

FILE OF THE CITY CLERK

ADMINISTRATIVE ORDINANCE NO. _____, 2014

ADMINISTRATION BILL NO.4 2014

INTRODUCED – _____, 2014

ADOPTED BY COUNCIL – _____, 2014

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LANCASTER, LANCASTER COUNTY, PENNSYLVANIA REQUIRING THE REGISTRATION OF VACANT BUILDING STRUCTURES AND THE PAYMENT OF REGISTRATION FEES FOR THE SAME, SETTING FORTH DEFINITIONS UTILIZED IN THE ORDINANCE, PROVIDING FOR THE APPLICABILITY OF THE ORDINANCE, REQUIRING OWNERS TO FILE A NOTARIZED REGISTRATION STATEMENT, PROVIDING FOR THE DESIGNATION OF LOCAL AGENTS, IMPLEMENTING A DUTY TO AMEND THE REGISTRATION STATEMENT, ESTABLISHING THE FEES FOR REGISTRATION, PROVIDING PROCEDURES FOR APPEALS, PROVIDING THAT DELINQUENT REGISTRATION FEES SHALL BE A LIEN ON THE PROPERTY, PROVIDING FOR A ONE TIME WAIVER OF THE REGISTRATION FEE, PROVIDING FOR ANNUAL AND COMPLIANCE INSPECTIONS, SETTING FORTH PROVISIONS REGARDING RIGHTS OF ENTRY INTO THE 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 THE SEVERABILITY OF THE ORDINANCE; AND PROVIDING THAT THE ORDINANCE SHALL TAKE EFFECT AS PROVIDED BY PENNSYLVANIA LAW.

NOW, THEREFORE, BE AND IT IS HEREBY ORDAINED AND ENACTED by the City Council of the City of Lancaster, Lancaster County, Pennsylvania, as follows:

SECTION 1. Purpose and Enforcement. This Ordinance is adopted to: (1) assist the City of Lancaster in protecting the public health, safety and welfare; (2) monitor the number of vacant buildings and structures in the City; (3) 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; (4) require the owners of

such vacant buildings and structures to register and pay related fees; and (5) promote substantial efforts to rehabilitate such 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 Codified Ordinances of the City of Lancaster 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 words shall have the meanings respectively ascribed to them as follows:

Abandoned Real Property: any real property located in the City, whether vacant or occupied, that is in default on a mortgage, has had a “lis pendens” action filed against it by the lender holding a mortgage on the property, is subject to an ongoing foreclosure action by the Lender, is subject to an application for a tax deed or pending tax assessor’s lien sale or Sheriff’s sale of real estate, or has been transferred to the Lender under a deed in lieu of foreclosure. The designation of a property as “abandoned” shall remain in place until such time as the property is sold or transferred to a new owner, the foreclosure action has been dismissed, and any default on the mortgage has been cured.

Actively Marketing: unless considered as “abandoned real property” as defined above, an owner who, individually or through an agent, has placed a “for sale” or “for lease” sign on the property with accurate contact information, which is also provided to the Bureau of Code Compliance and Inspections and has done at least one of the following:

- 1) Engaged the service of a real estate licensee, whose name, address, telephone number and email will be provided to the Bureau of Code Compliance and Inspections;
- 2) Lists the property in the Multiple Listing Service (MLS);
- 3) Distributed printed advertisements.

Boarded: A building, structure or dwelling unit subject to the provisions of this Ordinance, if in place of one or more exterior doors, other than 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.

Dwelling Unit: A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Notice: Written notice of a violation or requirement under this Ordinance mailed, pursuant to first class mail, to the last known address of the owner of the property in question.

Mortgagee: Any bank, mortgage company, lender, partnership, firm or corporation having a legal or equitable interest in the property; or is the entity noted in documents recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the holder of a mortgage, 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.

Occupied: unless considered as “abandoned real property” as defined above, any building or structure where one or more persons actually conducts a lawful business 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 so occupied may include, but shall not be limited to, the regular receipt of delivery of regular mail through the US Postal Service; proof of continual telephone, electric, gas, heating, water and sewer services; trash collection services; a valid City business license; or the most recent federal, state or City income tax statements indicating that the subject property is the official business or residence address of the person or business claiming occupancy; or current written leases indicating current occupancy of the property.

Open: A building or structure where any one or more exterior doors, other than a storm door, is broken, open and/or closed but without a properly functioning lock to secure it, or if one or more windows are broken or not capable of being locked and secured from intrusion or any combination of the same.

