

**COLLEGEVILLE BOROUGH
MONTGOMERY COUNTY, PENNSYLVANIA**

ORDINANCE NO. ____

AN ORDINANCE OF THE BOROUGH OF COLLEGEVILLE, MONTGOMERY COUNTY PENNSYLVANIA, AMENDING THE CODE OF ORDINANCES OF THE BOROUGH OF COLLEGEVILLE, CHAPTER 242, TO CREATE A NEIGHBORHOOD BLIGHT RECLAMATION AND REVITALIZATION ORDINANCE; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Borough of Collegeville under 8 Pa.C.S.A. §3301.1(a), The Borough Code, shall enact ordinances deemed beneficial to the borough;

WHEREAS, there are deteriorated properties located in Collegeville Borough as a result of neglect by their owners in violation of applicable state and borough codes;

WHEREAS, these deteriorated properties create public nuisances which have an impact on crime and the quality of life of residents, business owners and visitors to the Borough and require significant expenditures of public funds in order to abate and correct the nuisances;

WHEREAS, Borough Council deems it to be in the best interests of the public health, safety and welfare to abate deteriorating properties.

NOW, THEREFORE, be it, and it is hereby **ORDAINED** by the Collegeville Borough Council, and it is hereby **ENACTED** and **ORDAINED** by authority of same as follows:

Section I. Chapter 242, "General Legislation", "Blight Ordinance" is created:

§ 242-1 Purpose and intent.

This purpose and intent of this article is to implement in Collegeville Borough 53 Pa.C.S.A. § 6101 et seq. known as the "Neighborhood Blight Reclamation and Revitalization Act." There are deteriorated properties located in Collegeville Borough as a result of neglect by their owners in violation of applicable state and borough codes; and these deteriorated properties create public nuisances which have an impact on crime and the quality of life of residents and require significant expenditures of public funds in order to abate and correct the nuisances; and in order to address these situations, it is appropriate to deny certain governmental permits and approvals in order:

A. To prohibit property owners from further extending their financial commitments so as to render themselves unable to abate or correct the code, statutory and regulatory violations or tax delinquencies.

B. To reduce the likelihood that this Borough and other municipalities will have to address the owners' neglect and resulting deteriorated properties.

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C. To sanction the owners for not adhering to their legal obligations to the Borough of Collegeville, as well as to tenants, adjoining property owners and neighborhoods.

§ 242-2 Definitions.

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

ACT

The Act of October 27, 2010 (P.L. 875, No. 90), 53 Pa.C.S.A. Ch. 61, known as the "Neighborhood Blight Reclamation and Revitalization Act."

BLIGHTED PROPERTY

Any of the following:

- A. Premises which, because of physical condition or use, have been declared by a court of competent jurisdiction as a public nuisance at common law or have been declared a public nuisance in accordance with the local housing, building, plumbing, fire and related codes and ordinances; or
- B. Premises which, because of physical condition, use or occupancy, are considered an attractive nuisance to children, including, but not limited to, abandoned wells, shafts, basements, excavations and unsafe fences or structures; or
- C. A dwelling which, because it is dilapidated, unsanitary, unsafe, vermin-infested or lacking in the facilities and equipment required the Borough Code of Ordinances, has been designated by the Borough as unfit for human habitation; or
- D. A structure which is a fire hazard or is otherwise dangerous to the safety of persons or property; or
- E. A structure from which the utilities, plumbing, heating, water, sewage or other facilities have been disconnected, destroyed, removed or rendered ineffective so that the property is unfit for its intended use;
- F. A 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; or
- G. An unoccupied property which has been tax delinquent for a period of two years; or

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- H. A property which is vacant but not tax delinquent and which has not been rehabilitated within one year of the receipt of notice to rehabilitate from the Borough or other appropriate code enforcement agency.

BUILDING

A residential, commercial or industrial building or structure and the land appurtenant to it.

CODE or BOROUGH CODE

A building, housing, property maintenance, fire, health or other public safety ordinance enacted by the Borough. The term does not include a subdivision and land development ordinance or a zoning ordinance enacted by the Borough or any other municipality.

COURT

The Court of Common Pleas of Montgomery County.

