendar year, if such property continues to

be abandoned real property during each such subsequent calendar year, until such time as such property ceases to be abandoned real property.

- (c) Any registration of abandoned real property required under this Section shall include the following information:
- (i) The name of the registering person, along with the names of any other owners, interest holders, or local agents known by the registering person;
 - (ii) The direct mailing address and, if applicable, the email address of the registering person and, if applicable, the respective local agent;
 - (iii) A direct contact name and twenty-four (24) hour telephone number for the registering person and, if applicable, the respective local agent; and
 - (iv) The address and parcel identification or tax map number of the abandoned real property; and
 - (v) Sworn verification that all information provided in the registration is accurate and that the registering person or the respective local agent has posted the abandoned real property in compliance with Section 7 of this ordinance.
- (d) If the information contained in or provided with any registration required under this Section changes during the course of any calendar year, the registering person shall be responsible for amending and revising such registration within thirty (30) days of the date of such change.
- (e) The mortgagee of abandoned real property shall pay the registration fee provided in Section 8 of this ordinance with any registration required under this Section.

Section 5. Registration of Vacant Buildings and Structures.

- (a) Each vacant building or structure shall be registered with the City on an annual basis, for each calendar year, by an owner, interest holder, or local agent of such vacant building or structure in accordance with this section. Each owner and interest holder and each respective local agent shall be jointly and severally responsible for compliance with the registration and other requirements of this Section.
- (b) Each vacant building or structure shall be registered with the City within one hundred and eighty (180) days of the date such building or structure becomes a vacant building or structure, and annually thereafter by March 15, for each subsequent calendar year, if such building or structure continues to be a vacant building or structure during each such subsequent calendar year, until such time as such building or structure ceases to be a vacant building or structure.
- (c) Any registration of a vacant building or structure required under this Section shall include the following information:
- (i) The name of the registering person, along with the names of any other owners, interest holders, or local agents known by the registering person;
 - (ii) The direct mailing address and, if applicable, the email address of the registering person and, if applicable, the respective local agent;

- (iii) A direct contact name and twenty-four (24) hour telephone number for the registering person and, if applicable, the respective local agent; and
 - (iv) The address and parcel identification or tax map number of the vacant building or structure; and
 - (v) Sworn verification of the registering person that all information provided in the registration is accurate and that the registering person or the respective local agent has posted the vacant building or structure in compliance with Section 7 of this ordinance.
- (d) If the information contained in or provided with any registration required under this Section changes during the course of any calendar year, the registering party shall be responsible for amending and revising such registration within thirty (30) days of the date of such change.
- (e) The owner, interest holder, or local agent of a vacant building or structure shall pay the registration fee provided in Section 8 of this ordinance with any registration required under this Section.

Section 6. Local Agent Requirement.

- (a) Each owner or interest holder of abandoned real property or any vacant building or structure not providing a residence, office, or business location with an address within the geographical confines of Fayette County, Pennsylvania, shall designate a local agent and shall provide the complete name, address, telephone number, and email address (if applicable) of such local agent on the registration form filed with the City. Such owner or interest holder shall also provide a statement signed by the local agent whereby the local agent accepts the designation as local agent of such owner or interest holder, which signed statement shall be an acknowledgement of the local agent of the requirements, responsibilities, and obligations under this ordinance.
- (b) With such designation, a local agent shall be authorized by such owner or interest holder to accept service of process, notices, statements, invoices, and other communications resulting from or related to this ordinance on behalf of such owner or interest holder. With such designation, a local agent shall be responsible for providing the City and the code enforcement officer with access to the abandoned property or vacant building or structure for the purposes of making inspections, maintaining and securing the abandoned property or vacant building or structure, and responding to any emergency associated with the abandoned property or vacant building or structure affecting the public health, safety, or welfare.
- (c) Each owner and interest holder and each respective local agent shall be jointly and severally responsible for compliance with the ordinances of the City and the laws of the Commonwealth of Pennsylvania as applied to the abandoned property or vacant building or structure.

Section 7. Posting Requirement.

