

ORDINANCE NO. 09-2014

COUNTY OF BERKS, PENNSYLVANIA

**AN ORDINANCE OF THE COUNTY OF BERKS CREATING A
BLIGHTED PROPERTY REVIEW COMMITTEE, TO BE KNOWN AS
THE “BERKS COUNTY BLIGHTED PROPERTY REVIEW
COMMITTEE,” AND ALLOWING FOR THE ACQUISITION AND
DISPOSITION OF REAL PROPERTY UNDER CERTAIN CONDITIONS.**

WHEREAS, the Redevelopment Authority of the County of Berks was incorporated on December 29, 1961; and

WHEREAS, the establishment of a Blighted Property Review Committee is provided for in the Urban Redevelopment Law, 1945, May 24, P.L. 991, as amended (the “Act”); and

WHEREAS, it is deemed to be in the best interest of the citizens of the County of Berks that a Blighted Property Review Committee be created and empowered to certify to the Redevelopment Authority of the County of Berks (hereinafter “Redevelopment Authority”) blighted properties within the County of Berks so that the Redevelopment Authority may consider holding, clearing, managing or disposing of property for potential residential and related reuse and commercial or industrial reuse, as such authority is set for under the Act;

NOW, THEREFORE, BE IT ORDAINED, by the Board of Commissioners of the County of Berks, Pennsylvania, as follows:

I. PURPOSE

The purpose of these provisions is to establish a Blighted Property Review Committee of the County of Berks to implement the provisions of the Act and to promote the reuse of blighted properties within the boroughs and townships of the County of Berks. This Blighted Property Review Committee shall be known as the “Berks County Blighted Property Review Committee (hereinafter “Committee”).

II. DEFINITIONS

As used in this Ordinance, the following words or phrases shall have the meaning set forth below:

- (a) “Authority” or “Redevelopment Authority.” The Redevelopment Authority of the County of Berks, Pennsylvania, a public body and a body corporate and politic created on December 29, 1961 pursuant to the provisions of the Urban Redevelopment Law, 1945, May 24, P.L. 991, as amended.
- (b) “Blighted Property.” Blighted property shall include:

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 local housing, building, plumbing, fire or 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 it is dilapidated, unsanitary, unsafe, vermin infested, or lacking in the facilities and equipment required by the housing code of any municipality, has been designated by the department responsible for enforcement of the code as unfit for human habitation.
4. Any structure from which the utilities, plumbing, heating, sewage or other facilities have been disconnected, destroyed, removed, or rendered ineffective so that the property is unfit for its intended use.
5. Any structure which is a fire hazard, or is otherwise dangerous to the safety of persons or property.
6. Any vacant or unimproved lot or parcel of ground, situated within or located in close proximity to a residential 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 property which is vacant, which has not been rehabilitated within one year of the receipt of notice to rehabilitate from a municipal code enforcement agency.
8. Any abandoned property. A property shall be considered abandoned if:
 - a. It is a vacant 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 (6) months;
 - b. It is vacant property 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 the Berks County Tax Assessment Office; or
 - c. The property has been declared abandoned by the owner, including an estate that is in possession of the property.

(c) "Board of Commissioners." The Board of Commissioners of the County of Berks.

(d) "County." The County of Berks, Pennsylvania.

- (e) “Municipal/Municipality.” The County of Berks or any borough or township within the County of Berks.
- (f) “Municipal Planning Commission.” The local municipal planning commission.
- (g) “County Planning Commission.” The Planning Commission of the County of Berks.
- (h) “Redevelopment Area.” Any area, whether improved or unimproved, which the Planning Commission may find to be blighted because of the existence of the conditions enumerated herein, so as to require redevelopment under the provisions of the Urban Redevelopment Law of 1945, as amended.
- (i) “Redevelopment Contract.” A contract between the Redevelopment Authority and the redeveloper for the redevelopment of an area under the provisions of the Urban Redevelopment Law of 1945, as amended.
- (j) “Residential and Related Use.” Residential and related use shall include residential property for sale or rent and related uses, including but not limited to, park and recreation areas, neighborhood community service, and neighborhood parking lots.

III. LEGISLATIVE FINDINGS

- (a) There exists within the boroughs and townships of the County, properties which have become derelict, abandoned, or unfit for human habitation or other use by reason of age, obsolescence, prolonged vacancy, dilapidation, deterioration, lack of maintenance and care or general neglect (hereinafter “Derelict Properties”).
- (b) Such Derelict Properties both individually and collectively constitute a blight and nuisance in County neighborhoods, and create fire, health, and safety hazards.
- (c) Such Derelict Properties, in many cases, are used for criminal purposes.
- (d) Such Derelict Properties constitute unreasonable interferences with the reasonable and lawful use and enjoyment of other properties in County neighborhoods, are harmful to the social economic wellbeing of the County, depreciate property values, and generally jeopardize the health, safety, and welfare of the public.
- (e) Pursuant to the Berks County Comprehensive Plan, as adopted by the County on September 26, 2013, it is a County objective to promote growth and development in a manner that maintains the high quality of life for residents of the County, to protect the livability of residential areas, with an emphasis on strengthening older neighborhoods, and to emphasize redevelopment of older business areas.
- (f) Vacant property can be a resource for the advancement of economic development in the County, including both residential and related reuse and commercial or industrial reuse.

(g) Eminent domain is a proper public purpose which will promote public health, safety, and welfare.

