

**TOWNSHIP OF ABINGTON
MONTGOMERY COUNTY, PENNSYLVANIA**

ORDINANCE NO. 2097

**AN ORDINANCE ENACTING CHAPTER 126 – “REAL ESTATE REGISTRY –
VACANT PROPERTIES”**

WHEREAS, the Township of Abington is a Township of the First Class, duly organized and existing pursuant to the applicable laws of the Commonwealth of Pennsylvania; and

WHEREAS, pursuant to section 1502.44 of the First Class Township Code of the Commonwealth of Pennsylvania, 53 P.S. §56544, the Board of Commissioners has the authority to enact and amend provisions of the Abington Township Code (“Code”) at any time it deems necessary for the health, safety, morals, general welfare, cleanliness, beauty, convenience and comfort of the Township and the inhabitants thereof; and

WHEREAS, pursuant to section 1502.10 of the First Class Township Code of the Commonwealth of Pennsylvania, 53 P.S. §56510, the Board of Commissioners has the authority to take all needful means for securing the safety of persons or property within the Township; and

WHEREAS, the Board of Commissioners of the Township of Abington has determined that Chapter 126 – “Real Estate Registry – Vacant Properties,” should be enacted for the health, safety, morals, general welfare, cleanliness, beauty, convenience and comfort of the Township and the inhabitants thereof.

NOW, THEREFORE, the Board of Commissioners of the Township of Abington does hereby **ENACT** and **ORDAIN** as follows:

1. Chapter 126 – “Real Estate Registry – Vacant Properties” is hereby enacted as reflected in Exhibit “A” attached hereto.
2. All other ordinances, portions of ordinances, or any section of the Code inconsistent with

this Ordinance are hereby repealed.

3. This Ordinance shall become effective five (5) days after enactment.

ORDAINED AND ENACTED this _____ day of _____, 2015.

TOWNSHIP OF ABINGTON
BOARD OF COMMISSIONERS

Attest:

Michael LeFevre, Secretary

By: _____
Wayne Luker, President

Exhibit "A"

§126-1. Purpose.

The purpose of this Ordinance requiring registration of all vacant non-residential buildings is to assist the Township, and in particular the Code Enforcement Department, in protecting the public health, safety and welfare by monitoring the number of vacant non-residential buildings in the Township, to assess the effects of the condition of those buildings on nearby businesses and on the neighborhoods in which they are located, particularly in light of fire safety hazards and to promote substantial efforts to rehabilitate, rent or sell such vacant buildings. The provisions of this Ordinance are applicable to the owners of such vacant buildings as set forth herein and are in addition to and not in lieu of any and all other applicable provisions of the Township of Abington Code.

§126-2. Definitions.

As used in this ordinance, the following terms shall have the meaning indicated, unless a different meaning clearly appears from the context:

- A. "Boarded" – A building or structure, if in place of one or more exterior doors, other than a storm door, or of one or more windows, there is a sheet or sheets of plywood or similar material covering the space for such door or window.
- B. "Exterior and Major Systems Maintenance" – The safe and lawful maintenance of the façade, windows, doors, roof and all other parts of the exterior of the building and the maintenance of its major systems consisting of the roof, the electrical and plumbing systems, the water supply system, the sewer system, and the sidewalk, driveway, if any, and/or area of the lot, as applicable, in a manner consistent with the requirements of the codes of the Township of Abington, including, without limitation, the 1996 BOCA Property Maintenance Code.
- C. "Occupied" – As applied to a building or structure subject to the provisions of this Ordinance, where one or more persons actually conducts a lawful business or resides in all or any part of the building as the licensed business occupant, or as the legal or equitable owner/occupant(s) or tenant(s) on a permanent, non-transient basis, or any combination of the same. For purposes of this Ordinance, 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 Township of Abington business license, or the most recent federal, state or Township of Abington income tax statements indicating that the subject property is the official business or residence address of the person or business claiming occupancy.
- D. "Open" – A building, structure or dwelling unit subject to the provisions of this Ordinance that has one or more exterior doors, other than a storm door, broken or open, or that lack properly functioning locks to secure them; and/or a building, structure or

dwelling unit subject to the provisions of this Ordinance that has one or more broken windows, or one or more windows that are not able to be locked and secured from intrusion, or any combination of the foregoing.

- E. "Owner" – Any person, agent, operator, firm or corporation having legal or equitable interest in the property; or recorded in the official records of the County of Montgomery or the Township of Abington as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.
- F. "Vacant" – A building or structure subject to the provisions of this Ordinance in which no person or persons actually, currently conducts a lawfully licensed business, or lawfully resides or lives in any part of the building as the legal or equitable owner(s) or tenant-occupant(s) or owner-occupant(s), or tenant(s) on a permanent non-transient basis. For purposes of this Chapter, properties or buildings that can accommodate more than one use shall not be considered vacant if 60% or more of the available square footage of the building is occupied.

§126-3. Applicability.

The requirements of this Ordinance shall be applicable to the owner of any non-residential building that has been vacant for more than 45 consecutive days. Each such owner shall cause to be filed a registration statement as outlined herein.

