

TOWNSHIP OF SOUTH MIDDLETON
CUMBERLAND COUNTY, PENNSYLVANIA

ORDINANCE NO. 2017-02

AN ORDINANCE OF SOUTH MIDDLETON TOWNSHIP, CUMBERLAND COUNTY, PENNSYLVANIA, PROVIDING FOR THE VACATING, REMOVAL, REPAIR, OR DEMOLITION OF ANY STRUCTURES DANGEROUS TO THE HEALTH, SAFETY, OR GENERAL WELFARE OF THE PEOPLE OF SOUTH MIDDLETON TOWNSHIP; AND FOR THE ASSESSMENT OF THE COST OF VACATION, REMOVAL, REPAIR, OR DEMOLITION THEREOF AS A MUNICIPAL LIEN OR ASSESSMENT AGAINST SUCH PREMISES; PROVIDING FOR THE RECOVERY OF SUCH COSTS IN AN ACTION OF LAW; AND PRESCRIBING PENALTIES FOR THE VIOLATION THEREOF.

WHEREAS, in the Township of South Middleton, Cumberland County in the Commonwealth of Pennsylvania, there are or may be in the future structures that are dilapidated, unsafe, dangerous, unsanitary, or any two or more from among these; and

WHEREAS, these aforementioned buildings or structures constitute a menaced to the health, safety, and general welfare of the people of the Township; and

WHEREAS, these aforementioned buildings or structures constitute a public nuisance and may also tend to constitute a fire menace; and

WHEREAS, the Township has determined that the enactment of the foregoing Ordinance is necessary to enable the Township to effectively exercise its police power to protect the health, safety and general welfare of the people the Township; and

WHEREAS, the Township has the statutory power to enact such an ordinance pursuant to Section 1533 of the Pennsylvania Second Class Township Code (53 P.S. §66533).

AND NOW, THEREFORE, be it enacted and ordained by the Board of Supervisors for the Township of South Middleton, and it is hereby enacted and ordained by their authority of the same, as follows:

SECTION 1: SHORT TITLE

This ordinance shall be known as and may be cited as the "South Middleton Township Dangerous Structure Ordinance."

SECTION 2: APPLICATION

This ordinance shall apply uniformly to all persons, business organization, nonprofit 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

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 with its intent.

- a. The word "shall" is always mandatory and not merely directory.
- b. The word "Board" shall mean the Board of Supervisors of the Township.
- c. The word "Township" shall mean the Township of South Middleton, County of Cumberland in the Commonwealth of Pennsylvania.
- d. The word "dangerous structure" shall mean all buildings or structures, including but not limited to residences, dwellings, garages, sheds, outhouses, barns, commercial buildings, and industrial buildings, which have one or more of the following defects:
 1. Those which have suffered damage or deterioration as a result of fire, water, wind, earth movement, act of God, act of man, 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 suffered damage or deterioration as a result of fire, water, wind, earth movement, act of God, act of man, or other cause so as to have become dangerous to the life and safety, or the general health and welfare of the occupants or other people of the Township.
 3. Those which have become or are so dilapidated, decayed, unsafe, unsanitary, or which 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 so utterly fail to provide the amenities essential to decent living are likely to cause accidents, sickness, or disease, so as to work injury to the health, safety, or general welfare of the people of the Township;
 5. Those which have parts thereof which are so attached that they might fall and injure members of the public or cause damage to adjoining property;
or
 6. Those which because of their general condition are unsafe, unsanitary, or dangerous to the health, safety, or general welfare of the people of the Township.

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 the words in the plural, and

words either in the feminine, masculine, or neuter, shall include words of the other two genders.

SECTION 4: DANGEROUS STRUCTURES AS NUISANCES

- a. All "dangerous structures" are hereby declared to be public nuisances and shall be repaired, vacated or demolished as hereinabove and hereinafter provided.
- b. Each day a nuisance in the form of a "dangerous structure" continues, after notice is given pursuant to Section 7 of this ordinance that said dangerous structure is to be repaired, vacated, or demolished, shall constitute a separate offense in violation of this ordinance.

SECTION 5: INVESTIGATION PROCEDURE

Whenever it shall be reported or come to the attention of any Township official that any structure, completed or in the process of construction, or any portion thereof, is in a dangerous condition, such person shall report same to the Board in person at a regularly scheduled township meeting or by written letter, signed by the complainant, identifying the property in question, naming the property owner, and briefly explaining the nature of the dangerous structure. The Board shall immediately designate a Township official, employee, or construction code official to make an investigation and examination of such structure. If such investigation or examination indicates such structure to be a "dangerous structure", a written report of such investigation shall be sent to the Board, specifying the exact condition of such structure and setting forth whether or in what respect the structure is dangerous and whether the structure is capable of being properly repaired or whether it shall be removed as a "dangerous structure".

