

BILL NO. : 1 OF 2021
INTRODUCED: JANUARY 12, 2021
BY: PRESIDENT MATTHEW T SHORRAW
ENACTED: FEBRUARY __, 2021
ORDINANCE NO: 1231

CITY OF MONESSEN

MONESSEN BLIGHTED PROPERTY REVIEW BOARD

ORDINANCE 1231

AN ORDINANCE OF THE CITY OF MONESSEN, WESTMORELAND COUNTY, COMMONWEALTH OF PENNSYLVANIA, RE-ESTABLISHING A BLIGHTED PROPERTY REVIEW BOARD BY AND FOR THE CITY OF MONESSEN; RE-ESTABLISHING A PURPOSE; RE-ESTABLISHING RULES AND REGULATIONS GOVERNING THE BOARD; PROVIDING DEFINITIONS; PROVIDING PROCEDURES FOR THE DETERMINATION, ACQUISITION, AND REUSE OF BLIGHTED PROPERTY; ESTABLISHING AN APPEAL PROCESS; ESTABLISHING ADDITIONAL BOARD FUNCTIONS; REPEALING ORDINANCE 5 OF 2008; REPEALING ORDINANCE 7 OF 1978; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Mayor and Council of the City of Monessen find that Blight in the City is a pervasive problem, which hinders the progress of the City and negatively impacts the public good, and the public's general welfare, and;

WHEREAS, the Mayor and Council of the City of Monessen are interested in ameliorating the City's blight and addressing the affects blight has on the City, and;

WHEREAS, the Mayor and Council of the City of Monessen find it appropriate to re-establish a Blighted Property Review Board by and for the City to address the City's blight.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Council of the City of Monessen and it is hereby ordained and enacted as follows:

Section 1. Short Title.

This Ordinance shall be known as and may be cited as the "Blighted Property Review Board Ordinance."

Section 2. Purpose.

The purpose of these provisions is to establish a Blighted Property Review Board of the City of Monessen to implement provisions of the Urban Redevelopment Law of 1945, as amended by Act 94 of 1978, further amended by Act 113 of 2002, promoting reuse and reinvestment in properties in the City of Monessen.

Section 3. Creation, Members, Duties, Term and Expenditures.

There is hereby established a "Blighted Property Review Board" (hereinafter "Board").

- A. Duties. The Board shall be responsible for the certification to the Monessen Redevelopment Authority of all properties deemed to be vacant or abandoned.
- B. Membership. The Board shall be composed of seven members, who shall serve without compensation. The Board shall include:
 - i. One (1) member of the City Council of the City of Monessen;
 - ii. One (1) representative of the Monessen Redevelopment Authority;
 - iii. One (1) representative of the Monessen Planning Commission;
 - iv. One (1) representative of the executive branch of City Government; and
 - v. Three (3) at-large citizen representatives of the City of Monessen.

Except for the member of the governing body, members shall be appointed by the Mayor and shall be confirmed by a majority vote of Monessen City Council. In the event mayoral appointment does not occur, Council may appoint unfilled positions. In all cases, Council approves all members whether by confirmation or appointment.

- C. Terms. The term of each member shall be for a period of four years and until his or her successor is appointed. A member may be reappointed upon expiration of his or her term. The position of any member of the Board appointed in his or her capacity as a member of the governing body, representative of the Redevelopment Authority, representative of the Planning Commission, representative designated by the Mayor, who ceases to be so engaged shall be automatically considered vacant. An appointment to fill a vacancy shall be only for the unexpired portion of the term.

- D. Organization of the Board. The Board shall establish its own bylaws, establish offices, and elect officers from its own membership. For the conduct of any meeting and the taking of any action, a quorum shall be not less than a majority of the Board as a whole. For the purpose of this Ordinance, the Board will be able to begin holding meetings as soon as a majority of the members have been appointed and approved by Council. Any action taken at any meeting shall require the affirmative vote of a majority of the Board as a whole. No member of the Board shall be permitted to take part in the discussion or vote on any property in which said member has any financial interest, direct or indirect. The Board shall keep full public records of its business and shall submit a report of its activities to City Council at least twice per year.

- E. Removal of members. Any member may be removed for misconduct or neglect of duty or for other just cause by a majority vote of Council taken after the member has received 15 days' advance notice of the intent to take such vote. Failure of a member to attend three consecutive regular meetings of the Board will constitute grounds for immediate removal from the Board by City Council. Failure of a member to attend at least 50% of the regular meetings of the Board in a calendar year will constitute grounds for immediate removal from the Board by City Council. The Chairperson of the Board shall inform the City Clerk in writing when a member has failed to comply with this attendance policy.