MORTGAGE LENDER

A business association defined as a "banking institution" or "mortgage lender" under 7 Pa.C.S.A. Ch. 61 (relating to mortgage loan industry licensing and consumer protection) that is in possession of or holds title to real property pursuant to, in enforcement of or to protect rights arising under a mortgage, mortgage note, deed of trust or other transaction that created a security interest in the real property.

BOROUGH PERMITS

Privileges relating to real property granted by the Borough of Collegeville that are building permits issued pursuant to the Code of Ordinances of the Borough of Collegeville, and zoning permits, special exceptions, conditional uses and variances granted under Chapter 680, Zoning. The term does not include decisions on the substantive validity of a zoning ordinance or map such a validity variance or the acceptance of a curative amendment nor does it include a use and occupancy permit or certificate.

OWNER

A holder of the title to residential, commercial or industrial real estate, other than a mortgage lender, who possesses and controls the real estate. The term includes, but is not limited to, heirs, assigns, beneficiaries and lessees, provided this ownership interest is a matter of public record, including lessees under leases for which a memorandum of lease is recorded in accordance with the Act of June 2, 1959 (P.L. 254 (vol. 1), No. 86), 21 P.S. § 405.

PUBLIC NUISANCE

Property which, because of its physical condition or use, is regarded as a public nuisance at common law or has been declared by the Borough as a public nuisance in accordance with the Property Maintenance Code adopted in Chapter 495, Uniform Construction Code adopted in Chapter 270, any other applicable Ordinance of Collegeville Borough, or by the Court.

REMEDATION PLAN

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A plan for the correction of violations of state law or code that is part of an agreement between the owner and the Borough or any other municipality in which the real property containing the violations is located.

SERIOUS VIOLATION

A violation of a state law or a code that poses an imminent threat to the health and safety of a dwelling occupant, occupants in surrounding structures or a passerby.

STATE LAW

A statute of the commonwealth or a regulation of an agency charged with the administration and enforcement of commonwealth law.

SUBSTANTIAL STEP

An affirmative action as determined by a property code official or officer of the court on the part of a property owner or managing agent to remedy a serious violation of a state law or borough code, including, but not limited to, physical improvements or repairs to the property, which affirmative action is subject to appeal in accordance with applicable law.

TAX DELINQUENT PROPERTY

Tax delinquent real property as defined under:

- A. The Act of July 7, 1947 (P.L. 1368, No. 542), known as the Real Estate Tax Sale Law; or
- B. The Act of May 16, 1923 (P.L. 207, No. 153), referred to as the Borough Claim and Tax Lien Act; or
- C. Any successor law to any of the above statutes.

BOROUGH

The Borough of Collegeville, also known as Collegeville Borough.

§ 242-3 Actions against owner of property with serious code violations.

- A. Actions. In addition to any other remedy available at law or in equity, the Borough may institute the following actions against the owner of any real property that is in serious violation of a code or for failure to correct a condition which causes the property to be regarded as a public nuisance:
 - (1) A proceeding in law.
 - (a) An in personam action may be initiated for a continuing violation for which the owner takes no substantial step to correct within six months following receipt of an order to correct the violation, unless the order is subject to a pending appeal before the administrative agency or court; and/or
 - (b) As authorized by the Act, the Borough reserves the right to recover in a single action under this section an amount equal to any penalties imposed

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against the owner and any costs of remediation lawfully incurred by or on behalf of the Borough to remedy any code violation.

- (2) A proceeding in equity.
- B. Asset attachment.
 - (1) General rule. A lien may be placed against the assets of an owner of real property that is in serious violation of a code or is regarded as a public nuisance after a judgment, decree or order is entered by a court of competent jurisdiction against the owner of the property for an adjudication under Subsection A (relating to actions).
 - (2) Limitations under the Act. In proceedings under the Act, except as otherwise allowed by law, where the owner is an association or trust no lien shall be imposed upon the individual assets of any limited partner, shareholder, member or beneficiary of the owner.
- C. Reservation of rights and remedies under law other than the Act. The Borough reserves all rights and remedies existing under statutes other than the Act, its ordinances implementing them, and applicable case law to obtain recovery for the costs of preventing and abatement of code violations and public nuisances to the fullest extent allowed by law from mortgage lenders; trustees, and members of liability companies, limited partners who provide property management services to the real property as well as general partners of owners; and officers, agents, and operators that are in control of a property as an owner or otherwise hold them personally responsible for code violations as well as owners themselves. Such owners, mortgage lenders, partners, members of limited liability companies, trustees, officers, agents and operators in control of a real property with code violations shall be subject to all actions at law and in equity to the full extent authorized by such statutes, ordinances and applicable case law. Such action may be joined in one lawsuit against responsible parties with an action brought under the Act.

