

**CITY OF JEANETTE
WESTMORELAND COUNTY, PENNSYLVANIA**

BILL NO. 08-03

ORDINANCE NO. 08-03

A ORDINANCE OF THE CITY COUNCIL OF THE CITY OF JEANNETTE, COUNTY OF WESTMORELAND, COMMONWEALTH OF PENNSYLVANIA, DEFINING AND REGULATING PRIVATE PROPERTY MAINTENANCE FOR COMMERCIAL AND INDUSTRIAL STRUCTURES PROHIBITING CERTAIN ACTIVITIES INVOLVING BUILDINGS, STRUCTURES, YARDS, OPEN LOTS, AND PARKING AREAS; REQUIRING PREVENTION AND CORRECTION OF INFESTATION; DETERMINING THE RESPONSIBILITIES OF OWNERS AND OCCUPANTS; AUTHORIZING INSPECTIONS, COMPLIANCE NOTICES AND APPEAL HEARINGS; AND PRESCRIBING REMEDIES AND PENALTIES FOR VIOLATION.

WHEREAS, the Council of the City of Jeannette is desirous of maintaining and regulating commercial and industrial buildings within the bounds of the city.

NOW, THEREFORE, be it ordained and enacted by the City Council of the City of Jeannette and it is hereby ordained and enacted as follows:

Section 1. Short Title. This ordinance shall be known and cited as the "City Of Jeannette Property Maintenance Ordinance."

Section 2. Preface. Recognizing the need within the City of Jeannette to establish certain minimum health maintenance and safety requirements for those commercial and industrial buildings, structures, or properties which are located within the boundaries of the City of Jeannette, this ordinance hereby establishes standards which the Council of the City of Jeannette considers to be fair and essential in meeting those minimum requirements.

Section 3. Authority. This ordinance, and the objectives leading to its enactment, are authorized by the Third Class City Code.

Section 4. Definitions.

BUILDING - a roofed structure, enclosed by one or more walls, for the shelter, housing, storage or enclosure of persons, goods, materials, equipment, machinery or animals.

COURT - an open and unoccupied space on a lot enclosed on at least three (3) sides by the walls of a building.

GARBAGE - putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

INFESTATION - the presence of insects, rodents, vermin and/or other pests.

LOT - plot, tracts, premises or parcel of land, with or without improvements thereto.

OWNER - any person or persons, jointly or severally, firm, corporation or other entity which, either by conveyance or inheritance or otherwise, is vested with the title to a lot and/or improvements thereto or who retains the exclusive control of such a lot and/or improvements thereto in his capacity as a legal representative, such as an administrator, trustee, executor, etc.

REFUSE - all putrescible and nonputrescible solid wastes, including, but not limited to garbage, rubbish, ashes, dead animals and market and industrial wastes.

UNOCCUPIED HAZARD - any building, or part thereof, or manmade structure, which remains unoccupied for a period of more than six (6) months, with either doors, windows, or other openings broken, removed, boarded or sealed up, or any building under construction upon which little or no construction work has been performed for a period of more than six (6) months.

ABANDONED PROPERTY - shall be defined in accordance with 35 P.S. § 1712.1(c)(9), as amended.

BLIGHTED PROPERTY - shall be defined in accordance with 35 P.S. § 1712.1(c), as amended.

VACANT PROPERTY - shall be defined in accordance with 35 P.S. § 1712.1(e)(1), as amended.

Section 5. **Application.** The provisions of this ordinance shall supplement local laws, ordinances or regulations existing in the City of Jeannette or those of the Commonwealth of Pennsylvania. Where a provision of this ordinance is found to be in conflict with any provision of a local law, ordinance, code or regulations or those of the Commonwealth of Pennsylvania, the provisions which are more restrictive or which establishes the higher standard shall prevail.

Section 6. **Establishment of Blighted Property Review Committee.**

(a) There is established a Blighted Property Review Committee to consist of not more than five (5) members, who shall serve without compensation. The Committee is to include at least one member of City Council, a representative of the Redevelopment Authority board, a representative to be designated by the Mayor and two members designated by City Council.

(b) The terms of the members shall be staggered.

Section 7. **Buildings and Structures**

1. No owner of any commercial or industrial building or structure shall fail to take steps to perform such maintenance thereto, as may be required from time to time, to ensure that the property is safe, sound, sanitary and secure and does not present a health and/or safety hazard to surrounding properties and to the general populace.

2. No owner of any unoccupied commercial or industrial building or structure shall fail to take such steps as may be required to insure that these are securely closed so as to prohibit and deter entry thereto and to insure that no health and/or safety hazard, or threat thereof, is precipitated due to a lack of maintenance or due to neglect.

