

ORDINANCE NO. 05302023

AN ORDINANCE OF THE BOROUGH OF GRATZ, DAUPHIN COUNTY, PENNSYLVANIA, REGULATING CONDUCT AND ACTIVITIES RELATED TO PROPERTY MAINTENANCE WHICH ARE HEREIN CLASSIFIED AS NUISANCES AND PROVIDING PENALTIES FOR THE VIOLATION OF THIS ORDINANCE

BE IT ORDAINED OR ENACTED BY THE COUNCIL OF THE BOROUGH OF GRATZ, THAT THIS ORDINANCE SHALL BE KNOWN AND MAY BE CITED AS THE PROPERTY MAINTENANCE ORDINANCE.

SECTION 1. DEFINITIONS

BOROUGH – The Borough of Gratz

CODE OFFICIAL – The official who is charged with the administration and enforcement of this Code, or any duly authorized representative. The Code Official, or any duly authorized representative, shall have all authority necessary to enforce the provisions of this act, including instituting summary citation proceedings.

COUNCIL – The existing elected or appointed members of the Borough Council.

DANGEROUS BUILDINGS – 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, or the general health and welfare of the occupant or the people of the Borough.
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 fail to provide the amenities essential to decent living and are likely to cause accidents, sickness, or disease, so as to injure the health, safety or general welfare of those living therein as well as other citizens of the Borough.

5. Those which have parts thereof which are so attached that they might fail 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 Borough.

DILAPIDATED – Fallen into partial ruin or decay.

DISPOSAL – The removal of refuse which has been stored and/or collected.

EXTERIOR PROPERTY AREAS – The open space on the premises and on adjoining property under the control of owners or operators of such premises.

EXTERMINATION – The control and elimination of vectors by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, fogging, larviciding, trapping or by any other recognized and legal vector control elimination methods approved by the local or State authority having such administrative authority.

GARBAGE – The animal and vegetable waste resulting from the handling, preparation and consumption of food.

HARBORAGE – Any place where vectors can live, nest or seek shelter.

INFESTATION – The presence within or contiguous to a structure or premises of insects, rats, vermin or other pests.

MOTOR VEHICLE NUISANCE – A motor vehicle nuisance shall include any motor vehicle which is not currently inspected, unable to move under its own power, and has any of the following physical defects:

- A. Broken windshields, mirrors or other glass with sharp edges.
- B. One or more flat or open tires or tubes which could permit vermin harborage.
- C. Missing doors, windows, hoods, trucks, or other body parts which could permit animal harborage.
- D. Missing tires resulting in unsafe suspension of the motor vehicle.
- E. Upholstery which is torn or open which could permit animal and/or vermin harborage.
- F. Disassembled chassis parts apart from the motor vehicle stored in a disorderly fashion or loose in or on the vehicle.

- G. Protruding sharp objects from the chassis.
- H. Broken vehicle frames suspended from the ground in an unstable manner.
- I. Leaking or damaged oil pan or gas tank which could cause fire or explosion.
- J. Exposed battery containing acid.
- K. Open or damaged floor boards including trunk and fire wall.
- L. Suspended on unstable supports.
- M. Such other defects which could threaten the health, safety and welfare of the citizens of the borough.

OCCUPANT – Any person over 1 year of age, living, sleeping, cooking or eating in, or actually having possession of, a dwelling unit or a rooming unit; except that in dwelling units a guest will not be considered an occupant.

OWNER – Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the county 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.

PERSON – An individual corporation, partnership, or any other group acting as a unit.

PREMISES – A lot, plot or parcel of land, including the buildings or structures thereon.

PUBLIC NUISANCE – Includes the following:

- A. The physical condition or use of any premises regarded as a public nuisance at common law.
- B. Any physical condition, use or occupancy of any premises appurtenances considered an attractive nuisance to children, including but not limited to abandoned wells, shafts, basements, excavations and unsafe fences or structures.
- C. Any premises which has unsanitary sewage or plumbing facilities.
- D. Any premises designated as unsafe for human habitation or use.
- E. Any premises which is manifestly capable of being a fire hazard or are manifestly unsafe or unsecure as to endanger life, limb or property.
- F. Any premises from which the plumbing, heating and/or facilities required by this code have been removed or from which utilities have been disconnected, destroyed or rendered ineffective or the required precautions against trespassers have not been provided.
- G. Any premises which is unsanitary or which is littered with rubbish or garbage or which has an uncontrolled growth of weeds.
- H. Any structure or building that is in a state of dilapidation, deterioration or decay, faulty construction overcrowded, open, vacant or abandoned, damaged by fire to

the extent as not to provide shelter, in danger of collapse or failure and dangerous to anyone on or near the premises.

REFUSE – All solid wastes, except body wastes, and shall include garbage, ashes and rubbish.

RUBBISH – Combustible and noncombustible waste materials except garbage, and the term shall include the residue from burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust and other similar materials.