§ 242-4 Denial of permits.

- A. Permit application form.
 - (1) In addition to the requirements set forth in the governing ordinance, regulations or rules for the specific borough permit being applied for under the ordinances referenced in the definition of "borough permit" in § 242-2, all applications for a borough permit shall include:
 - (a) If the owner is an individual, the home address of the owner.
 - (b) If the owner is an entity, its registered office and principal place of business, type of entity, in what state it was formed, and whether the entity has qualified to do business as a foreign entity in Pennsylvania by filing with the Corporation Bureau of the Pennsylvania Department of State under Title 15 of the Pennsylvania Consolidated Statutes.

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[1] The home address of at least one responsible officer, member, trustee, or partner shall be also be included.

(c) The applications shall also include a provision requiring the owner to disclose real properties owned by the owner both inside of the Borough as well as in all other municipalities in the commonwealth:

[1] In which there is a serious violation of state law or a code and the owner has taken no substantial steps to correct the violation within six months following notification of the violation; and

[2] For which fines or other penalties or a judgment to abate or correct were imposed by a magisterial district judge or borough court, or a judgment at law or in equity was imposed by a court of common pleas; and

[3] Real property owned in the commonwealth by the owner for which there is a final and unappealable tax, water, sewer or refuse collection delinquency on account of the actions of the owner. This provision shall require the owner to disclose the street address, tax parcel number, municipality, and county of each such real property. The provision shall require the disclosure be under penalty as provided in 18 Pa.C.S.A. § 4904(a) for an unsworn falsification to a government officer or employee (public servant) performing official functions.

(2) All applicants for a borough permit shall accurately complete the permit applicant disclosure form as from time-to-time adopted by resolution of Council subject to a penalty as described in 18 Pa.C.S.A. § 4904.

B. Borough permit denials and appeals.

(1) Permit denial.

(a) The Borough, under Subsection **B(1)(f)**, shall deny issuing to an applicant a borough permit if the applicant owns real property in any municipality for which there exists on the real property:

[1] A final and unappealable tax, water, sewer or refuse collection delinquency on account of the actions of the owner; or

[2] A serious violation of state law or a code where the owner has taken no substantial steps to correct the violation within six months following notification of the violation and for which fines or other penalties or a judgment to abate or correct were imposed by a magisterial district judge or borough court, or a judgment at law or in equity was imposed by a court of common pleas. However, no denial shall be permitted on the basis of a property for which the judgment, order or decree is subject to a stay or supersedeas by an

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order of a court of competent jurisdiction or automatically allowed by statute or rule of court until the stay or supersedeas is lifted by the court or a higher court or the stay or supersedeas expires as otherwise provided by law. Where a stay or supersedeas is in effect, the property owner shall so advise the boroughity seeking to deny a borough permit.