Owner: Any person, agent, operator, partnership, firm or corporation having a legal or equitable interest in the property; or is the person or entity noted in documents recorded in the official records of the state, county or municipality 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.

Public Nuisance: A public nuisance is:

- (a) Any building or structure which because of physical condition or use and has been declared a public nuisance in accordance with the local housing, building, plumbing, fire and related codes.
- (b) Any building or structure which because of physical condition, use or occupancy is considered an attractive nuisance to children or other unauthorized person.
- (c) Any building or structure which because it is dilapidated, unsanitary, unsafe, insect or vermin infested or lacking in the facilities and equipment required by the City of Lancaster Codified Ordinances has been designated by the City as a public nuisance.
- (d) Any building or structure which is a fire hazard or is otherwise dangerous to the safety of person or property.
- (e) Any building or structure, from which water, plumbing, heating, sewage or other facilities have been disconnected, destroyed, removed or ineffective so that the property creates a hazard to neighboring properties.

- (f) Any building or structure which by reason of neglect or lack of maintenance has become a place for accumulation of trash and debris or a haven for rodents and other vermin.
- (g) Any building or structure which lacks an operable fire protection system meeting the requirements of all applicable provisions of the Code of City of Lancaster.
- (h) Any building or structure which as a result of its dilapidated, unsanitary, unsafe, insect or infested condition creates a danger or a risk of danger to a neighboring property.

Vacant: Any building or structure that is not legally occupied and where the wner is not actively marketing the building or structure.

SECTION 3. Applicability and Registration.

- 1) The requirements of this Ordinance shall be applicable to all abandoned real property and every vacant building and structure in the City of Lancaster where the wner is not actively marketing the building or structure and the building or structure is not boarded, and each owner of any building whether governmental, commercial, residential or institutional or owned by a non-profit or a for-profit organization.
- 2) Registration shall be required for all abandoned real property and any vacant buildings and structures, whether vacant and secure, vacant and open, or vacant and boarded where the wner is not actively marketing the building or structure.

SECTION 4. Registration for Abandoned Real Property

- 1) Any mortgagee who holds a mortgage on real property located within the City of Lancaster shall perform an inspection of the property to determine vacancy or occupancy, upon default by the mortgagor. The mortgagee shall, within ten (10) days of the inspection, register the property with the Bureau of Code Compliance and Inspections, or designee, on forms or website access provided by the City, and indicate whether the property is vacant or occupied. A separate registration is required for each property, whether it is found to be vacant or occupied.
- 2) If the property is occupied but remains in default, it shall be inspected by the mortgagee or his designee monthly until (a) the mortgagor or other party remedies the default, or (b) it is found to be vacant or shows evidence of vacancy at which time it is deemed abandoned, and the mortgagee shall, within ten (10) days of that inspection, update the property registration to a vacancy status on forms provided by the City.
- 3) Registration pursuant to this section shall contain the name of the mortgagee and the server, the direct mailing address of the mortgagee and the server, a direct contact name and telephone number for both parties, e-mail address for both parties, the PIN or tax number, and the name and twenty-four (24) hour contact

phone number of the property management company responsible for the security and maintenance of the property.

- 4) All registration fees must be paid directly from the Mortgagee, Servicer, Trustee, or owner. Third Party Registration fees are not allowed without the consent, in writing, of the City and/or its authorized designees.
- 5) This section shall also apply to properties that have been the subject of a foreclosure sale where the title was transferred to the beneficiary of a mortgage involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure/sale.
- 6) Properties subject to this section shall remain under the annual registration requirement, and the inspection, security and maintenance standards of this Ordinance as long as they remain vacant, in default, or identified as a public nuisance.
- 7) Pursuant to any administrative or judicial finding and determination that any property is in violation of this Ordinance, the City may take the necessary action to ensure compliance with the Ordinance and place a lien on the property for the cost of the work performed to benefit the property and bring it into compliance with the Ordinance.
- 8) For purposes of this Ordinance, registration statements required under this section initially shall be due no later than September 1, 2014.

SECTION 5. Registration Statement for Vacant Property.