- (a) Abandoned real property that includes a vacant building or structure and each vacant building or structure shall be posted by an owner, interest holder, or local agent of such abandoned real property or vacant building or structure within fifteen (15) days of such abandoned real property or vacant building or structure having become abandoned or vacant in accordance with this section. Each owner and interest holder and each respective local agent shall be jointly and severally responsible for compliance with the posting and other requirements of this Section.
- (b) An owner, interest holder, or local agent of abandoned real property that includes a vacant building or structure or a vacant building or structure shall place and affix a weatherproof or weather-resistant posting that is no less than eighteen (18) inches by twenty-four (24) inches in size and contains the following information in no less than either (i) thirty-six (36) point Times New Roman font or (ii) another font having a size and type that is legible from a safety zone that is forty-five (45) feet from the closest point of such building or structure:
 - (i) The words "THIS PROPERTY IS OWNED, MANAGED, OR MAINTAINED BY" followed by the name of the owner, interest holder, or local agent making or arranging for such posting.
 - (ii) The words "TO REPORT PROBLEMS OR CONCERNS, CALL" followed by the twenty-four (24) hour contact telephone number of the owner, interest holder, or local agent making or arranging for such posting.
- (c) If abandoned real property that includes a vacant building or structure or a vacant building or structure is determined by the code enforcement officer to be so unsafe or dangerous, in accordance with all applicable ordinances, codes, and laws, as to jeopardize the health or safety of any emergency responders who might enter such abandoned real property or vacant building or structure, the code enforcement officer may cause to be placed and affixed a posting containing the words "UNSAFE AND DANGEROUS PROPERTY" and the words "ANY INTERNAL OPERATIONS SHALL BE CONDUCTED WITH EXTREME CAUTION."
- (d) A posting required under this Section shall be posted on the interior of a window facing a public street or right of way at the front of the property, building, or structure so as to be clearly visible from such public street or right of way or, if no such area exists, then on the side of the building or structure or on a stake of sufficient size to support the posting at the front of the property, building, or structure so as to be clearly visible from such public street or right of way but not readily accessible to vandals.

Section 8. Registration Fees; Exceptions; Use of Fees.

- (a) An owner, interest holder, or local agent of abandoned real property or a vacant building or structure shall pay annual registration fees with the registration of abandoned real property or a vacant building or structure each calendar year under Section 4 or Section 5 of this ordinance in accordance with the following:

- (i) For any abandoned real property or any vacant building or structure that has not been determined to be a dangerous public nuisance, as defined under this ordinance, by the Board of Health following a hearing held in accordance with the procedures provided in Section 14 of this ordinance, such owner, interest holder, or local agent shall pay an annual registration fee as set forth below:
 - (a) \$30.00 for abandoned real property or a vacant building or structure that constitutes a one- or two-family dwelling for any registration by such owner, interest holder, or local agent;
 - (b) \$50.00 for abandoned real property or a vacant building or structure that constitutes a multi-family dwelling for the first registration by such owner, interest holder, or local agent;
 - (c) \$75.00 for abandoned real property or a vacant building or structure that constitutes a multi-family dwelling for the second registration by such owner, interest holder, or local agent;
 - (d) \$150.00 for abandoned real property or a vacant building or structure that constitutes a multi-family dwelling for the third or any subsequent registration by such owner, interest holder, or local agent;
 - (e) \$100.00 for abandoned real property or a vacant building or structure any part or portion of which does not constitute a one-, two-, or multi-family dwelling for the first registration by such owner, interest holder, or local agent;
 - (f) \$150.00 for abandoned real property or a vacant building or structure any part or portion of which does not constitute a one-, two-, or multi-family dwelling for the second registration by such owner, interest holder, or local agent;
 - (g) \$200.00 for abandoned real property or a vacant building or structure any part or portion of which does not constitute a one-, two-, or multi-family dwelling for the third registration by such owner, interest holder, or local agent;
 - (h) \$250.00 for abandoned real property or a vacant building or structure any part or portion of which does not constitute a one-, two-, or multi-family dwelling for the fourth or any subsequent registration by such owner, interest holder, or local agent.
- (ii) For any abandoned real property or any vacant building or structure that has been determined to be a dangerous public nuisance, as defined under this ordinance, by the Board of Health following a hearing held in accordance with the procedures provided in Section 14 of this ordinance, such owner, interest holder, or local agent shall pay an annual registration fee as set forth below, in lieu of and not in addition to any other registration fee required under this Section:
 - (a) \$500.00 for abandoned real property or a vacant building or structure that constitutes a one-, two-, or multi-family dwelling for the first or second registration by such owner, interest holder, or local agent;
 - (b) \$1,000.00 for abandoned real property or a vacant building or structure that constitutes a one-, two-, or multi-family dwelling for the third or fourth registration by such owner, interest holder, or local agent;

