

ORDINANCE NO. 2024 - 2385

**BOROUGH OF PHOENIXVILLE
CHESTER COUNTY, PENNSYLVANIA**

**“OPPORTUNITY TO REMEDIATE DETERMINATION
OF ABATEMENT ORDINANCE”**

AN ORDINANCE OF THE BOROUGH OF PHOENIXVILLE, CHESTER COUNTY, PENNSYLVANIA, AMENDING THE CODE OF ORDINANCES OF THE BOROUGH OF PHOENIXVILLE, CHAPTER 4 “BUILDING”, PART 2 “ABATABLE STRUCTURES”, SECTION 4-203 “DEFINITIONS”, SECTION 4-206 “NOTICE PROCEDURES”, AND SECTION 4-207 “ELEMENTS TO BE CONSIDERED” IN ORDER TO CLARIFY THAT OWNER REMEDIATION SHALL BE PERMITTED WITHIN CERTAIN DEADLINES AND WHETHER A STRUCTURE IS A NUISANCE IS NOT IMPACTED BY COST OF REPAIR.

The Council of the Borough of Phoenixville, Chester County, Pennsylvania, hereby ORDAINS that:

Section 1.

1. The Code of Ordinance of the Borough of Phoenixville, as amended, Chapter 4, “Buildings”, Part 2 “Abatable Structures”, Section 4-203 “Definitions”, are hereby amended as indicated by the black underlined interlineations indicating insertions of language and black strikethrough indicating deletions of language:

DEPARTMENT’S DETERMINATION

A Code Enforcement Officer's determination that a structure is an Abatable Structure that the Borough should demolish if not remediated by the Owner(s).

Section 2.

1. The Code of Ordinance of the Borough of Phoenixville, as amended, Chapter 4, “Buildings”, Part 2 “Abatable Structures”, Section 4-206 “Notice Procedures”, Subsection 4-206.6. is hereby amended as indicated by the black underlined interlineations indicating insertions of language and black strikethrough indicating deletions of language:

6. The Abatable Structure Notice, required by §§ 4-205(3) and (4), shall be such as is reasonable (1) to communicate that the Department

has determined that a specifically identified structure is a public nuisance, an abatable structure and should be remediated ~~demolished~~, (2) to identify the property and (3) to give notice as to how and when such determination may be appealed. Such notice may be given by using a form which is substantially as follows:

ABATABLE STRUCTURE NOTICE

To the owners, occupiers and all other persons (collectively "Interested Parties") having an interest in the property (Property') located in the Borough of Phoenixville ("Borough"), Chester County, Pennsylvania, and known as [address] _____, which Property is identified by Chester County as real estate tax parcel 15- _____:

The Borough Code Enforcement Department ("Department") has determined that the structure, or a portion of it, on the Property, is a public nuisance, violates Borough regulations and should be repaired and/or demolished and/or removed. The Department has also determined that the Borough should demolish and remove the structure, at the Owners(s) expense, if the structure is not repaired by the Interested Parties, so that the public nuisance is eliminated, or demolished and removed within such time as Borough Council ("Council") may order. Any person or legal entity who wishes to challenge the Department's determination must file a written appeal with the Borough Secretary, at the Borough Hall, 351 Bridge 140 Church Street, Floor 2, Phoenixville, PA 19460, during regular business hours, on or before [5 working days prior to the hearing]. The written appeal shall identify the appellant(s) by name and address and reasonably identify the reasons why the Departments determination is challenged.

On _____, Council will hold a public hearing on the Department's determination. Any person or legal entity who so appeals may be a party at the hearing to be held by Borough Council. The hearing will be held at the Borough Hall, 351 Bridge 140 Church Street, Floor 2, Phoenixville, PA. The hearing will be held in accordance with the provisions of the Pennsylvania "Local Agency Law" (the Act of April 28, 1978, P.L. 202, 2 Pa.C.S. § 551, et seq., as amended). Any party to the hearing may be represented by legal counsel. If you wish to attend the hearing and/or any Borough public meeting and are a person with a disability requiring an auxiliary aid, service or other accommodation to participate in the proceedings or attend the meeting, please contact [insert name of Manager], Borough Manager, at the Borough Hall,

phone (610) 933-8801, to discuss how the Borough may best accommodate your needs.