3. Owners of any and all unoccupied commercial or industrial buildings and/or structures which, through neglect have deteriorated to the point of being classified as unoccupied hazards, and therefore constitute a severe health and/or safety hazard, shall, upon direction of the City of Jeannette, remove, or cause the removal of, the building and/or structure.

Section 8. Infestation, Prevention and Correction.

1. Grounds, buildings and structures shall be maintained free of insect, vermin and rodent harborage and infestation.

2. Adequate sanitary facilities and methods shall be used for the collection, storage, handling and disposal of garbage and refuse.

3. Where there exists rodent and vermin infestation, corrective measures shall be undertaken by the property owner and/or occupant to alleviate the existing problem(s), to include screening, extermination and/or garbage and refuse control. Methods employed for exterminations shall conform with generally accepted practices.

Section 9. Determining Blight. The Blighted Property Review Committee shall have the power to determine that any commercial or industrial property is "blighted" within the terms as defined in 35 P.S. § 1712.1(c) and upon concurrence by the City Council and the City of Jeannette Health Department shall certify said properties to the Redevelopment Authority.

Section 10. Miscellaneous provisions. No person shall permit:

1. Roof, surface and/or sanitary drainage to create a safety and/or health hazard to persons and/or property by reason of inadequate and/or improper construction, or maintenance or manner of discharge;

2. Roof gutters, drains or any other system designed and constructed to transport storm water, to be discharged into any sanitary sewage system and/or any part thereof.

Section 11. Responsibilities of Owners.

1. An Owner of any commercial or industrial property shall comply with the provisions of this ordinance as well as operators and occupants, regardless of any agreements between owners and operators or occupants as to which party shall assume such responsibility.
2. In instances where an occupant is responsible, or shares responsibility with an owner, for the existence of one (1) or more violations of this ordinance, said occupant shall be deemed responsible and treated as if an owner within the true intent and meaning of this ordinance.

Section 12. Inspection. The City Council may, or may through its Code Enforcement Officer, Fire Marshall, Chief Engineer or any other Officer or Agency that Council deems appropriate, cause or direct entry onto premises for the purposes of inspection of any and all premises, properties, buildings and/or structures located within the City of Jeannette for ascertaining the existence of a violation of this Ordinance. In those matters where the nature of an alleged violation is such that an inspection of the interior of a building or structure is necessitated, prior arrangements must be made with the owner, or his agent to secure access thereof. If evidence of a violation is found during the inspection the owner shall be responsible for paying any and all costs associated with the inspection.

Section 13. Notice to Comply.

1. If noncompliance with the provisions of this ordinance constitutes a nuisance, or if any condition, structure, or improvement poses a threat to the health, safety, or welfare of the public, the Enforcement Officer notify the City Health Department and shall issue a written notice to be served by registered or certified mail upon the owner of said premises, or, of the owner's whereabouts or identity be unknown, by posting the notice conspicuously upon the offending premises.

2. Said Notice shall specify the condition of the structure or improvement complained of, and shall require the owner to commence to remove or otherwise rectify the condition or structure or improvement as set forth therein within ten (10) days of mailing or posting of said notice, and thereafter, to fully comply with the requirements of the notice within a reasonable time.

Section 14. Authority to Remedy Noncompliance. If the owner does not comply with the notice to abate the conditions, within the time limit prescribed, the City of Jeannette shall have the authority to take measures to correct the conditions and collect the cost of such corrections plus ten percent (10%) of all costs. The City of Jeannette, in such event and pursuant to its statutory or otherwise authorized police powers, shall have the right and power to enter upon the offending premises to accomplish the foregoing.

Section 15. Hearing.

1. Any person aggrieved by the decision of the Enforcement Officer may request and shall then be granted a hearing before the City Council; provided, he files with the City Council within then (10) days after notice of the Enforcement Officer's decision, a written petition requesting such hearing and setting forth a brief statement of the grounds

therefore. The hearing shall commence not later than thirty (30) days after the date on which the petition was filed unless postponed for sufficient cause.

2. After such hearing, the City Council shall sustain, modify or overrule the action of the Enforcement Officer.

Section 16. Penalties. Any person who shall violate any provision of this ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than six hundred dollars (\$600.00), and in default of payment, to undergo imprisonment for a term not to exceed thirty (30) days. Each day that a violation of this ordinance continues shall constitute a separate offense.

Section 17. Owners Severally Responsible. If the premises are owned by more than one (1) owner, each owner shall severally be subject to prosecution for the violation of this ordinance.