§126-4. Registration Statement and Fees; Local Agent

A. Registration Statement.

The owner of any building that has been vacant for more than 45 consecutive days shall file a registration statement with the Abington Township Code Enforcement Department. The registration statement shall include the street address and tax map parcel number of each such vacant building, the names and addresses of all owners, working telephone numbers, and any other information deemed necessary by the Code Enforcement Department. All owners and/or agents are required to supply a point of contact or an emergency contact person(s) and a working telephone number that has service 24 hours a day and 7 days a week.

1. For purposes of this Ordinance, the following shall also be applicable:
 - i. If the owner is a corporation, the registration statement shall provide the names and resident addresses of all officers and directors of the corporation and shall be accompanied by a copy of the most recent relevant filing with the secretary of state;
 - ii. If the owner is an estate, the registration statement shall provide the name and business address of the executor of the estate;

- iii. If the owner is a trust, the registration statement shall provide the name and business address of all trustees, grantors and beneficiaries;
 - iv. If the owner is a partnership, the registration statement shall provide the names and residence addresses of all partners with an ownership interest in the property of ten percent or greater;
 - v. If the owner is any other form of unincorporated association, the registration statement shall provide the names and residence addresses of all partners with an ownership interest in the property of ten percent or greater;
 - vi. If the owner is an individual, the registration statement shall provide the name and residence address of that person.
2. Registration shall be required for all vacant buildings, whether vacant and secure, vacant and open, or vacant and boarded, and shall be required whenever any building has remained vacant for 45 consecutive days or more. In no instance shall the registration of a vacant building be construed to exonerate the owner, agent or responsible party from responsibility for compliance with any other building code or housing code requirement. One registration statement may be filed to include all vacant buildings of the owner so registering, but the payment of all fees described herein are required for each property so registered.
 3. Each registration statement shall be valid for a period of one (1) year. If the property remains vacant upon the expiration of the registration statement, the owner of the building shall be required to submit a new registration statement to the Code Enforcement Department.

B. Local Agent.

If none of the persons identified in the registration statement as an owner or agent thereof is shown on the registration statement to have an address within the Commonwealth of Pennsylvania, the registration statement shall also provide the name and address of a person who resides within the Commonwealth of Pennsylvania 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.

C. Registration Fees

1. There shall be no registration fee imposed for any registration filed within forty-five (45) days of the property first becoming vacant.
2. A non-refundable fee of Five Hundred Dollars (\$500.00) shall be imposed for any building registered more than forty-five (45) days after first becoming vacant, regardless of whether the owner voluntarily registers such property or the vacancy is discovered by the Township.
3. A non-refundable fee of One Thousand Dollars (\$1,000.00) shall be imposed for any building that has been vacant for at least six (6) months, regardless of whether the owner voluntarily registers such property or the vacancy is discovered by the Township. This fee shall apply regardless of whether the owner of the building registered the property and paid the applicable fee as indicated in Section C(2) above.
4. A non-refundable fee of One Thousand Five Hundred Dollars (\$1,500.00) shall be imposed for any building that has been vacant for at least one (1) year, regardless of whether the owner voluntarily registers such property or the vacancy is discovered by the Township. This fee shall apply regardless of whether the owner of the building registered the property and paid the applicable fees as indicated in Sections C(2) and C(3) above.
5. For each successive six (6) month period that a building remains vacant, an additional fee of Five Hundred Dollars (\$500.00) shall be imposed, regardless of whether the owner voluntarily registers such property or the vacancy is discovered by the Township. This fee shall apply regardless of whether the owner of the building registered the property and paid the applicable fees as indicated in Sections C(2), C(3) and C(4) above.

D. Waiver of Registration Fee.

1. Upon written application of the owner and upon satisfaction of the requirements set forth below, the Board of Commissioners may grant a one-time waiver of the Five Hundred Dollar (\$500.00) registration fee referenced in paragraph C(2) above. The waiver shall automatically expire after six (6) months from the date the property first becomes vacant. Upon expiration of the waiver, all provisions of this Chapter shall apply. The waiver shall be granted if the owner satisfactorily demonstrates the following:
 - i. The owner is in the process of demolition, rehabilitation, or other substantial repair of the vacant building; and

- ii. The anticipated length of time for the demolition, rehabilitation or other substantial repair of the vacant building; and
 - iii. The owner is actively attempting to sell or lease the property at reasonable terms, including price, during the vacancy period; and
 - iv. All past due vacant registration fees, if any, and all other financial obligations and/or debts owed to the Township in connection with the vacant property have been paid.
2. The Board of Commissioners shall consider the fee waiver request within sixty (60) days of the date of receipt of the written application.
 3. At all times, the burden of proof shall remain upon the owner of the building to demonstrate that the waiver is appropriate in light of the above factors. It is recommended that the owner submit any available photos, plot plan, layout plan, price, agent and information with the application for fee waiver to demonstrate the active marketing of the property.
- E. Inspection. At the time of registration, the Township shall conduct an inspection of the premises, and advise the owner of any conditions that violate the Township property maintenance code or similar codes, and shall advise the owner of the actions necessary to abate such violation or violations.