SECTION 6: STANDARDS FOR REPAIR, VACATION, OR DEMOLITION

The following standards shall be followed by the Board in ordering the repair, vacation, or demolition of a dangerous structure:

- a. If the "dangerous structure" can be repaired as determined by the Board so that it will no longer exist in violation of the terms of this ordinance, it shall be ordered to be repaired.
- b. If the "dangerous structure" is in such condition as to make it dangerous to the health, safety, or general welfare of its occupants, it shall be ordered to be vacated.
- c. If the "dangerous structure" cannot be reasonably repaired as determined by the Board, or if its potential to harm the life and safety, or the general health and welfare of the occupants and other people of the Township cannot be mitigated by repair, it shall be demolished and the debris from such demolition shall be properly disposed of in accordance with all applicable laws and regulations.
- d. If the "dangerous structure" is a fire hazard or is existing or erected in violation of the terms of this ordinance, any other ordinance of the Township, or any statute

of the Commonwealth of Pennsylvania, it shall be demolished and the debris from such demolition shall be properly disposed of in accordance with all applicable laws and regulations.

SECTION 7: ENFORCEMENT PROCEDURES

- a. If any structure is deemed to be a “dangerous structure” pursuant to the standards of this ordinance, the Board shall forthwith cause notice to be served upon the owner or owners of such dangerous structure as determined by the records in the Office of the Recorder of Deeds/ Tax Assessment Office in and for the County of Cumberland, or failing to find any owner or owners, then such notice shall be posted on the property for a period of not less than ten (10) days and mailed to the last known address of the owner.
- b. The notice required by this section shall be sent by regular mail and certified mail to the owner or owners of a “dangerous structure” at the last known address according to the records in the Tax Assessment Office in and for the County of Cumberland.
- c. Such notice shall identify the structure deemed dangerous, contain a statement of the particulars which made this structure a dangerous structure, and include an order requiring the same to be put in such condition 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. Such notice shall require any person notified to repair, vacate, or demolish any structure to commence the work of act required by the notice within fifteen (15) days of such notice and to comply with such repair, vacation, or demolition within sixty (60) days from the receipt of such notice.

SECTION 8: PENALTIES

- a. All fines provided for in this section shall be in addition to costs.
- b. Any person who shall fail to comply with any notice or order to repair, vacate, or demolish any “dangerous structure”, which notice is served in accordance with this ordinance shall, upon conviction before a District Justice in an action brought by or on behalf of the Township, be subject to a fine of three hundred (\$300.00) dollars per violation. Every day that a person fails to comply with any notice or order to repair, vacate, or demolish any dangerous structure shall be deemed a separate violation of this ordinance.
- c. Any person who wrongfully removes the notice provided for in Section 7 (a) shall, upon conviction before a District Justice is an action by or on behalf of the Township, be subject to a fine of one hundred (\$100.00) dollars.
- d. Any person having an interest in any structure who fails to comply with any notice or order to repair, vacate, or demolish any dangerous structure by commencing said repair, vacation, or demolition within fifteen (15) days of the receipt of such notice, by such failure, does empower the Board to cause such structure to be repaired, vacated, or demolished by the Township and to cause such 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 (10%) percent to be charged upon the land upon which the structure exists as a municipal lien, or alternatively to recover such costs and penalty together with reasonable attorney fees incurred by the Township, in a suit at law against the owner or owners, but, failing to recover same, the judgment therefore shall be charged upon the land as a lien; and, this subsection is separate from and in addition to the fine, penalty, and costs which may be imposed by any other subsection of this ordinance.

SECTION 9: EMERGENCY CASES

In all cases where it reasonably appears that the continued existence of a "dangerous structure" in its then-present form presents an immediate danger to the life or safety of any person or group of persons in the Township unless such "dangerous structure" is immediately repaired, vacated or demolished, the Township official, employee, or construction code official inspecting the "dangerous structure" shall report such facts to the Township and the Township shall cause the immediate repair, vacation or demolition of such "dangerous structure". The costs of such emergency repair, vacation or demolition shall be collected in the same manner as provided in Section 8 hereof.

SECTION 10: SEVERABILITY

The provisions of this ordinance are severable. If any sentence, clause, or section of this ordinance is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, or sections of this ordinance. It is hereby declared to be the intent of the Board of Supervisors of South Middleton Township that this ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, or section not been included herein.

SECTION 11: EFFECTIVE DATE

This ordinance shall become effective five (5) days after enactment.

SECTION 12: REPEALS

All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed insofar as they may be inconsistent herewith.

ENACTED AND ORDAINED this 9th day of February, 2017.

ATTEST:

Sandra A. Quickel
Sandra A. Quickel
Township Secretary

BOARD OF SUPERVISORS
SOUTH MIDDLETON TOWNSHIP:

Bryan A. Gembusja
Bryan A. Gembusja, Chairman

Thomas E. Faley
Thomas E. Faley, Vice Chairman

Ronald P. Hamilton
Ronald P. Hamilton, Supervisor

Walter G. Reighard
Walter G. Reighard, Supervisor

R. Duff Manweiler
R. Duff Manweiler, Supervisor