- 1) Each owner of a vacant property shall cause to be filed a notarized registration statement on a form prepared and provided by the Bureau of Code Compliance and Inspections of the City of Lancaster, which shall include but not be limited to the street address and parcel number of each vacant building, the names and addresses and telephone number of all owners, as hereinafter described, and any other information deemed necessary by the Bureau of Code Compliance and Inspections Office or Lancaster City Fire Bureau. The following information shall also be provided on or with the Registration Statement:
 - (a) If the owner is a corporation, the registration statement shall provide the names and residence addresses of all officers and directors of the corporation and shall be accompanied by a copy of the most recent relevant filing with the Pennsylvania Department of State.
 - (b) If the owner is an estate, the name and business address of the executor or administrator of the estate;
 - (c) If the owner is a trust, the name and address of all trustees, grantors and beneficiaries;
 - (d) If the owner is a partnership, the names and residence addresses of all partners with an interest of ten (10) percent or greater;

- (e) If the owner is another form of unincorporated association, the names and residence addresses of all principals with an interest of ten (10) percent or greater;
 - (f) If the owner is an individual person, the name and residence address of that individual person.
- 2) The filing fee for the Registration Statement and, where applicable, other registration fees as required by this Ordinance shall be billed by the City of Lancaster for the subject year no later than November 15th, or if November 15th falls on Saturday or Sunday, by the preceding Friday, of each year and shall be filed and paid by December 31.
 - 3) For purposes of this Ordinance, registration statements required under this section initially shall be due on September 1, 2014.

SECTION 6. Local Agent. If none of the persons listed as an owner, mortgagee, executor, administrator, trustee, or principal on the Registration Statement has an address in Lancaster County, the Registration Statement also shall provide the name, address, telephone number and email address of a person who resides within the County of Lancaster and who shall be designated by the owner as the responsible, Local Agent who is authorized to accept service of process, notices, statements, invoices and other communications resulting from and/or relating to this Ordinance on behalf of the owners. The Local Agent shall be responsible for, including but not limited to, providing City of Lancaster code officials with access to the building or structure for the purposes of making inspections, receiving 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. The owner and Local Agent shall be jointly and severally legally responsible for compliance with the City of Lancaster Codes and Codified Ordinances and the laws of the Commonwealth of Pennsylvania with regard to the registered property.

SECTION 7. 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 mortgagee, owner and/or Local Agent to contact the Code Compliance and Inspection Office within thirty (30) calendar days of the occurrence of such change and advise the Office in writing of those changes. Failure of the mortgagee, owner and/or Local Agent to modify the registration form from time to time to reflect a change of circumstances as required by this Ordinance is a violation of the Ordinance and shall be subject to enforcement.

SECTION 8. Fees.

- 1) The owner of each vacant property as of November 1st of each calendar year shall be responsible for the filing of his/her Registration Statement and, where applicable, payment of the non-refundable registration fee. Said fee shall be \$100 per year, per building and structure which has not been declared a public nuisance by the City of Lancaster Bureau of Code Compliance and Inspections, Bureau of Police or Bureau of Fire and the exterior of said building or structure is

compliant with the applicable building, fire and property maintenance codes and ordinances of the City of Lancaster.

2) The annual fee for a vacant building or structure that is a public nuisance or becomes non-code compliant on the exterior, which may be changed from time to time by resolution of City Council, shall be:

- \$500 for buildings or structures that have been vacant for up to, but no more than, two years;
- \$1,000 for buildings or structures that have been vacant for at least two but no more than five years;
- \$2,500 for buildings or structures that have been vacant for at least five but no more than ten years;
- and
- \$5,000 for buildings that have been vacant for ten years or more.

The fee shall increase by \$1,000 for each year beyond the ten years that the building has been vacant.

3) The fees set forth in this Section may be changed from time to time by Resolution of City Council.

SECTION 9. Appeal of Public Nuisance or Non-Code Complaint Structures Determination. An owner may appeal a determination of a public nuisance or exterior non-code compliant ruling to the Housing Code Board of Appeals by filing an application in writing and submitting the required fee no later than ten (10) business days after the date of the billing statement.

SECTION 10. Delinquent Registration Fees as a Lien. Except for those mortgagees and owners that have properly submitted an appeal as set forth herein, if the mortgagee or owner fails to pay the amount due within thirty (30) calendar days, said amount shall constitute a debt due and owing to the City of Lancaster, and the City may either enter a lien on the property or turn it over to a collection agency for receipt as provided by law.