- F. Expenditure for services. City Council may appropriate funds for legal, secretarial, clerk, consultant, and other technical assistance, and for the acquisition and maintenance of blighted properties, and any other such expenses incurred in the pursuit of achieving the aims of this Ordinance.

Section 4. Definitions.

For the purpose of this Ordinance, all words used in present tense include the future tense. All words in the plural number include the singular number and all words in the singular number include the plural number, unless the natural construction of the word clearly indicates otherwise. The word "shall" is mandatory and not discretionary. The word "used" includes "designated, intended, built, or arranged to be used."

ABANDONED PROPERTY — shall mean any of the following:

- A. Vacant premises or unimproved lot or parcel of ground on which a municipal lien for the cost of demolition of any structure located on the property remains unpaid for a period of six months after the lien, if filed; or
- B. Vacant premises or vacant or unimproved lot or parcel of ground on which the total of liens on the property for City tax and/or any other type of

- municipal claim exceeds 150% of the fair market value of the property as established by the Westmoreland County Tax Assessment office; or
- C. Premises, which the owner, including an estate, in possession of property has declared to be abandoned.

BLIGHTED PROPERTY — with respect to a single properties or multiple properties shall mean the following:

- A. Single Property. With respect to a Single Property, any property that meets one or more of the following criterion:
- (1) Any premises which because of physical condition or use is regarded as a public nuisance at common law, or has been declared a public nuisance in accordance with the local housing, building, plumbing, fire and related codes.
 - (2) Any premises which because of physical condition, use or occupancy is considered an attractive nuisance to children, including but not limited to abandoned wells, shafts, basements, excavations, and unsafe fences or structures.
 - (3) Any dwelling which because of its dilapidated, unsanitary, unsafe, vermin-infested or lacking in the facilities and equipment required by the housing or building codes of the municipality, has been designated by the department responsible for enforcement of the code as unfit for human habitation.
 - (4) Any structure which is a fire hazard, or is otherwise dangerous to the safety of persons or property.
 - (5) Any structure from which utilities, plumbing, heating, sewerage or other facilities have been disconnected, destroyed, removed, or rendered ineffective so that the property is unfit for its intended use.
 - (6) Any vacant or unimproved lot or parcel of ground in a predominantly built-up neighborhood, which by reason of neglect or lack of maintenance has become a place for accumulation of trash and debris, or a haven for rodents or other vermin.
 - (7) Any unoccupied property which has been tax delinquent for a period of two years prior to the effective date of this Ordinance, and those in the future having a two-year tax delinquency.
 - (8) Any property which is vacant, but not tax delinquent, which has not been rehabilitated within one year of the receipt of notice to rehabilitate from the appropriate code enforcement agency.
 - (9) Any abandoned property. A property shall be considered abandoned if:
 - (a) It is a vacant premises or unimproved lot or parcel of ground on which a municipal lien for the cost of demolition of any structure located on the property remains unpaid for a period of six months; or

- (b) It is a vacant premises or vacant or unimproved lot or parcel of ground on which the total of municipal liens on the property for tax or any other type of claim of the municipality are in excess of 150% of the fair market value of the property as established by any body with legal authority to determine the taxable value of the property; or
- (c) It is a premises that has been declared abandoned by the owner, including an estate that is in possession of the property.
- (10) Any property which has defective or unusual conditions of title or no known owners, rendering title unmarketable.
- (11) Any property which has environmentally hazardous conditions, solid waste pollution or contamination in a building or on the land which poses a direct and immediate threat to the health, safety and welfare of the community.
- (12) Any vacant property which has not been rehabilitated within one year of the record owner's receipt of notice to rehabilitate from the appropriate City code enforcement official or board.
- (13) A property having three or more of the following characteristics:
 - (a) Has unsafe or hazardous conditions that do not meet current use, occupancy or fire codes;
 - (b) Has unsafe external and internal accessways;
 - (c) Is being served by an unsafe public street or right-of-way;
 - (d) Violates the applicable property maintenance code adopted by a municipality and is an immediate threat to public health and safety;
 - (e) Is vacant;
 - (f) Is located in a redevelopment area with a density of at least 1,000 people per square mile or a redevelopment area with more than 90% of the units of property being nonresidential or a municipality with a density of at least 2,500 people per square mile.