- (c) \$2,000.00 for abandoned real property or a vacant building or structure that constitutes a one-, two-, or multi-family dwelling for the fifth or any subsequent registration by such owner, interest holder, or local agent;
 - (d) \$1,000.00 for abandoned real property or a vacant building or structure any part or portion of which does not constitute a one-, two-, or multi-family dwelling for the first or second registration by such owner, interest holder, or local agent;
 - (e) \$2,000.00 for abandoned real property or a vacant building or structure any part or portion of which does not constitute a one-, two-, or multi-family dwelling for the third or fourth registration by such owner, interest holder, or local agent;
 - (f) \$4,000.00 for abandoned real property or a vacant building or structure any part or portion of which does not constitute a one-, two-, or multi-family dwelling for the fifth or any subsequent registration by such owner, interest holder, or local agent.
- (iii) The annual registration fees set forth in this Section shall be as set, whether changed, modified, increased, or decreased, by ordinance or resolution of the City Council.
- (b) An owner, interest holder, or local agent of abandoned real property or a vacant building or structure that is an actively marketed property, as defined under this ordinance, and for which a waiver is granted, shall not be required to pay any annual registration fee otherwise required by this Section with a registration under this ordinance.
- (i) An owner, interest holder, or local agent of abandoned real property or a vacant building or structure that constitutes actively marketed property, as demonstrated by such owner, interest holder, or local agent may request a one-time waiver from any annual registration fee otherwise required by this Section from the code enforcement officer. Satisfactory proof that such abandoned real property or vacant building or structure is being actively marketed, in a form acceptable to the code enforcement officer, shall accompany and be submitted with the registration forms for such abandoned real property or vacant building or structure.
 - (ii) After obtaining a one-time waiver from the code enforcement officer, an owner, interest holder, or local agent of abandoned real property or a vacant building or structure that constitutes actively marketed property, as demonstrated by such owner, interest holder, or local agent, may request, by written petition to the Board of Health, an additional one-time waiver from any annual registration fee otherwise required by this Section from the Board of Health. Satisfactory proof that such abandoned real property or vacant building or structure is being actively marketed shall accompany and be submitted with the petition for such additional one-time waiver, which shall accompany and be submitted with the registration forms for such abandoned real property or vacant building or structure. The Board of Health shall grant or deny such petition in writing within forty-five (45) days following the date such petition and satisfactory proof is submitted to the Board of Health.

(c) An owner, interest holder, or local agent of abandoned real property or a vacant building or structure for which a valid architectural and renovation plan, based on both City and Fayette County permit and planning application procedures and requirements, has been submitted respectively to the City and Fayette County, and for which a waiver has been granted, that has otherwise shown good faith efforts to efficiently rehabilitate, demolish, or substantially repair or improve such abandoned real property or vacant building or structure shall not be required to pay any annual registration fee otherwise required by this Section with a registration under this ordinance.

