

ORDINANCE NO. 784

THE BOROUGH OF DARBY, DELAWARE COUNTY

AN ORDINANCE AMENDING CERTAIN SECTIONS OF THE BOROUGH CODE BY REQUIRING ALL PURCHASES OF ANY BUILDING OR STRUCTURE WITHIN THE BOROUGH OF DARBY KNOWN TO HAVE ONE OR MORE BOROUGH CODE VIOLATION(S) TO BRING THAT BUILDING OR CODE INTO COMPLIANCE WITH THE BOROUGH CODE WITHIN 12 MONTHS OF THE DATE OF PURCHASE IN ACCORDANCE WITH ACT NO. 2016-133; REQUIRING THE PURCHASER OF REAL PROPERTY TO MAKE REASONABLE ATTEMPTS TO ABATE NUISANCE ORDINANCE VIOLATIONS RELATING TO MAINTENANCE, HEALTH, OR SAFETY WITHIN TWELVE (12) MONTHS OF THE DATE OF PURCHASE; AUTHORIZING THE ISSUANCE OF TEMPORARY ACCESS CERTIFICATES, TEMPORARY USE AND OCCUPANCY CERTIFICATES, USE AND OCCUPANCY CERTIFICATES IN ACCORDANCE WITH ACT NO. 2016-133; AUTHORIZING THE IMPOSITION OF PENALTIES FOR FAILURE TO DO SO, WHILE PRESERVING ALL REMEDIES TO THE RECOVERY, PREVENTION, ABATEMENT OR RESTRAINT OF CODE VIOLATIONS UNDER OTHER STATUTES AND ORDINANCES.

BE IT ORDAINED BY THE COUNCIL OF THE BOROUGH OF DARBY AND IT IS HEREBY ORDAINED BY AND WITH THE AUTHORITY OF THE SAME AS FOLLOWS:

SECTION 1
SHORT TITLE

This Ordinance may be cited as the Borough of Darby Municipal Code and Ordinance Compliance Ordinance.

SECTION 2
PURPOSE

This Ordinance is to implement in the Borough of Darby the provisions of the act of November 3, 2016 (P.L. 1047, No. 133), 68 P.S. Ch. 25, known as the Municipal Code and Ordinance Compliance Act.

The Council of the Borough of Darby finds that there exists deteriorated properties within the Borough as a result of neglect by their owners in violation of applicable State and municipal codes and municipal ordinances; and

The Council of the Borough of Darby finds that the deteriorated properties create public nuisances which have an impact on crime and the quality of life of the Borough's residents and require significant expenditures of public funds in order to abate and correct the nuisances; and

The Council of the Borough of Darby finds that the deteriorated properties are being sold and purchased with knowledge of the existing deteriorated conditions and no action is being taken by the sellers and/or purchasers to remedy the existing condition; and

The Council of the Borough of Darby finds that the sale and purchase of the deteriorated properties interferes with enforcement actions initiated by the Borough of Darby, causes the Borough of Darby to take unnecessary duplicative action and expend public funds unnecessarily in initiating enforcement actions against both sellers and purchasers, and allows the aforesaid buildings to remain in a deteriorated condition for a longer period of time; and

In order to protect the health, safety and welfare of the residents of the Borough of Darby, the Council of the Borough has determined it is appropriate to require purchasers of any such deteriorated properties and/or public nuisances to remedy the existing conditions within a reasonable amount of time of purchase or face penalties for failing to do so.

SECTION 3

DEFINITIONS

The following words and phrases when used in this Ordinance shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Act.” November 3, 2016 (P.L. 1047, No. 133), 68 P.S. Ch. 25, known as the Municipal Code and Ordinance Compliance Act.

“Borough.” The Borough of Darby.

“Council.” The Council of the Borough of Darby.

“Date of purchase.” The closing date on which title and right to possess the property transfers to the purchaser and in cases where the property is sold pursuant to the act of May 16, 1923 (P.L.

207, No. 153), referred to as the Municipal Claim and Tax Lien Law, the first day following the right of redemption period authorized under the Municipal Claim and Tax Lien Law.

"Substantial violation." A violation of an adopted building, housing, property maintenance or fire code or maintenance, health or safety nuisance ordinance that makes a building, structure or any part thereof unfit for human habitation and is discovered during the course of a municipal inspection of a property and disclosed to the record owner or prospective purchaser of the property through issuance of a municipal report.

"Temporary access certificate." A certificate issued by the Borough as a result of the municipal inspection of a property incident to the resale of the property that identifies at least one substantial violation, and the purpose of the certificate is to authorize the purchaser to access the property for the purpose of correcting substantial violations pursuant to the maintenance and repair provisions of this act.

"Temporary use and occupancy certificate." A certificate issued by the Borough as a result of the municipal inspection of a property incident to the resale of the property that reveals a violation but no substantial violation, and the purpose of the certificate is to authorize the purchaser to fully utilize or reside in the property while correcting violations pursuant to the maintenance and repair provisions of this act.