BOARD — The Blighted Property Review Board.

CITY — The City of Monessen.

CITY COUNCIL — The legislative body of the City of Monessen, composed of the Mayor and four council members.

CODE — The property maintenance, health, housing, building, fire, electrical, plumbing or other related codes of the City of Monessen.

COMMISSION — The Monessen Planning Commission.

GOVERNING BODY — The City Council of the City of Monessen.

PUBLIC NUISANCE or NUISANCE — Any condition or usage whatsoever in or about buildings, structures or land or the streets or private ways and places, or elsewhere, within the City, whether public or private, which is found to be detrimental to the public health as determined by the Board or other appropriate City office or agency.

REDEVELOPMENT AREA PLAN — Any area, whether improved or unimproved, which the Planning Commission may find to be blighted so as to require development.

REDEVELOPMENT AREA PLAN — A plan for the redevelopment of all or part of a redevelopment area made by a Planning Commission.

REDEVELOPMENT AUTHORITY — Redevelopment Authority of the City of Monessen.

REDEVELOPMENT PROPOSAL — A proposal, including a copy of the redevelopment area plan and supporting data, submitted for approval to the governing body by an authority for the redevelopment of all or part of a redevelopment area.

RESIDENTIAL AND RELATED USE — Includes residential property for sale or rental and related uses, including but not limited to, park and recreation areas, neighborhood community services, and neighborhood parking lots.

VACANT — Any property that meets any of the following:

- (i) the property is unoccupied or its occupancy has not been authorized by the owner of the property;
- (ii) in the case of an unimproved lot or parcel of ground, a lien for the cost of demolition of any structure located on the property remains unpaid for a period of six months; or
- (iii) in the case of an unimproved lot or parcel of ground, the property has remained in violation of any provision of local building, property maintenance or related codes applicable to such lots or parcels, including licensing requirements, for a period of six months.

Section 5. Blighted Property Removal.

Notwithstanding any other provision of law, the Redevelopment Authority shall have the power to acquire by purchase, gift, bequest, eminent domain or otherwise, any blighted property as defined herein, either within or outside of a redevelopment area and, further, shall have the power to hold, clear, manage, lease and/or dispose of said property for residential and related uses. This power shall be exercised in accord with the procedures set for hereinafter.

Section 6. Restrictions.

The Blighted Property Review Board and the City Planning Commission, upon making a determination that any property is blighted as defined in Section 4 of this Ordinance, (above), must certify said blighted property to the Redevelopment Authority except that:

- A. No property shall be certified to the Redevelopment Authority unless it is vacant or abandoned.
- B. No property shall be certified to the Redevelopment Authority unless the owner of the property or an agent designated by him for the receipt of service of notices has been served with notice of the determination that the property is blighted, together with an appropriate order to eliminate the conditions causing blight and notification that failure to do so may render the property subject to condemnation. The notice shall be served upon the owner or his agent.
- C. Procedure. Whenever the Board shall determine, after such examination, investigation or hearing as shall suffice to inform its judgment, that a public nuisance exists or is about to exist, it may order the nuisance to be removed, abated, suspended, altered, or otherwise prevented or avoided. Notice of such order, bearing the official title of the Board and the number of days for compliance therewith and the alternative remedy of the Board in case of noncompliance, shall be served upon the person, if any, whom the Board deems responsible therefor or concerned therein, and upon the owner or abutting owner of the land, premises or other places whereon such a nuisance is or is about to be, if any. In case no such party or parties can be discovered by the Board, the order shall be served by posting a copy or copies thereof conspicuously upon the premises for a period of at least 10 days.
 - (1) Contents of notice. The notice of the Board's order shall clearly specify:
 - (a) The place and manner of the nuisance or anticipated nuisance as determined by the Board.
 - (b) The nature or condition thereof.
 - (c) The Board's order with respect to the nuisance or anticipated nuisance.
 - (d) The name of the persons found by the Board to be responsible therefor or concerned therewith and the name of the owner, if any, of the land or premises involved; in the event the owner or contact cannot be determined, said notice shall reflect this.
 - (e) The date of the Board's order and the number of days there from allowed for compliance with it.
 - (f) The alternative remedy of the Board in case of noncompliance.
 - (g) The signature of the Chair of the Board, attested by the Secretary.
 - (2) Hearing and disposition.

- (a) If any person affected thereby shall apply for a hearing within the time provided, the Board shall promptly notify all interested parties of the time and place of the hearing.
- (b) The Board shall enter upon its minutes such facts and proofs as it may receive, and its proceedings on such hearing and thereafter may rescind, modify or reaffirm its order and require execution of the original or of a new or modified order, as it shall determine and direct.

