

ORDINANCE 729

AN ORDINANCE OF THE TOWNSHIP OF DARBY

DELAWARE COUNTY, PENNSYLVANIA

An Ordinance of the Township of Darby providing for the vacating, removal, repair or demolition of any structures dangerous to the health, safety and welfare of the people of the Township; and setting forth the procedure and rules for determining dangerous structures.

WHEREAS, the Township desires to regulate dilapidated, unsafe, dangerous and abandoned buildings which tend to constitute a public nuisance and/or a fire hazard.

NOW THEREFORE, be it enacted and ordained by the Township of Darby as follows:

Section 1. - Short Title: This Ordinance shall be known as and may be cited as "Township Dangerous Buildings Ordinance".

Section 2. - Application: This Ordinance shall apply uniformly to all persons, business organizations, non-profit organizations, and all other legal entities; and it shall apply uniformly to all property and all property owners within the Township:

Section 3. - Definitions and Word Usage:

- a) Unless otherwise specifically defined below, words or phrases used herein shall be interpreted so as to give them the same meaning as they have in common usage and so as to give the ordinance its most reasonable application consistent with its intent.
- b) The word "shall" is always mandatory and not merely directory.
- c) The words "Board of Commissioners" shall mean the existing elected or appointed members of the Board of Commissioners of the Township of Darby.
- d) The word "Township" shall mean the Township of Darby.
- e) The words "dangerous buildings" shall mean all the buildings or structures which have any or all of the following defects; and all such buildings or structures shall be deemed "dangerous buildings" as:
 1. Those which have been damaged by fire, wind or other cause so as to fail utterly to provide the amenities essential to decent living and are unfit for human habitation.
 2. Those which have been damaged by fire, wind or other cause so as to have become dangerous to the life and safety, morals, or the general health and welfare of the occupant or the people of the Township.
 3. Those which have become or are so dilapidated, decayed, unsafe, unsanitary or which is so utterly fail to provide the

amenities essential to decent living so that they are unfit for human habitation.

4. Those which have become or are so dilapidated, decayed, unsafe, unsanitary or which are so utterly fail to provide the amenities essential to decent living and are likely to cause accidents, sickness, or disease, so as to work injury to the health, morals, safety or general welfare of those living therein as well as other citizens of the Township.
 5. Those which have parts thereof which are so attached that they might fall and injure members of the public or adjoining property, or
 6. Those which, because of their general condition are unsafe, unsanitary or dangerous to the health, morals, safety or general welfare of the people of the Township.
- f) Words used in the present text include the future and past, words in the plural number include the singular, words in the singular number include words in the plural and words either in the feminine, masculine or neuter shall include works of the other two (2) genders.

Section 4. - Dangerous Buildings as Nuisances:

- a) All "dangerous buildings" are hereby declared to be public nuisances and shall be repaired, vacated and/or demolished.
- b) Each day a nuisance in the form of a dangerous buildings continues after notice is given that said dangerous buildings is to be repaired, vacated and/or demolished, shall constitute a separate offense in violation of this Ordinance.

Section 5. - Investigation Procedure: Whenever it is reported or comes to the attention of any person, citizen, Township official or police officer that any building or structure completed or in the process of construction or any portion thereof is in a dangerous condition, such person shall report the same to the Board of Commissioners and/or the Township Manager. If reported to the Township Manager, then the Township Manager shall notify the Board of Commissioners.

The board of Commissioners shall then designate the Township official, a committee or a police officer to make an investigation and examine the building or structure reported. If the official, committee, or police officer making the investigation believes that the structure is a dangerous building, then a written report of the investigation specifying the condition of the structure and in what respect it is dangerous shall be made and presented to the Board of Commissioners and the Township Engineer. The report may recommend whether the building can be repaired or whether it shall be removed as a dangerous building.

Section 6. - Hearing Procedure: The Board of Commissioners shall:

- a) Upon receipt of a report in accordance with the investigation procedure provided hereinabove in Section 5 of this Ordinance, give written notice to the owner or owners of such dangerous buildings as determined by the records in the County assessment

and Recorder of Deeds Offices and for the County, in the Commonwealth of Pennsylvania, or failing to find any owner or owners, then notice shall be given to the occupant, mortgagee, lessee, agent or any other person found with an interest in said dangerous buildings as the Township may discover, and said notice shall inform the owner or other party to appear before the Board of Commissioners and/or Township Manager on a date specified to show cause why the building or structure reported as a dangerous building should not be repaired, demolished or vacated in accordance with any written report to the Board of Commissioners or determination made by the Board of Commissioners.

- b) Within not less than ten (10) days nor more than sixty (60) days from the date of such notice, hold a hearing and hear such testimony as the owner, occupant, mortgagee, lessee or other person having an interest in said building shall offer related to the dangerous building.
- c) Within thirty (30) days of such hearing make written findings of fact from the testimony offered pursuant to the hearing as to whether or not the building in question is a dangerous building; and,
- d) Within not more than thirty (30) days following the hearing provided for by subsection b) hereof, issue an order, based upon findings of fact made pursuant to subsection c) hereof, demanding the owner of said building to repair, demolish or vacate any building found to be a dangerous building.