STRUCTURE – That which is built or constructed, including without limitation because of enumeration, buildings for any occupancy or use whatsoever, fences, signs, billboards, fire escapes, chute escapes, railings, water tanks, towers, open-grade steps, sidewalks or stairways, tents or anything erected and framed of component parts which is fastened, anchored or rests on a permanent foundation or on the ground.

SECTION 2. MAINTENANCE OF EXTERIOR PROPERTY AREAS:

- A. **Sanitation.** All exterior property areas and premises shall be maintained in a clean, safe and sanitary condition, free from any accumulation of rubbish or garbage.
- B. **Containers.** The operator of every establishment producing garbage, a vegetable waste or other putrescible material shall provide, and at all times cause to be used, leak proof approved containers provided with close-fitted covers for the storage of such materials until removed from the premises for disposal.
- C. **Grading and drainage.** All premises shall be graded and maintained so as to prevent the accumulation of stagnant water thereon, or with any structure located thereon. Stagnant water shall be determined as any accumulation that has not disbursed within seven days of the last recorded local rainfall. Exception: Water retention areas and/or reservoirs approved by the Code Official.
- D. **Insect and rat control.** An owner of a structure or property shall be responsible for the extermination of insects, rats, vermin or other pests in all exterior areas of the premises,
Whenever infestation exists in the premises of other than a single-family dwelling, extermination shall be the responsibility of the owner.

- E. **Weeds.** All lots shall be maintained free from weeds, noxious trees and vegetables, or plant growth in excess of 10 inches. All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation including trees or shrubs that have become weeds; provided, however, that this term shall not include cultivated flowers and gardens.
- F. **Public nuisance.** All exterior property areas shall be maintained in such a manner so as not to constitute a public nuisance.
- G. **Motor vehicles in residential areas.** Not more than four (4) currently unregistered and/or uninspected motor vehicle shall be parked on any property in a residential district, and said vehicle shall not at any time be in a state of disassembly, disrepair, nor shall it be in the process of being stripped or dismantled. A vehicle of any type shall not at any time undergo major overhaul, including body work, in a residential district unless said work is performed inside a structure or similarly enclosed area designed and approved for such purposes.

A permit may be obtained from the Borough in the event of a vehicle repair project, restoration, or for construction/repair of cars used in vehicle exhibition events such as a demolition derby.

- H. **Sidewalks, Driveways, and Right of Ways.** All sidewalks, walkways, stairs, driveways, parking spaces, right of ways and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions.
- I. **Hazardous Materials.** Hazardous materials may not be kept or stored in the exterior areas of any property.
- J. **Commercial properties.** All commercial properties must comply with the PA Department of Labor and Industry's Building Code requirements.
- K. **Duties and powers of Code Official.**
- a. **Notices and orders.** The Code Official shall issue all necessary notices and orders to abate illegal or unsafe conditions to ensure compliance with this Section's requirements for the safety, health and general welfare of the public.
 - b. **Notice to owner or to person or persons responsible.** Whenever the Code Official determines that there has been a violation of this Section or

has reasonable grounds to believe that a violation has occurred, notice shall be given to the owner or the person or persons responsible therefore in the manner described below.

- c. **Manner of notice.** The notice provided by the Code Official shall be in writing, include a description of the real estate sufficient for identification, include a statement of the reason or reasons why it is being issued, include a correction order allowing a reasonable time for the repairs and improvements required to bring the structure, premises or exterior property area into compliance with the provisions of this chapter.
- d. **Period of Compliance.** Each notice shall provide for a reasonable grace period by which compliance may be attained, especially in consideration of property that has changed hands or been inherited.

L. **Violations and penalties.**

- a. **Unlawful acts.** It shall be unlawful for any person, firm or corporation to erect, construct, alter, extend, repair, remove, demolish, use or occupy any structure, premises or exterior property area, or cause the same to be done, contrary to or in conflict with or in violation of any of the provisions of this Section.
- b. It is not a defense to any enforcement action under this ordinance that a violation previously existed or was grandfathered in.
- c. **Penalty.** Any person, firm or corporation who or which shall violate any provision of this Section may be subject to a civil action and a judgment of no more than \$300.00, plus costs. Each day that a violation continues after due notice has been served, in accordance with the terms and provisions hereof, shall be deemed a separate offense for the purposes of the judgment;
or
- d. Any person, firm or corporation who or which shall violate any provision of this Section may be subject to a non-traffic summary citation which, upon conviction, will fine include a fine of no more than \$1,000.00, plus costs, and in default of payment of said fine and costs, to imprisonment for a term not to exceed 30 days. Each day that a violation continues after due notice has been served, in accordance with the terms and provisions hereof, shall be deemed a separate offense.
- e. **Borough permitted to perform work.** If the tenant, occupant or owner of the exterior property area permits or causes said property to be maintained

in violation of this chapter, the borough may, after providing said tenant, owner or occupant 20 days' prior written notice, correct the matter giving rise to the violation at borough expense and may thereafter collect all costs and expenses, plus 10% incurred in connection with correcting the violation by filing a municipal claim or by an action in assumpsit.