§126-5. Appeal Rights.

Upon notification from the Code Enforcement Department that a property is vacant and requires registration, the owner shall have the right to appeal the imposition of the registration fees to the Board of Commissioners, upon filing an application in writing accompanied by a Fifty Dollar (\$50.00) non-refundable filing fee to the Code Enforcement Department no later than thirty (30) calendar days from the date of the notice. On appeal, the owner shall bear the burden of providing satisfactory objective proof that the property is occupied, per the definition of the term "occupied" set forth in Section 2(c).

§126-6. Delinquent Registration Fee as a Lien.

After the owner is given notice that the registration fee(s) referenced in §126-4 above is due, and the owner fails to pay the amount due, said amount shall constitute a debt due and owing to the Township, and the Township may file a municipal lien against the property as provided for by law, as well as take all other available legal action in order to collect such debt.

§126-8. 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 owner, or the responsible person or agent of the owner, to contact the

Code Enforcement Department within thirty (30) days of the change and advise the department in writing of those changes.

§126-9. Exceptions.

This section shall not apply to any building owned by the United States, the Commonwealth, the Township, nor any of their respective agencies or political subdivisions.

§126-10. Violations and Penalties.

The failure or refusal for any reason of any owner, or agent of an owner acting on behalf of the owner, to register a vacant building or to pay the registration fee(s) required in this Chapter, or to otherwise fail to comply with the provisions of this Chapter shall constitute a summary offense punishable upon conviction thereof by a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) for each failure or refusal to register, or for each failure or refusal to pay a required vacant building fee, as applicable. This penalty shall be in addition to the Five Hundred Dollar (\$500.00) Registration fee.

§126-11. Repealer.

All prior ordinances or parts of prior ordinances which are inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

§126-12. Severability.

In the even that any section, sentence, clause or word of this Ordinance shall be declared illegal, invalid or unconstitutional by any Court of competent jurisdiction, such declaration shall not prevent, preclude or otherwise foreclose the validity of the remaining portions of this Ordinance.

**MONTGOMERY COUNTY
BOARD OF COMMISSIONERS**

JOSH SHAPIRO, CHAIR

VALERIE A. ARKOOSH, MD, MPH, VICE CHAIR

BRUCE L. CASTOR, JR., COMMISSIONER



**MONTGOMERY COUNTY
PLANNING COMMISSION**

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JODY L. HOLTON, AICP
EXECUTIVE DIRECTOR

May 4, 2015

Mr. Mark A. Penecale, Zoning Officer
Abington Township
1176 Old York Road
Abington, Pennsylvania 19001-3713

Re: MCPC #08-0083-003 and -004
Ordinance Enacting Chapter 126 -
Real Estate Registry - Vacant Properties;
Ordinance Enacting Chapter 49 - Vacant
Property Review Board
Abington Township

Dear Mr. Penecale:

We have reviewed the above-referenced ordinances as you requested on April 14, 2015. We forward this letter as a report of our review and recommendations.

Applicant's Proposal

This review is for two proposed ordinances related to vacant properties: Ordinance 126, Establishing a Real Estate Registry; and Ordinance 49, Creating a Vacant Property Review Board. The Review Board would investigate and examine vacant and derelict properties to determine if they should be certified as "blighted". The Registry would help the Code Enforcement Department monitor the number of vacant nonresidential buildings; measure the fire-safety and other impacts of the condition of those properties on neighboring ones; and promote the rehabilitation, rental, or sale of said properties.

Review Comments

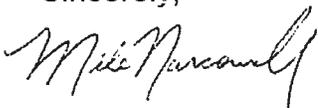
We recognize that vacant buildings can have a deleterious effect on neighborhoods and communities of which they are a part. We support the Township's efforts to monitor and exert a degree of control over its vacant properties so as to limit any negative impacts these buildings might have, and facilitate the productive rehabilitation or reuse of such properties.

If the Township has not already done so, we recommend consulting "From Blight to Bright: A Comprehensive Toolkit for Pennsylvania", published by the PA Department of Community and Economic Development and the PA Housing Alliance (<http://www.pablightlibrary.com/>).

Otherwise, we have identified no major planning issues associated with this proposed ordinance.

Should the governing body adopt these proposed ordinances, Section 609 of the Municipalities Planning Code requires that we be sent an official copy within 30 days.

Sincerely,

A handwritten signature in black ink that reads "Mike Narcowich". The signature is written in a cursive style with a long, sweeping tail on the letter "h".

Mike Narcowich, AICP, Principal Community Planner
610.278.5238 - mnarcowi@montcopa.org

- c: Michael LeFevre, Township Manager
- Lawrence T. Matteo Jr., Director of Planning and Code Enforcement
- Michael E. Powers, P.E., Township Engineer
- Michael P. Clarke, Esq., Rudolph Clarke, LLC, Township Solicitor