- (b) The Borough shall not deny a borough permit to an applicant if the borough permit is necessary to correct a violation of state law or a code, provided all other conditions for the issuance of a borough permit have been met.
- (c) The borough permit denial shall not apply to an applicant's delinquency on taxes, water, sewer or refuse collection charges that are under appeal or otherwise contested through a court or administrative process.
- (d) In issuing a denial of a borough permit based on an applicant's delinquency in real property taxes or borough charges or for failure to abate a serious violation of state law or a code on real property that the applicant owns in this commonwealth, the Borough shall issue the denial in writing and indicate the street address, borough corporation and county in which the property is located and the court and docket number for each parcel cited as a basis for the denial. The denial shall also state that the applicant may request a letter of compliance from the appropriate state agency, municipality or school district, in a form specified by such entity as provided in the Act. The denial shall be delivered by United States certified, registered, or express mail, return receipt requested (and such receipt is obtained, or delivery refused); personal service in manner provided by the Pennsylvania Rules of Court for Civil Procedure for original process; hand delivery by a member of the codes enforcement staff; or a private delivery service that provides for a receipt (and such receipt is obtained or delivery refused).
- (e) The information on the real property forming the basis for a borough permit denial may be obtained by any official, or other employee or agent of the Borough from the information disclosed by the owner in accordance with Subsection A or any other reliable information obtained through a search of records using governmental systems online or through direct contact with the office maintaining the systems such as the court docket systems maintained by the Administrative Office of the Pennsylvania Courts, county/city department of records, offices of the recorder of deeds, borough and county tax collectors and treasurers, county tax claim bureaus, prothonotary and clerk of court, private online fee-based search

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services, and free searches on the Internet. Prior to making a determination on whether to deny a borough permit, the Borough using the services of the Borough Manager, including his or her designee(s), the Code Enforcement or other Borough staff or contracted service provider may conduct a search using the sources described in this Subsection **B(1)(e)**.

(f) Zoning Hearing Board.

[1] Borough permits may be denied by a board in accordance with the requirements of this section to the extent that approval of the borough permit is within the jurisdiction of the board. For purposes of this section, "Board" shall mean the Colledgeville Borough Zoning Hearing Board granted jurisdiction to render decisions in accordance with the Act of July 31, 1968 (P.L. 805, No. 247), known as the "Pennsylvania Municipalities Planning Code," 53 P.S. § 10101 et seq., or successor statute.

[2] In any proceeding before a board other than the Borough Council, the Borough may appear to present evidence that the applicant is subject to a denial by the board in accordance with this section.

[3] For purposes of this subsection, a borough permit may only be denied to an applicant other than an owner if:

[a] The applicant is acting under the direction or with the permission of an owner; and

[b] The owner owns real property satisfying the conditions of Subsection **B(1)(a)**.

(2) Applicability of other laws. A denial of a borough permit shall be subject to the provisions of 2 Pa.C.S.A. Ch. 5 Subch. B (relating to practice and procedure of local agencies) and 7 Subch. B (relating to judicial review of local agency action) or the Pennsylvania Municipalities Planning Code, for denials subject to the Act.

(a) The Borough shall review the permit applicant disclosure form and the searches, if any, in accordance with Subsection **B(1)(e)** prior to any plan or construction reviews or inspections to determine if such a review or inspection is unnecessary due to a borough permit being denied under this Subsection **B**.

(b) Right of appeal. The owner shall have a right to appeal the denial of a borough permit in accordance with the applicable law governing such borough permit. In the case of a denial by the Borough, the appeal shall be made within 30 days of the denial to the Board of Appeals established under the Uniform Construction Code unless the owner has submitted to the Board of Appeals proof before the expiration of the 30 days that the owner is seeking proof of compliance under Subsection **B(3)**, in which

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case the borough permit and the denial shall be held in abeyance until the forty-five-day-period for obtaining proof of compliance under Subsection **B(3)** has expired. In case of a denial by the Collegeville Zoning Hearing Board the appeal shall be to the court of common pleas.

- [1] With respect to a denial under the grounds authorized by the Act, the denial may only be reversed for the following reasons:
- [a] An authentic proof of compliance letter in accordance with Subsection **B(3)**.
 - [b] Evidence of substantial steps taken to remedy a serious violation set forth on the denial confirmed by an order of the Court or the Borough.
 - [c] Evidence of an approved remedial plan to address a serious violation set forth on the denial.
 - [d] Evidence of a timely appeal or administrative contest of a tax, water sewer, or refuse collection delinquency.
 - [e] A failure of a state agency, school district or municipality to issue a proof of compliance within 45 days of a request.
 - [f] A failure of a state agency or municipality to provide the relief required under Section 6144 of the Act, or its successor section or statute, to an heir or devisee.
 - [g] Any other verifiable evidence that establishes by a preponderance of the evidence that a serious violation or collection delinquency of tax, water, sewer, or refuse accounts does not exist.