(i) An owner, interest holder, or local agent of abandoned real property or a vacant building or structure for which a valid architectural and renovation plan, based on both City and Fayette County permit and planning application procedures and requirements, has been submitted respectively to the City and Fayette County, that has otherwise shown good faith efforts to efficiently rehabilitate, demolish, or substantially repair or improve such abandoned real property or vacant building or structure, as demonstrated by such owner, interest holder, or local agent, may request a one-time waiver from any annual registration fee otherwise required by this Section from the code enforcement officer. Satisfactory proof that a valid architectural and renovation plan, based on both City and Fayette County permit and planning application procedures and requirements, has been submitted respectively to the City and Fayette County for such abandoned real property or vacant building or structure and that such owner, interest holder, or local agent has otherwise shown good faith efforts to efficiently rehabilitate, demolish, or substantially repair or improve such abandoned real property or vacant building or structure, in a form acceptable to the code enforcement officer, shall accompany and be submitted with the registration forms for such abandoned real property or vacant building or structure.

(ii) After obtaining a one-time waiver from the code enforcement officer, an owner, interest holder, or local agent of abandoned real property or a vacant building or structure for which a valid architectural and renovation plan, based on both City and Fayette County permit and planning application procedures and requirements, has been submitted respectively to the City and Fayette County, that has otherwise shown good faith efforts to efficiently rehabilitate, demolish, or substantially repair or improve such abandoned real property or vacant building or structure, as demonstrated by such owner, interest holder, or local agent, may request, by written petition to the Board of Health, an additional one-time waiver from any annual registration fee otherwise required by this Section from the Board of Health. Satisfactory proof that a valid architectural and renovation plan, based on both City and Fayette County permit and planning application procedures and requirements, has been submitted respectively to the City and Fayette County for such abandoned real property or vacant building or structure and that such owner, interest holder, or local agent has otherwise shown good faith efforts to efficiently rehabilitate, demolish, or substantially repair or improve such abandoned real property or vacant building or structure shall accompany and be submitted with the petition for such additional one-time waiver, which shall accompany and be submitted with the registration forms for such abandoned real property or vacant building or structure. The Board of Health shall grant or

deny such petition in writing within forty-five (45) days following the date such petition and satisfactory proof is submitted to the Board of Health.

- (d) An owner, interest holder, or local agent of abandoned real property or a vacant building or structure that purchased or otherwise acquired such abandoned real property or vacant building or structure within ninety (90) days of the date that registration of such abandoned real property or vacant property is required under this ordinance and that has otherwise shown good faith efforts to efficiently rehabilitate, demolish, or substantially repair or improve such abandoned real property or vacant building or structure shall not be required to pay any annual registration fee otherwise required by this Section with a registration under this ordinance.
- (i) An owner, interest holder, or local agent of abandoned real property or a vacant building or structure that purchased or otherwise acquired such abandoned real property or vacant building or structure within ninety (90) days of the date that registration of such abandoned real property or vacant property is required under this ordinance and that has otherwise shown good faith efforts to efficiently rehabilitate, demolish, or substantially repair or improve such abandoned real property or vacant building or structure may request a one-time waiver from any annual registration fee otherwise required by this Section from the code enforcement officer. Satisfactory proof that such owner, interest holder, or local agent has purchased or otherwise acquired such abandoned real property or vacant building or structure within ninety (90) days of the date that registration of such abandoned real property or vacant building or structure is required under this ordinance and has otherwise shown good faith efforts to efficiently rehabilitate, demolish, or substantially repair or improve such abandoned real property or vacant building or structure, in a form acceptable to the code enforcement officer, shall accompany and be submitted with the registration forms for such abandoned real property or vacant building or structure.
- (ii) After obtaining a one-time waiver from the code enforcement officer, an owner, interest holder, or local agent of abandoned real property or a vacant building or structure that purchased or otherwise acquired such abandoned real property or vacant building or structure within ninety (90) days of the date that registration of such abandoned real property or vacant property is required under this ordinance and that has otherwise shown good faith efforts to efficiently rehabilitate, demolish, or substantially repair or improve such abandoned real property or vacant building or structure may request, by written petition to the Board of Health, an additional one-time waiver from any annual registration fee otherwise required by this Section from the Board of Health. Satisfactory proof that such owner, interest holder, or local agent has purchased or otherwise acquired such abandoned real property or vacant building or structure within ninety (90) days of the date that registration of such abandoned real property or vacant building or structure is required under this ordinance and has otherwise shown good faith efforts to efficiently rehabilitate, demolish, or substantially repair or improve such abandoned real property or vacant building or structure, in a form acceptable to the code enforcement officer, shall accompany and be submitted with the registration forms for such abandoned real property or vacant building or

structure. The Board of Health shall grant or deny such petition in writing within forty-five (45) days following the date such petition and satisfactory proof is submitted to the Board of Health.