(h) The creation of a Blighted Property Review Committee, pursuant to the Urban Redevelopment Law of 1945, as amended, will provide for a process of certification to the Redevelopment Authority of blighted properties for the Redevelopment Authority to consider holding, clearing, managing, or disposing of property for residential related reuse and commercial or industrial reuse.

IV. COMPOSITION OF COMMITTEE

The Committee shall consist of five (5) members, holding two year terms, as follows:

- (a) One (1) member of the Board of Commissioners.
- (b) A representative of the Redevelopment Authority, appointed by the Authority.
- (c) A representative of the County Planning Commission, appointed by the Commission.
- (d) Two (2) residents of the County, appointed by the Board of Commissioners.

Any vacancy on the Committee shall be filled for the unexpired term by the respective appointing agency as noted in this Section.

V. ADMINISTRATION

Administrative functions of the Committee shall be provided by the Redevelopment Authority.

VI. CERTIFICATION

The Committee, upon consultation with the Municipal Planning Commission and the County Planning Commission, upon making a determination that any property is blighted within the terms of this Ordinance and the Act, may certify said blighted property to the Redevelopment Authority, except that:

- (a) No property shall be certified to the Redevelopment Authority unless it is vacant. A property shall be considered vacant if:
 - (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 (6) months.
 - (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 (6) months.

- (b) No property shall be certified to the Redevelopment Authority unless the owner of the property or an agent designated by him/her for receipt of service of notices within the County 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. Notice shall be served upon the owner or his/her agent in accordance with the rules and regulations established by the Committee. The owner or his/her agent shall have the right to appeal from the determination that the property is blighted.
- (c) 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/her agent has failed to comply with the order of the Committee or the Court.

VII. NOTICE OF DETERMINATIONS

The service of Notice of Determination of blight by the Committee shall be served by the Redevelopment Authority, at a minimum, through the following methods:

- (a) Service by certified Mail and First Class Mail at the last known address of the owner of record;
- (b) Posting of said Notice upon the property that has been determined blighted, record of said posting being made by photograph.

VIII. APPEAL OF DETERMINATION OF BLIGHT

Any owner or person who is aggrieved by the ruling of the Committee that their property has been determined blighted for the reasons set forth in this Ordinance, may appeal the decision as hereinafter stated. The appeal shall be in the form prescribed by the Committee and shall state the specific reasons for the appeal.

The appeal must be filed with the Committee, in writing within thirty (30) days of the date of the receipt of the determination of blight by said owner or his/her agent. Appeals shall be filed at the office of the Redevelopment Authority.

The fee for appeal shall, from time to time, be established by resolution of the Committee. The required fee shall be payable to the Redevelopment Authority and must accompany the appeal.

IX. RULES AND REGULATIONS

The Committee, in consultation with the Redevelopment Authority, may promulgate and implement rules and regulations, not inconsistent with this Ordinance and the Act, to fulfill the

duties, obligations, and administration of the Act and this Ordinance by the Redevelopment Authority.

X. OTHER FUNCTIONS OF THE COMMITTEE

- (a) The Committee may advise, at its own discretion, the County and the Redevelopment Authority in matters relating to the establishment and modification of policies, priorities, and procedures affecting the disposition of properties acquired through the certification process of the Committee.
- (b) The Committee may advise, at its own discretion, the County and the Redevelopment Authority in matters relating to the provision of financial, advisory, and technical rehabilitation assistance affecting reinvestment of properties acquired through the certification process of the Committee.
- (c) The Committee may advise, at its own discretion, other municipal agencies in matters relating to the functions of said agencies affecting the acquisition, disposition and reinvestment of properties acquired through the certification process of the Committee.
- (d) The Committee may advise, at its own discretion, appropriate agencies in matters relating to the disposition of publicly owned properties in the County.
- (e) The Committee may advise, at its own discretion, appropriate agencies in the design, development and implementation of homesteading and other property reinvestment programs which may from time to time be effectuated in the County by such agencies.
- (f) The Committee and the Redevelopment Authority may do any other acts necessary to fulfill the duties, obligations, and administration of the Act and this Ordinance.

XI. REUSE OF ACQUIRED PROPERTY

- (a) Acquisition and disposition of blighted property under this Ordinance shall not require preparation, adoption, or approval of a Redevelopment Area Plan or Redevelopment Proposal, as those terms are defined in the Act, but at least thirty (30) days prior to the acquisition of any property, the Redevelopment Authority shall transmit identification of the property to the Municipal Planning Commission and the County 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 Municipal Planning Commission and the County Planning Commission certify the disposition for residential or related use or commercial or industrial reuse would not be in accord with the Comprehensive Plan of the Municipality or the County.
- (b) Property disposed of within a Redevelopment Area shall be disposed of under a redevelopment contract in accordance with the provisions of the Act.

(c) 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.

XII. OTHER ORDINANCES

All other ordinances or parts of ordinances enacted previous to this Ordinance and inconsistent herewith are hereby repealed.

XIII. EFFECTIVE DATE

This Ordinance shall be effective upon enactment.

ENACTED AND ORDAINED this ____ day of November, 2014.

COUNTY OF BERKS

Christian Y. Leinbach, Chair

Kevin S. Barnhardt, Commissioner

Attest:

Maryjo Gibson, Chief Clerk

Mark C. Scott, Commissioner