[2] With respect to denials for reasons other than those authorized by the Act, the provisions of the Uniform Construction Code or applicable zoning law shall govern. The owner shall be informed of the right, time and place to make an appeal.

(3) Proof of compliance.

- (a)** All borough permits denied in accordance with this subsection shall be withheld until an applicant obtains a letter from the appropriate state agency, municipality or school district indicating the following:
 - [1] The property in question has no final and unappealable tax, water, sewer or refuse delinquencies; or
 - [2] The property in question is now in state law and code compliance; or
 - [3] The owner of the property has presented, and the appropriate state agency or municipality has accepted a plan to begin remediation of

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a serious violation of state law or a code. Acceptance of the plan may be contingent on:

- [a]** Beginning the remediation plan within no fewer than 30 days following acceptance of the plan or sooner, if mutually agreeable to both the property owner and the municipality.
 - [b]** Completing the remediation plan within no fewer than 90 days following commencement of the plan or sooner, if mutually agreeable to both the property owner and the municipality.
- (b)** In the event that the appropriate state agency, municipality or school district fails to issue a letter indicating tax, water, sewer, refuse, state law or code compliance or noncompliance, as the case may be, within 45 days of the request, the property in question shall be deemed to be in compliance for the purpose of this section, provided a copy of the request has been delivered to the municipality where the borough permit has been applied for in accordance with Subsection **B(3)(d)**. The appropriate state agency, municipality or school district shall specify the form in which the request for a compliance letter shall be made.
- (c)** Letters required under this section shall be verified by the appropriate borough officials before issuing to the applicant a borough permit.
- (d)** An owner seeking to obtain a proof of compliance in order to obtain a borough permit that would otherwise be denied shall submit a copy of the owner's request for proof of compliance within five days of the date that request is sent to the appropriate state agency, municipality or school district, to the municipality from which a borough permit is sought or submit the copy of the request with the application for the borough permit if such application is made at a later date.

§ 242-5 Miscellaneous; conflict with other provisions; inherited property.

- A.** Conflict with other law. In the event of a conflict between the requirements of this article and federal requirements applicable to demolition, disposition or redevelopment of buildings, structures or land owned by or held in trust for the Government of the United States and regulated pursuant to the United States Housing Act of 1937 (50 Stat. 888, 42 U.S.C. § 1437 et seq.), or successor statute, and the regulations promulgated thereunder, the federal requirements shall prevail.
- B.** Relief for inherited property. Where property is inherited by will or intestacy, the devisee or heir shall be given the opportunity to make payments on reasonable terms to correct code violations or to enter into a remediation plan in accordance with Section

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6131(b)(1)(iii) of the Act, or its successor statute, and § 142-5B(3)(a)[3] (relating to borough permit denial) with Collegeville Borough to avoid subjecting the devisee's or heir's other properties to asset attachment or denial of permits and approvals on other properties owned by the devisee or heir.

- C. Exemptions. This article shall not apply to any building, structure, or property owned by the United States, the commonwealth, the Borough, nor any of their respective agencies or political subdivisions.

Section II. REPEALER

Any and all terms, conditions and provisions or any Ordinance or Resolution of Collegeville Borough in conflict with the terms, conditions and provisions of this Ordinance, are hereby repealed to the extent of such conflict.

Section III. SEVERABILITY

It is hereby declared to be the legislative intent, that if a court of competent jurisdiction declares any provision of this Chapter to be invalid or ineffective in whole or in part, the effect of such decision shall be limited to those provisions which are expressly stated in the decision to be invalid or ineffective, and all other provisions of this Chapter shall continue to be separately and fully effective.

Section IV. EFFECTIVE DATE

This Ordinance shall be effective immediately upon its legal enactment by the Borough Council of the Borough of Collegeville.

Ordained and enacted, by the Council Members of Collegeville Borough, Montgomery County, Pennsylvania, this _____ day of _____, 2022.

ATTEST:

COLLEGEVILLE BOROUGH COUNCIL

Tamara Twardowski, Secretary

Cathy Kernen, President

APPROVED:

Aidsand Wright-Riggins, Mayor