- (e) All annual registration fees collected under this ordinance shall be allocated to and accounted under a separate line item, the allocation, disbursement, and use of which shall be limited only to the rehabilitation, demolition, repair, or improvement of abandoned real property or vacant buildings or structures by the City or any land bank in which the City belongs or participates.

Section 9. Delinquent Fees as a Collectable Debt or Lien. Except for those owners, interest holders, or local agents that have properly submitted an appeal as set forth herein, and only during the pendency of such appeal, the failure to pay any amount due under this ordinance shall create, result in, and constitute a debt due and owing to the City equal to the amount due under this ordinance. With respect to such debt, the City may either (i) enter or file a lien against the applicable abandoned property or vacant building or structure in an amount equal to the debt or (ii) seek collection of an amount equal to the debt in accordance with the ordinances of the City and other applicable law.

Section 10. Maintenance and Security. Maintenance of abandoned real property and vacant buildings or structures shall conform to the standards set forth in any City property maintenance code, including but not limited to the International Property Maintenance Code, if adopted by the City, and any City fire code, including but not limited to the International Fire Code, if adopted by the City. In addition, abandoned real property and vacant buildings or structures shall be maintained as follows:

- (a) All unoccupied buildings or structures on abandoned real property and all vacant buildings and structures must be secured from unauthorized entry. All doors, windows, and other entry points shall respectively be secured with plywood, functional doors, windows, steel security panels, or some other designed or finished method that is consistent with the adjacent walls. All such plywood, functional doors, windows, steel security panels, or other designed or finished methods that are consistent with the adjacent walls shall conform to the Uniform Construction Code. Any doors, windows, and other entry points secured with plywood shall be secured with plywood for a single maximum period of ninety (90) consecutive days.
- (b) All exterior surfaces and sidewalks must be cleaned on a sufficient schedule as to prevent the accumulation of debris, dirt, garbage, refuse, and rubbish.

Section 11. Inspections.

- (a) The owner, interest holder, or local agent of abandoned real property or a vacant building or structure shall inspect, or cause to be inspected, such abandoned real property or vacant building or structure with such frequency as to ensure compliance with all sections of this ordinance, any City property maintenance code, including but not limited to the International Property Maintenance Code, if adopted by the City, and any City fire code, including but not limited to the International Fire Code, if adopted by the City. In addition, the code enforcement officer shall inspect, or cause to be inspected, real

property, abandoned real property, and vacant buildings and structures with such frequency as to ensure compliance with all sections of this ordinance.