Section 7. - Standards for Repair, Vacation or Demolition: The following standards shall be followed in substance by the Board of Commissioners in ordering repair, vacation or demolition of a dangerous building:

- a) If the dangerous building can be repaired as determined by the Board of Commissioners so that it will no longer exist in violation of the terms of this Ordinance, it shall be ordered repaired.
- b) If the dangerous building is in such condition as to make it dangerous to the health morals, safety, or general welfare of its occupants, it shall be ordered to be vacated.
- c) If the dangerous building cannot be reasonably repaired as determined by the Board of Commissioners it shall be demolished.
- d) If the dangerous building is a fire hazard or is existing or erected in violation of the terms of the Ordinance, any other Ordinance of the Township or any statute of the Commonwealth of Pennsylvania, it shall be demolished.

Section 8. - Enforcement Procedures:

- a) If any structure is deemed to be a dangerous building within the standards of this Ordinance after the hearing, then the Board of Commissioners within the time set forth in Section 6d) of this Ordinance shall cause notice of this order issued under Section 6d) of this Ordinance to be served upon the owner or owners of

such dangerous buildings as determined by the records previously or who appeared at the hearing, or to the occupant mortgage, lessee, agent or any other person found with an interest in said dangerous building who can be located.

- b) The notice and order required by this section shall be served personally upon the owner or owners of a dangerous building if such owner resides, or such owners, reside in the Township or personally upon his agent if such agent resides within the Township. If personal service required herein cannot be obtained, such notice shall be sent to the owner or owners of a dangerous building by certified mail to the last known address according to the records available in the Tax Assessment Office in and for the County of Delaware in the Commonwealth of Pennsylvania.
- c) The notice and order shall identify the building or structure deemed dangerous; contain a statement of the particulars which made this building or structure a dangerous building and include an order requiring the same to be put in such condition as to conform with the terms of this Ordinance; provided further in any case where the notice prescribes the repair of any structure, the owner thereof shall have the option to remove such structure, in lieu of making the repairs thereto within the time period provided.
- d) The notice and order shall require any person notified to repair, vacate or demolish any building to commence the work or act required by the notice, within ten (10) days of such notice and to comply with such repair, vacation or demolition within sixty (60) days from the receipt of such notice.

Section 9. - Penalties:

- a) Any owner, occupant or lessee who is in possession of any dangerous building who shall fail to comply with any notice or order to repair, vacate or demolish any dangerous building issued under Section 8 of this Ordinance or who violates any of the other provisions of this Ordinance, shall upon conviction before the Magisterial district Justice, be subject to a fine not exceeding One Thousand Dollars (\$1,000.00) plus costs, and in default of payment of the fine and costs shall be subject to imprisonment for a period not to exceed thirty (30) days. Each day of a violation shall be considered separate violations and offenses.
- b) Any person having an interest in any building who fails to comply with any notice or order to repair, vacate, or demolish any dangerous building within ninety (90) days of the receipt of such notice, by such failure does empower the Board of Commissioners cause such building or structure to be repaired, vacated or demolished by the Township and to cause the costs of such repair, vacation or demolition together with a penalty of ten percent (10%) to be charged upon the land upon which the building exists as a municipal lien, or alternatively to remove such costs and penalty in a suit at law against the owner or owners but failing to recover same to have the judgment therefore to be charge upon the land as a lien; and, this subsection is separate from in

addition to the fine, penalty and costs which may be imposed by any other sub-section of this section.

Section 10. - Emergency Cases: In cases where it reasonably appears that there exists an immediate danger or to the life or safety of any person caused or created by a dangerous building, the Board of Commissioners shall cause the immediate repair, vacation or demolition of such dangerous building. The costs of such emergency repair, vacation or demolition of such dangerous building shall be collected as provided for in Section 9b) of this Ordinance.

Section 11. - Severability:

- a) In the event of any provision, section, sentence, clause or part of this Ordinance being held to be invalid, such invalidity shall not affect or impair any remaining provision, section, sentence, clause or part of the Ordinance, it being the intent of the Township that such remainder shall be and shall remain in full force and effect and for this purpose the provisions of this Ordinance are hereby declared to be severable.
- b) In the event of any legislation by the Commonwealth of Pennsylvania becoming effective dealing with the same of similar subject matter as that included herein, such shall remain in full force and effect if it is more restrictive, and not inconsistent with such legislation, but if such legislation is more restrictive than, inconsistent with, or both, then this Ordinance shall be interpreted according to such legislation and shall be superseded to the extent necessary to give such legislation appropriate effect. However, all the remainder of the Ordinance shall be and shall remain in full force and effect and for this purpose the provisions of this Ordinance are hereby declared to be severable.

Section 12. - Repealer: All Ordinances or parts of Ordinances expressly inconsistent herewith, or dealing with the same of similar subject matter of this Ordinance, are expressly repealed.

Section 13. - Effective Date: This Ordinance shall be effective within five (5) days after adopted by the Board of Commissioners.

ENACTED AND ORDAINED by the Board of Commissioners of the Township of Darby this 13th day of September 2017.

TOWNSHIP OF DARBY

BY: Lawrence F. Patterson
Lawrence F. Patterson,
President

ATTEST:

Thomas J. Judge, Sr.
Thomas J. Judge, Sr.,
Secretary