"Unfit for human habitation." A condition which renders a building or structure, or any part thereof, dangerous or injurious to the health, safety or physical welfare of an occupant or the occupants of neighboring dwellings. The condition may include substantial violations of a property that show evidence of: a significant increase to the hazards of fire or accident; inadequate sanitary facilities; vermin infestation; or a condition of disrepair, dilapidation or structural defects such that the cost of rehabilitation and repair would exceed one-half of the agreed-upon purchase price of the property.

"Use and occupancy certificate." A certificate issued by the Borough stipulating that the property meets all ordinances and codes and may be used or occupied as intended.

"Violation." A violation of a properly adopted building, housing, property maintenance or fire code or maintenance, health or safety nuisance ordinance that does not rise to the level of a substantial violation and is discovered during the course of a municipal inspection of a property and disclosed to the record owner or prospective purchaser of the property through issuance of a municipal report.

SECTION 4

COMPLIANCE REQUIREMENT: BUILDINGS AND STRUCTURES

Within twelve (12) months of the date of purchase, or longer subject to an agreement between the purchaser and the Borough, any purchaser of any building, structure or part of a building or structure known to have one or more violations or one or more substantial violations of the Borough municipal codes relating to building, housing, property maintenance or fire shall: (a) bring the building, structure or that part of a building or structure into compliance with those codes; or (b) demolish the building or structure in accordance with the law.

SECTION 5

COMPLIANCE REQUIREMENT: LOTS AND PARCELS

Any purchaser of any lot or parcel of land having one or more substantial violations of Borough municipal nuisance ordinances relating to maintenance, health or safety is required to make a reasonable attempt to abate the nuisance within one (1) year of the date of purchase.

SECTION 6

ISSUANCE OF TEMPORARY ACCESS CERTIFICATES

If the Borough determines through an inspection that a property has at least one substantial violation, the Borough may issue a Temporary Access Certificate solely for the purpose of correcting substantial violations pursuant to the maintenance and repair provisions of the Act.

A. No Occupancy

No person shall occupy a property during the term of the Temporary Access Certificate.

B. Reinspection

The Borough shall reinspect the premises for the purposes of determining compliance with the Borough Code. Provided however, the property owner may request an early inspection and the Borough may conduct said reinspection consistent with the business of the Borough. In the event that the substantial violations are not corrected within twelve (12) months, the Borough shall revoke the Temporary Access Certificate and avail itself of any remedies available at law. In the event that the violations are corrected within twelve (12) months, the Borough shall issue an Use and Occupancy Permit.

SECTION 7
ISSUANCE OF A TEMPORARY USE AND OCCUPANCY PERMIT

If the Borough determines through an inspection that a property has at least one violation, the Borough may issue a Temporary Use of Occupancy and Occupancy Permit.

A. Reinspection

The Borough shall reinspect the premises for the purposes of determining compliance with the Borough Code. Provided however, the property owner may request an early inspection and the Borough may conduct said reinspection consistent with the business of the Borough. In the event that the violations are corrected within twelve (12) months, the Borough shall issue an Use and Occupancy Permit. In the event that the violations are not corrected within twelve (12) months, the Borough shall revoke the Temporary Use and Occupancy Permit and avail itself of any remedies available at law.

SECTION 8
ENFORCEMENT

(a) Enforcement of this Ordinance shall be made by the filing of a criminal complaint, pursuant to Pennsylvania Rules of Criminal Procedure, in the appropriate Magisterial District Court. The Borough's Solicitor may assume charge of the prosecution without the consent of the District Attorney, as required under Pennsylvania Rule of Criminal Procedure.

(b) Violations of the property maintenance code or ordinance may also be enforced by the institution of appropriate actions or proceedings at law or in equity to prevent or restrain property maintenance provisions.

SECTION 9
PENALTIES

The violation of this Ordinance shall constitute a summary offense. Any purchaser failing to comply with the requirements of this Ordinance shall be held personally liable for the costs of repairs or demolition and a criminal fine of \$1,000 per violation or imprisonment, as allowed by

law for the punishment of a summary offense, plus court costs and reasonable attorney fees incurred by the Borough in the enforcement proceedings. A separate violation shall arise for each day of the violation and for violation of each applicable section of this Ordinance.

SECTION 10
MISCELLANEOUS

Nothing in this Ordinance shall be construed to abridge or alter the remedies now existing at common law, by statute or by ordinance, but the provisions of this Ordinance are in addition to such remedies.


SECTION 11
SEVERABILITY

The provisions of this Ordinance shall be severable and if any of its provisions are found to be unconstitutional or illegal the validity of any of the remaining provisions of this Ordinance shall not be affected thereby.

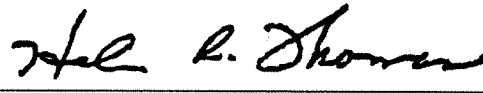
SECTION 12
EFFECTIVE DATE

This Ordinance shall take effect in accordance with the applicable law.

ENACTED AND ORDAINED this 15th day of February, 2017 by the Borough of Darby, Delaware County, in law session, duly assembled.



COUNCIL PRESIDENT
BOROUGH OF DARBY



MAYOR
BOROUGH OF DARBY

ATTESTED:



BOROUGH SECRETARY