Section 18. Acquiring Blighted Properties. The Redevelopment Authority of the City of Jeannette shall have the power to acquire by purchase, gift, bequest, eminent domain, or otherwise any "blighted" property as defined in 35 P.S. § 1712.1(c) below, either within or outside of a certified redevelopment area, and further, shall have the power to hold, clear, manage and/or dispose of said property for residential or related reuse and commercial or industrial reuse.

Section 19. Restrictions on the Redevelopment Authority and Review Committee.

a) The Blighted Property Review Committee and the Planning Commission, upon making a determination that any property is "blighted" within the terms of 35 P.S. § 1712.1(c), must certify said blighted property to the Redevelopment Authority, except that:

(1) No property shall be certified to the Redevelopment Authority unless it is vacant.

(2) No property shall be certified to the Redevelopment Authority unless the owner of the property or an agent designated by him for receipt of service of notices within the municipality has been served with notice of the determination that the property is blighted, together with an appropriate order to eliminate the conditions causing the blight and notification that failure to do so may render the property subject to condemnation under this ordinance. The notice shall be served upon the owner or his agent in accordance with the provisions of this ordinance. The owner or his agent shall have the right of appeal from the determination in the same manner as an appeal from the determination of public nuisance.

(3) No blighted property shall be certified to the Redevelopment Authority until the time period for appeal has expired and no appeal has been taken, or, if taken, the appeal has been disposed of, and the owner or his agent has failed to comply with the order of the responsible department or other officer or agency.

(b) Acquisition and disposition of blighted property under this ordinance shall not require preparation, adoption or approval of a redevelopment area plan or redevelopment proposal, but at least thirty days prior to acquisition of any property under this section, the Redevelopment Authority shall transmit identification of the property to the City Council and shall request a recommendation as to the appropriate reuse of the property. The Redevelopment Authority shall not acquire the property where the City Council certifies that disposition for residential or related use would not be in accord with the comprehensive plan of the city.

(c) Power of eminent domain shall be exercised pursuant to a resolution of the Redevelopment Authority and the procedure set forth in the act of June 22, 1964, 26 P.S. § 1-101 et seq. known as the "Eminent Domain Code," as amended.

(d) Property disposed of within a redevelopment area shall be disposed of under a redevelopment contract in accordance with the provisions of 35 P.S. § 1712.1. Property disposed of outside an urban renewal project area shall be disposed of by deed in accordance with the provisions set forth in applicable law.

Section 20. Procedural Requirements for Acquiring Blighted Property.

(a) Notice.

(1) All notices, except writs or pleadings, to be served upon a party shall be served by leaving a copy for or mailing a copy to him at the address of the party.

(2) All pleadings and legal documents shall be served in accordance with Pennsylvania Rules of Civil Procedure governing service of process (Rule 400 through Rule 441).

(3) The notice must apprise the owner or his agent of the determination that the property is blighted, together with an order to eliminate the conditions causing the blight and notification that failure to do so may render the property subject to condemnation under 35 P.S. 1712.1.

(b) Hearing.

(1) The owner or his agent have the right to a full hearing before the Vacant Property Review Committee.

(2) The owner or his agent have the opportunity to present all relevant evidence, to present witnesses, to cross-examine any witnesses, to be represented by counsel, and to receive a written opinion from the Blighted Property Review Committee as to their findings and basis of decision within forty-five (45) days of the hearing date.

(c) Appeals.

(1) The owner or his agent shall have the right of appeal from the determination of the Vacant Property Review Committee to the Court of Common Pleas of Westmorland County.

(2) The owner or his agent will be given thirty (30) days from the date of receipt of the within opinion to file a written appeal with the Court of Common Pleas of Westmoreland County.

(3) Once the Blighted Property Review Committee has exercised its powers of condemnation and has made payment, a proceeding filed by the owner or his agent to challenge just compensation or other damages shall be subject to the statute of limitations set forth at 35 P.S. § 1719.2, as amended.

(4) The owner will be responsible for all costs accrued by the City of Jeannette because of the appeal if the owner is not successful in his appeal.

Section 21. **Remedies Not Mutually Exclusive.** The remedies provided herein for the enforcement of this ordinance, or any remedy provided by law, shall not be deemed mutually exclusive; rather they may be employed simultaneously or consecutively, at the option of the City Council.

Section 22. **Severability.** If any provisions of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity does not effect the other provisions of this ordinance which can be given effect without the invalid provisions or application, and to sthis end, the provisions of this ordinance are severable.

Section 23. **Repealer.** All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

ORDAINED AND ENACTED into law this 12th day of November, 2008.

ATTEST:

City of Jeannette

A handwritten signature in blue ink, appearing to read "L. Sullivan", written over a horizontal line.

City Clerk

By  _____

A handwritten signature in blue ink, appearing to read "M. J. DeF...", written over a horizontal line.

President of Council and Mayor