SECTION 3. 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 building is to be repaired, vacated and/or demolished, shall constitute a separate offense in violation of this Ordinance.
- C. **Investigation Procedure.** Whenever it is reported or comes to the attention of any person, citizen, Borough official or police officer that any building or structure completed or on the process of construction or any portion thereof is in a dangerous condition, such person shall report the same to the Borough Council or to the Mayor. If reported to the Mayor, then the Mayor shall notify the Borough Council.

The Borough Council shall then designate a Borough official or a committee 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 Brough Council. The report may recommend whether the building can be repaired or whether it shall be removed as a dangerous building.

- D. **Hearing Procedure.** The Council of the Borough shall:
 - a. Upon receipt of a report in accordance with the investigation procedure provided hereinabove in Section 3 of this Ordinance, given 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 in and for the County, in the Commonwealth of Pennsylvania, or failing to find any owners or owners, then notice shall be given to the occupant, mortgagee, lessee, agent or any other person found with an interest in said dangerous building as the Borough may discover, and said notice shall inform the owner or other party to appear before the Council 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 Council or determination made by Council.

- 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.
- 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.

E. Standards for Repair, Vacation or Demolition. The following standards shall be followed in substance by the Council in ordering repair, vacation or demolition of a dangerous building:

- a. If the dangerous building can be repaired as determined by the Council 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 Council, it shall be demolished.
- d. If the dangerous building is a fire hazard or is existing or erected in violation of the terms of this Ordinance, any other ordinance of the Borough or any statute of the Commonwealth of Pennsylvania, it shall be demolished.

F. Enforcement Procedures.

- a. If any structure is deemed to be a dangerous building within the standards of this Ordinance after the hearing, then Council within the time set forth in Section 3 D. d. of this Ordinance shall cause notice of this order issued under Section 3 D. d. 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 Borough or personally upon his agent if such agent resides within the Borough. 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 at the last known address according to the records available in the Tax Assessment Office in and for the County 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 structures, 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 comply with such repair, vacation or demolition within sixty (60) days from the receipt of such notice.

G. 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 3. F of this Ordinance or who violates any of the other provisions of this Ordinance, shall upon conviction before a District Justice, be subject to a fine not exceeding Three Hundred Dollars (\$300.00) 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 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 3. F of this Ordinance or who violates any of the other provisions of this Ordinance, shall upon civil action and judgment entered before a District Justice, be subject to a judgment not exceeding One Thousand Dollars (\$1,000.00)

plus costs, and each day of a violation shall be considered separate violations and offenses.

- c. 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 Council to cause the costs of such repair, vacation or demolition together with a penalty of ten (10%) per cent to be charged upon the land upon which the building exists as a municipal lien, or alternatively to recover 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 charged upon the land as a lien; and, this sub-section is separate from in addition to the fine, penalty and costs which may be imposed by any other sub-section of this section.

H. **Emergency Cases.** In cases where it reasonably appears that there exists an immediate danger to the life or safety of any person caused or created by a dangerous building, the Council shall cause the immediate repair, vacation or demolition of such dangerous building. The costs 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 3 G. a & b. of this Ordinance.

SECTION 4. SWIMMING POOLS, SPAS AND HOT TUBS

Swimming pools. Swimming pools shall be maintained in a clean and sanitary condition, and in good repair.

Private swimming pools, hot tubs and spas, containing water more than 24 inches (610 mm) in depth shall be completely surrounded by a fence or barrier at least 48 inches (1219 mm) in height above the finished ground level measured on the side of the barrier away from the pool. Gates and doors in such barriers shall be self-closing and self-latching. Where the self-latching device is a minimum of 54 inches (1372 mm) above the bottom of the gate, the release mechanism shall be located on the pool side of the gate. Self-closing and self-latching gates shall be maintained such that the gate will positively close and latch when released from an open position of 6 inches (152 mm) from the gatepost. No existing pool enclosure shall be removed, replaced or changed in a manner that reduces its effectiveness as a safety barrier.

Exception: Spas or hot tubs with a safety cover that complies with ASTM F 1346 shall be exempt from the provisions of this section.

SECTION 5. SEVERABILITY

If a court of competent jurisdiction declares any provision of this ordinance to be invalid in whole or in part, the effect of such decision shall be limited to those provisions expressly stated in the decision to be invalid, and all other provisions of this ordinance shall continue to be separately and fully effective.

This Ordinance is hereby duly executed and ordered into law this 30th day of May, 2023.

ATTEST:

GRATZ BOROUGH
COUNCIL:

Cindy Shade
Cindy Shade, Secretary

Kylie Bender
Kylie Bender, President

APPROVED this 30th day of May, 2023.

David Norris
David Norris, Mayor