SECTION 11. One Time Waiver of Registration Fee. A one time, one year waiver of the annual registration fee may be granted by the Bureau of Code Compliance and Inspections upon application of the mortgagee or owner, and upon review and advice of the Solicitor's Office, within ten (10) business days of the date of the bill for the annual registration fee, if the mortgagee or owner:

1. Demonstrates with satisfactory proof to the Bureau of Code Compliance and Inspections or Bureau of Fire that he/she has submitted a valid architectural plan, based on the City's permits and planning application procedures, and otherwise has shown

good faith efforts to efficiently rehabilitate, demolish or otherwise substantially repair or improve said vacant building or structure; or

3. Properly secures the property from entry, removes all exterior hazards as determined by the Bureau of Code Compliance and Inspections or Fire Bureau (broken glass, loose building materials, etc.), maintains grass and weeds, and removes all trash on the exterior of the property. Failure to do any of the above will result in the full annual registration fee being due and payable immediately upon written notice from the City.

SECTION 12. Decision on Application for Waiver. Within thirty (30) days after the waiver application is received by the Bureau of Code Compliance and Inspections, and upon review by said Bureau and upon the advice of the Solicitor's Office, the Bureau of Code Compliance and Inspections shall grant or deny the waiver in writing, and dispatch the written decision by mail to the mortgagee or owner. If the mortgagee or owner properly submitted an application for a one-time waiver to the Bureau of Code Compliance and Inspections and that application was denied, the mortgagee or owner may seek an appeal by filing an appeal request to the Housing Board of Appeals, in writing, within ten (10) business days of receipt of the denial.

SECTION 13. Inspections.

1. **Annual Inspections.** An inspection of the registered vacant building may be performed by the Bureau of Code Compliance and Inspections annually or as necessary. If violations are identified, the Bureau of Code Compliance and Inspections shall issue a notice of violation as per the requirements of the City of Lancaster's Property Maintenance Code or Fire Code and give notice to the mortgagee or owner to comply with the codes with a reasonable time to cure. If the violations are not corrected within the time given, the property shall be declared a public nuisance in accordance with this Ordinance.

2. **Complaint Inspections.** Nothing in this Part shall preclude a City code official from performing an inspection upon receipt of a complaint of violation of any City Ordinances.

3. **Right of Entry.** Code officials are authorized to make inspections at any reasonable hour to determine compliance with the aforementioned codes. Every mortgagee, owner, local agent, or operator shall allow inspectors, officers or representatives of the Bureau of Code Compliance and Inspections or Fire Bureau unrestricted access.

4. **Search Warrant.** If any mortgagee, owner, local agent or other person in charge of a building or structure subject to the provisions of this Ordinance refuses, impedes, inhibits, interferes with, restricts or obstructs entry and access to every part of the structure or premises where inspection authorized by this Ordinance is sought, the appropriate City Code Official, 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 a reasonable or probable cause to conduct such an inspection.

5. Notice. All notices scheduling an inspection shall be mailed via regular mail to the owner of record with a copy mailed via regular mail to the local agent.

6. Failure to Appear for Inspection. If the mortgagee, owner or his/her local agent cannot be available at the proposed time, said mortgagee, owner or local agent shall provide no less and 24-hour written notice to the Bureau of Code Compliance and Inspections. Upon failure to give such written notice or upon failure to gain entry, an administrative fee of \$75 will be assessed against the owner. For each rescheduling beyond the second rescheduling an administrative fee of \$100 shall be assessed. Failure to pay the administrative fee shall, at the discretion of the City code official, constitute a violation of this Ordinance, and/or the applicable City code. Failure of a mortgagee, owner or his/her local agent to appear for a scheduled inspection shall be considered probable cause for obtaining a search warrant to inspect the premises.

7. Special Requested Inspections. Whenever an owner, mortgagee, purchaser or other 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 other applicable City Ordinances pertaining to structural condition; if such request is made in connection with the sale, conveyance, transfer, financing or refinancing of such property; the requestor shall pay a fee of \$200 to the City of Lancaster to defray the expenses of making such inspection, which fee may be changed from time to time by Resolution of City Council.

SECTION 14. Appeal Rights.

1) Registration Fees. The mortgagee or owner shall have the right to appeal the imposition of registration fees by reason of the property being vacant to the Housing Code Board of Appeals upon filing an appeal in writing to the Bureau of Code Compliance and Inspections no later than ten (10) business days after the date of the billing statement. On appeal, the mortgagee or owner shall bear the burden of providing satisfactory objective proof of occupancy.

2) Public Nuisance and Exterior Non Code Compliance. The mortgagee or owner shall have the right to appeal the determination that a building or structure is a public nuisance or the exterior is non-code compliant to the Housing Code Board of Appeals upon filing an appeal in writing to the Bureau of Code Compliance and Inspections no later than ten (10) business days after notification of said determination. On appeal, the mortgagee or owner shall bear the burden that the property is not a public nuisance and the exterior is code compliant.