Section 7. Notice of determination of blight.

The Board shall serve notice of its determination of blight by:

- A. Certified mail and first-class mail to the last known address of the owner or his designated agent within the City or personal service on either person; and
- B. Posting the notice on the premises which the Board has determined to be blighted. The posting shall be recorded by photograph.

Section 8. Appeal of determination of blight.

- A. Any owner or person who is aggrieved by a Board determination that specified property is blighted may appeal the decision in the manner described below. The appeal shall be on a form prescribed by the City and shall state the specific reasons for appeal.
- B. The appeal must be filed with the Redevelopment Authority, in writing, within 30 days after service of the required notice. Appeals shall be filed at the office of the City of Monessen Redevelopment Authority.
- C. Council may, from time to time, establish or modify by resolution an appeal-filing fee. The required fee shall be payable to the City of Monessen and must accompany the appeal. Until modified by Council by any subsequent ordinance or resolution, the appeal filing fee shall be \$150.00.

Section 9. Power to Acquire Blighted Property.

Notwithstanding any other provision of law, the Redevelopment Authority shall have the power to acquire by purchase, gift, bequest, eminent domain or otherwise any blighted property as defined herein, either within or outside a certified redevelopment area, and shall have the power to hold, dear, manage and/or dispose of said property for residential or related uses and commercial or industrial reuse, as provided by law, and consistent with the procedure set forth herein.

Section 10. Reuse of acquired property.

- A. Acquisition and disposition of blighted property shall not require preparation, adoption or approval of a redevelopment area plan or redevelopment proposal, but at least 30 days prior to acquisition of any property, the Redevelopment Authority shall transmit identification of the

property to the Planning Commission and shall request a recommendation as to the appropriate reuse of the property. The Redevelopment Authority shall not acquire the property where the Planning Commission certifies that disposition for residential or related use would not be in accord with the Comprehensive Plan of the City of Monessen.

- B. Property disposed of within a redevelopment area shall be disposed of under a redevelopment contract in accordance with the provisions of the Urban Redevelopment Law.
- C. Property disposed of outside a redevelopment area shall be disposed of by deed in accordance with the provisions set forth in applicable law.
- D. Power of eminent domain shall be exercised pursuant to a resolution of the Redevelopment Authority and the procedures set forth in applicable law.

Section 11. Other Board Functions.

- A. The Board, in its discretion, may advise the Redevelopment Authority in the establishment and modification of policies, priorities and procedures for the disposition of properties which the Redevelopment Authority acquires through the Board's certification process.
- B. The Board, in its discretion, may advise the City's Department of Community Development in matters relating to the provision of financial, advisory and technical assistance to support affecting reinvestment and rehabilitation of properties acquired through the Board's certification process.
- C. The Board, in its discretion, may advise other appropriate agencies in matters relating to the disposition of publicly owned properties in the City.
- D. The Board shall do such other acts, including, but not limited to, promulgating and implementing rules and regulations, subject to Council's approval, as may be necessary to fulfill the duties of Act 94 of 1978 and this Ordinance.

Section 12. Conflict with other laws.

Should any provisions set forth in this Ordinance be found to conflict with any law of the United States or the Commonwealth of Pennsylvania, such federal and/or state laws shall govern and this Ordinance shall be construed accordingly. Such a conflict shall not affect the validity of this Ordinance.

Section 13. Severability

In the event any provision, section, sentence, clause or part of this Ordinance shall be held to be invalid, such invalidity shall be severable and shall not affect or impair any of the remaining provisions, sections, sentences, clauses, or parts of this Ordinance; it being the intent of the City of Monessen that the remainder of the Ordinance shall be and shall remain in full force and effect.

Section 14. Repealer.

All ordinances, including, without limitation, Ordinance 5 of 2008 (Ordinance No. 1124), Ordinance 7 of 1978 (Ordinance No. 811), or resolutions or parts of ordinances or resolutions insofar as they are inconsistent herewith are hereby repealed and rescinded.

Section 15. Effective Date.

This Ordinance shall come into effect ten (10) days after enactment.

ORDAINED AND ENACTED this ____ day of _____, 2021, by the Council of the City of Monessen, in lawful session duly assembled.

ATTEST:

Cheryl Gordon
City Clerk

Matthew T. Shorraw
Mayor and President of Council

[SEAL]