- (b) Annual inspections of all abandoned real property and every vacant building or structure shall be as follows:
- (i) An external inspection of each abandoned real property and vacant building or structure shall be performed by the code enforcement officer within ninety (90) days of the date of registration of abandoned real property or a vacant building or structure, as required under Section 4 or Section 5 of this ordinance, and each year thereafter, to determine compliance with the City property maintenance code, including but not limited to the International Property Maintenance Code, if adopted by the City.
 - (ii) An internal inspection of each abandoned real property and vacant building or structure shall be performed by the code enforcement officer within ninety (90) days of the date of registration of abandoned real property or a vacant building or structure, as required under Section 4 or Section 5 of this ordinance, and each year thereafter, to determine compliance with Section 108 or such section dealing with "Unsafe Structures and Equipment" of any City property maintenance code, including but not limited to the International Property Maintenance Code, if adopted by the City.
 - (iii) An external inspection of each abandoned real property and vacant building or structure shall be performed by the code enforcement officer within ninety (90) days of the date of registration of abandoned real property or a vacant building or structure, as required under Section 4 or Section 5 of this ordinance, and each year thereafter, to determine compliance with any City fire code, including but not limited to the International Fire Code, if adopted by the City.
 - (iv) An internal inspection of each abandoned real property and vacant building or structure shall be performed by the code enforcement officer within ninety (90) days of the date of registration of abandoned real property or a vacant building or structure, as required under Section 4 or Section 5 of this ordinance, and each year thereafter, to determine compliance with Chapter 3 or such section dealing with "General Precautions Against Fire" of any City fire code, including but not limited to the International Fire Code, if adopted by the City.
- (c) Nothing in this ordinance shall preclude the code enforcement officer from performing an inspection of abandoned real property or any vacant building or structure upon receipt of a complaint alleging or indicating a violation of any City ordinance.
- (d) The code enforcement officer shall be authorized to make inspections in accordance with this ordinance at any reasonable hour to determine compliance with this ordinance and all ordinances or codes referenced in this ordinance. The code enforcement officer shall request access to abandoned real property or a vacant building or structure from an owner, interest holder, or local agent of such abandoned real property or vacant building or structure prior to entering such abandoned real property or vacant building or structure. Every owner, interest holder, or local agent of abandoned real property or any vacant building or structure should allow the code enforcement officer unrestricted access.

- (e) If any owner, interest holder, or local agent of abandoned real property or a vacant building or structure refuses, impedes, inhibits, interferes with, restricts, or obstructs entry and access to every part of such abandoned real property or vacant building or structure during an inspection under this ordinance, the code enforcement officer may apply for an administrative search or inspection warrant to a court of competent jurisdiction and shall supply all necessary affidavits and testimony to indicate that there is reasonable or probable cause to conduct the requested inspection.
- (f) If the owner, interest holder, or local agent cannot be available at the date and time for the inspection proposed by the code enforcement officer, such owner, interest holder, or local agent shall provide no less than twenty-four (24) hours advance written notice to the code enforcement officer. Upon failure to give such advance written notice or to be present for such inspection so as to enable entry and full access to the code enforcement officer, an administrative fee of \$25.00 may be assessed against the owner, interest holder, or local agent. For each rescheduling beyond the second rescheduling, an administrative fee of \$50.00 may be assessed. Such administrative fees shall be paid within thirty (30) days of the date of such administrative fee notice. The failure to pay any administrative fee assessed and due under this ordinance shall create, result in, and constitute a debt due and owing to the City equal to the administrative fee due under this ordinance. With respect to such debt, the City may either (i) enter or file a lien against the applicable abandoned property or vacant building or structure in an amount equal to the debt or (ii) seek collection of an amount equal to the debt in accordance with the ordinances of the City and other applicable law.
- (g) If the owner, interest holder, local agent, purchaser, or any interested party requests a special inspection of a property regulated by this ordinance, or a certification that a property is in compliance with this ordinance or any other applicable City ordinance pertaining to structural condition, in connection with the sale, conveyance, transfer, financing, or refinancing of such property, the requestor shall pay a fee of \$75.00 to the City to help defray the expenses of making such inspection.
- (h) All administrative fees and inspections fees set forth in this Section shall be as set, whether changed, modified, increased, or decreased, by ordinance or resolution of the City Council.

Section 12. Administration and Enforcement. This ordinance shall be administered and enforced by the code enforcement officer, law enforcement officers, and other persons so designated by the City Council. The City retains the right to engage the services of a third-party to administer any or all of the provisions of this ordinance.