- 3) Fees. The fee for filing of an appeal to Housing Code Board of Appeals shall be \$100, which fee may be changed from time to time by Resolution of City Council. Failure to submit the appropriate fee with the request for an appeal shall result in automatic denial of the appeal. In addition to said fee, the appellant shall be responsible for all costs incurred to conduct a hearing beyond that covered by the fee, including advertising and legal fees.

SECTION 15. Administration and Enforcement. Administration and enforcement of this section shall remain under the control of the Bureau of Code Compliance and Inspections and the Lancaster City Bureau of Fire. The City of Lancaster retains the right to engage the services of a third-party to administer any or all of the provisions of this Ordinance.

SECTION 16. Violations and Penalties.

1. Violations. The failure or refusal for any reason of any owner, or local agent of an owner acting on behalf of the owner, to file a Registration Statement, to pay any fees required to be paid pursuant to the provisions of this Part, or to appear for an inspection, shall constitute a violation. The violations shall be deemed a strict liability offense.
2. Prosecution of Violations. The Chief Building Official and/or Bureau Chief of Code Compliance and Inspections or the Fire Marshal or their designee(s) shall have the authority to institute the appropriate proceedings at law or in equity, to correct or abate such violation of the provisions of this Part or of the order or direction made pursuant thereto. Such authority shall include but not be limited to the institution of summary criminal proceedings via the issuance of a non-traffic citation in accord with the Pennsylvania Rules of Criminal Procedures in the court of appropriate jurisdiction.
3. Penalties. Any person who shall violate any provision of this Article shall, upon conviction thereof, be sentenced to pay a fine of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1000) for the first two continual and uncorrected failure or refusal to register, or for each failure or refusal to pay; and not exceeding five thousand dollars (\$5000) for the third and any subsequent continual and uncorrected failure or refusal to register or for each subsequent failure or refusal to pay; or imprisonment for any term not exceeding ninety (90) days. Each day that a violation of this Article continues, or each section of this Article which shall be found to have been violated, shall constitute a separate offense.
4. Remediation of Public Nuisance. In addition to the fines as set forth above, the owner of the property can be required to immediately address and eliminate the public nuisance. Failure to do so within fifteen (15) business days of notification, weather permitting, will allow the City to proceed to hire a qualified contractor of its sole choosing to eliminate the public nuisance. The City shall bill the owner for said work and payment will be due within fifteen (15) business days of the date of the invoice or do the work itself. Failure of the owner to pay the City will constitute a debt due and owing to the City, and the City may either enter a lien on the property for the full amount invoiced, plus costs, or turn it over to a collection agency for receipt as provided by law.

SECTION 17. Compliance with Other Codes. In no instance shall the registration of a vacant building and the payment of registration fees be construed to exonerate the owner, local agent or other responsible party from responsibility for compliance with any other City of Lancaster Code or Ordinance.

SECTION 18. 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 of Lancaster as may be deemed appropriate for carrying out the proposes 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 of Lancaster in the case of a violation of any other City of Lancaster Code or Ordinance, whether or not such other code or ordinance is referenced in this Article, and whether or not an ongoing violation of such other code or ordinance is cited as the underlying ground for a finding of a violation of this Article.

SECTION 19. Blighted Property Review. Nothing in this Ordinance shall be meant or utilized to override or circumvent a property under consideration, review and in the process of rehabilitation by the City of Lancaster Property Reinvestment Board program. A property under agreement with the Property Reinvestment Board or Redevelopment Authority to be rehabilitated shall continue to be required to register as a Vacant Building or Structure pursuant to this Ordinance.

SECTION 20. All ordinances or resolutions or parts of ordinances or resolutions insofar as they are inconsistent herewith are hereby repealed and rescinded.

SECTION 21. In the event any provision, section, sentence, clause or part of this Ordinance shall be held to be invalid, such invalidity 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 Lancaster that the remainder of the Ordinance shall be and shall remain in full force and effect.

SECTION 22. This Ordinance shall become effective as provided by the laws of the Commonwealth of Pennsylvania.

DULY ORDAINED AND ENACTED this _____ day of _____, 2014, by the Council of the City of Lancaster, Lancaster County, Pennsylvania, in lawful session duly assembled.

ATTEST:

CITY OF LANCASTER

Janet Spleen, City Clerk

By: _____
J. Richard Gray, Mayor