Based on the evidence presented at that hearing, Council shall decide if and under what conditions the structure should be removed and/or demolished by the Borough. Council may allow a certain period within which the structure may be repaired and/or its nuisance conditions abated so that Borough demolition may be avoided. If such work is not done by the required date, according to Borough requirements and all applicable regulations, the Borough may do the work necessary to demolish and remove the structure and require the property owner to pay the Borough's costs. All such costs including, but not limited to, attorney's fees, shall be a municipal claim and lien on the Property and interest shall accrue thereon, at 10% per annum, until paid.

You should take this notice to your lawyer at once. If you do not have a lawyer or cannot afford one, go to or telephone the office set forth below to find out where you can get legal help.

Lawyer Referral Service
Chester County Bar Association
15 West Gay Street, P.O. Box 3191
West Chester, Pennsylvania 19381-3191
Telephone: (610) 692-1889

If you have any questions concerning this Notice and/or what Department's determination, you should contact [insert name of Code Enforcement Director], the Borough's Code Enforcement Director, at the Borough Hall, 351 Bridge ~~140 Church~~ Street, Floor 2, Phoenixville PA 19460, phone (610) 933-8801 ~~935-5635~~. However, it is important that you understand that nothing will extend the time for the hearing, as stated in this Notice, other than a written official extension notice from the Borough. If you do not file the required appeal or fail to appear at the hearing, you may lose your rights to challenge the Department's determination.

Section 3.

1. The Code of Ordinance of the Borough of Phoenixville, as amended, Chapter 4, "Buildings", Part 2 "Abatable Structures", Section 4-207 "Elements to Be Considered", is hereby amended as indicated by the black underlined interlineations indicating insertions of language and black strikethrough indicating deletions of language:

1. Council, in making the adjudication, shall consider whether the evidence presented pursuant to the hearing is sufficient to permit it to find and conclude that:

A. The structure is in such a condition that it is dangerous to the health, safety or general welfare and/or is a public nuisance, a nuisance in fact and an abatable structure.

~~B. The structure cannot be repaired economically so that it will no longer be a public nuisance.~~

~~C. The abatable structure should be demolished and removed by the Borough if not repaired, removed or demolished by the Owner within an amount of time to be determined by Borough Council.~~

2. Determining whether reasonable repairs can be made to a structure to eliminate the conditions cited in the Abatable Structure Notice, Council may consider, among other things, ~~the estimated cost of such repairs;~~ the time required to make such repairs; the danger to the occupants of the structure to neighboring structures and persons, and to the general public; ~~the estimated value of the structure before and after the necessary repairs;~~ the existence of liens or claims of any nature against the property; the ability and willingness of the owner or other responsible persons to effect the repairs in a timely manner.

Section 4. Officer Authorization. The appropriate officers of the Borough are authorized to take whatever actions are necessary and appropriate to carry out the purpose and intent of this Ordinance.

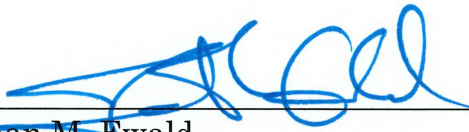
Section 5. Severability. If any sentence, clause, section, or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, parts, or sections hereof. It is hereby declared as the intent of the Borough Council that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, part or section thereof not been included herein.

Section 6. Repealer. All ordinances or parts of ordinances conflicting or inconsistent herewith are hereby repealed.

Section 7. Effective Date. This Ordinance shall become effective upon enactment as provided by law.

[Signature page follows]

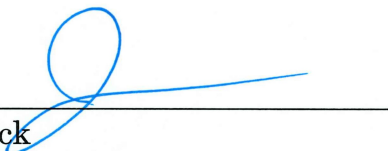
PASSED by Borough Council this 14th day of May, 2024.

By: 
Jonathan M. Ewald
President, Borough Council

APPROVED by the Mayor, this 14th day of May, 2024.

By: 
Peter J. Urscheler
Mayor

ENACTED this 14th day of May, 2024.

By: 
E. Jean Krack
Borough Manager/Secretary

I HEREBY CERTIFY that the foregoing is a true and correct copy of the said Ordinance duly adopted at a regular meeting of Borough Council held on the 14th day of May, 2024.

By: 
E. Jean Krack
Borough Manager/Secretary