Section 13. Notice. All notices or other documents required or delivered under this ordinance shall conform and be served and given to the respective owner, interest holder, or local agent as follows:

- (a) Notices or other documents shall:
 - (i) Be in writing;

- (ii) Include a description of the property sufficient for identification;
 - (iii) Include a statement of the violation or violations and the reason for which the notice is being issued;
 - (iv) Include a corrective order allowing a reasonable time of no less than thirty (30) days, unless exigent circumstances related to health or safety require a lesser period, to make the repairs and improvements required to bring the structure into compliance with the provisions of this ordinance; and
 - (v) Inform the owner, interest holder, or local agent of the right to appeal.
- (b) Notices or other documents shall:
- (i) Delivered personally;
 - (ii) Sent by certified or first-class mail addressed to the last-known address of the owner, interest holder, or local agent; or
 - (iii) Be posted conspicuously on or about the abandoned real property or the vacant building or structure about which the notice is concerned, if a notice is returned showing that it was not delivered or was undeliverable.

Section 14. Determination of Dangerous Public Nuisance.

- (a) If the code enforcement officer determines that abandoned real property or a vacant building or structure constitutes a dangerous public nuisance under this ordinance, then the code enforcement officer may prepare a written request to have such abandoned real property or vacant building or structure deemed and determined to be a dangerous public nuisance. The code enforcement officer shall collect and prepare all evidence demonstrating or supporting such determination and, after obtaining the advice of the City Solicitor, shall request a hearing before the Board of Health concerning such abandoned real property or vacant building or structure.
- (b) Notice of such hearing, if granted by the Board of Health, shall be served and given to the respective owner, interest holder, or local agent in accordance with Section 13 of this ordinance at least thirty (30) days in advance of the date of such hearing. In addition to the written notice provided herein, written notice of said hearing shall be conspicuously posted on the affected tract of land at least one week prior to the hearing.
- (c) The Board of Health shall conduct hearings and make decisions in accordance with the following requirements:
- (i) The parties to the hearing shall be any owner, interest holder, and any local agent of the abandoned real property or vacant building or structure; any person affected by the abandoned real property or vacant building or structure who has made timely appearance of record before the Board of Health; the City; and any other person including civic or community organizations permitted to appear by the Board of Health. The Board of Health shall have power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the board for that purpose.
 - (ii) The chairman or acting chairman of the Board of Health presiding shall have power to administer oaths and issue subpoenas to compel the attendance of

witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.

- (iii) The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.
 - (iv) Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.
 - (v) The Board of Health shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be paid by the Board of Health. The cost of a transcript, whether an original or a copy, shall be paid by the person requesting such transcript.
 - (vi) The Board of Health shall render a written decision within forty-five (45) days after the hearing. Conclusions based on any provisions of this ordinance or any other law, rule, or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. The failure of the Board of Health to render a written decision within forty-five (45) days after the hearing shall be deemed to be a decision rendered in favor of the owner, interest holder, or local agent that the abandoned real property or vacant building or structure is not a dangerous public nuisance, unless such owner, interest holder, or local agent has agreed in writing or on the record to an extension of time.
 - (vii) A copy of the final decision or, where no decision is called for, of the findings shall be served and given to the owner, interest holder, or local agent in accordance with Section 13 of this ordinance not later than the day following its date. A copy of the final decision, or where no decision is called for, of the findings shall be provided to the City not later than the day following its date.
- (d) A finding or determination of the Board of Health that abandoned real property or a vacant building or structure is a dangerous public nuisance shall be applicable to this ordinance and for all City purposes. The procedures provided in this ordinance for determining or deeming abandoned real property or a vacant building structure a dangerous public nuisance shall not constitute or be the only, exhaustive, or exclusive means of determining or deeming any property to be a public nuisance or dangerous public nuisance.

Section 15. Violations.

- (a) It shall be unlawful for any person to violate any provision of this ordinance, including but not limited to the failure or refusal to register abandoned real property or a vacant building or structure, to pay any fees assessed or due under this ordinance.
- (b) If any person violates any provision of this ordinance, then the code enforcement officer shall serve a notice of violation or order in accordance with this ordinance.
- (c) If any person does not comply with such notice of violation or order, then the code enforcement officer shall institute the appropriate proceeding at law or in equity to

restrain, correct, or abate such violation, or of the order of direction made pursuant thereto.

- (d) Any person who shall violate any of the provisions of this ordinance shall, upon conviction in a summary proceeding brought in the name of the City of Connellsville, before a district justice in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, be sentenced to pay a fine of not less than \$300.00 and not more than \$1,000.00, plus the costs of prosecution, and in default of payment, to imprisonment for a term not to exceed ninety (90) days, provided that each day's violation of any of the provisions of this ordinance shall constitute a separate offense.
- (e) The imposition of any penalties herein prescribed shall not preclude the code enforcement officer or the City from instituting appropriate action to restrain, correct, or abate a violation, or to stop a public nuisance or an illegal act, conduct, business, or utilization of abandoned real property or a vacant building or structure.

Section 16. Nonexclusive Remedies. The penalty, collection, and lien provisions of this ordinance shall be independent, non-mutually exclusive, separate remedies, all of which shall be available to the City as may be deemed appropriate for carrying out and accomplishing the purposes of this ordinance. The remedies and procedures provided in this ordinance for violation hereof are not intended to supplant or replace to any degree the remedies and procedures available to the City in the case of a violation of any other ordinance of the City, without regard to whether such other ordinance is referenced in this ordinance or whether an ongoing violation of such other ordinance is cited as the underlying ground for finding a violation of this ordinance.

Section 17. Appeals.

- (a) Any owner, interest holder, or local agent directly affected by a decision of the code enforcement officer, or any notice or order therefrom issued under this ordinance, shall have the right to appeal to the Board of Health, provided that a written application for appeal is filed within twenty (20) days after the date of any such decision, notice, or order was served and given in accordance with this ordinance.
- (b) The fee for filing an appeal to the Board of Health shall be \$100.00, which shall be paid to the City and may be changed, modified, increased, or decreased, by ordinance or resolution of the City Council. In addition to such filing fee, costs for said hearings, including but not limited to notice and advertisement costs and necessary administrative overhead connected with the hearing, may be collected by with City with and in addition to such filing fee. Such costs, however, shall not include legal expenses of the Board of Health, expenses for engineering, architectural or other technical consultants or expert witness costs.

Section 18. Compliance with Other Ordinances and Codes. In no instance shall the compliance of an owner, interest holder, or local agent with the requirements of this ordinance

exonerate or satisfy the responsibilities, obligations, and liabilities of such owner, interest holder, or local agent under any other ordinance or code of the City or any other applicable law.

Section 19. Repealer. Any ordinance or part of any ordinance that conflicts with the provisions of this ordinance is hereby repealed to the extent of any such conflict on the effective date of this ordinance.

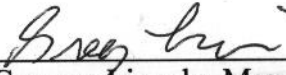
Section 20. Severability. If any provision, sentence, clause, section, or part of this ordinance or application thereof to any person or circumstance is for any reason found to be unconstitutional, illegal, or invalid by a court of competent jurisdiction, such unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this ordinance. It is hereby declared as the intent of the City Council of the City of Connellsville that this ordinance would have been adopted had such unconstitutional, illegal or invalid provision, sentence, clause, section, or part not been included herein.

Section 21. Preexisting Action. Nothing in this ordinance shall be construed to affect any rights acquired, or liability incurred, of any cause or causes of action acquired or existing under any act or ordinance hereby changed, modified, amended, revised, or repealed, either whole or in part, by this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired, discharged, released, or otherwise affected by this ordinance.

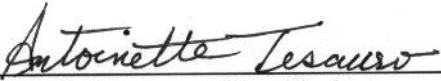
Section 22. Effective Date; Sunset Provision. This ordinance shall become effective ten (10) days after enactment and shall continue in force and effect for a period of five (5) years from such effective date; provided, however, that any cause or causes of action acquired or existing under this ordinance prior to the end of such five (5) year period may continue to be prosecuted and shall not be lost, impaired, discharged, released, or otherwise affected by this ordinance.

ORDAINED AND ENACTED by the City Council of the City of Connellsville, Fayette County, Pennsylvania, this 16 day of September, 2014.

City of Connellsville



Gregory Lincoln, Mayor

By: 

Antoinette Tesauero, City Clerk

