

BOROUGH OF MT. OLIVER

ORDINANCE NO. 979

AN ORDINANCE OF THE BOROUGH OF MT. OLIVER AMENDING CHAPTER 178 OF THE BOROUGH CODE OF ORDINANCES, REAL PROPERTY, SALE OF, TO ADD NEW ARTICLE II, OCCUPANCY PERMITS AND INSPECTIONS, REQUIRING INSPECTIONS AND OCCUPANCY PERMITS FOR IMPROVED, RESIDENTIAL PROPERTIES SUBJECT TO A TRANSFER OF OWNERSHIP AND IMPOSING PENALTIES FOR VIOLATION OF THE SAME

WHEREAS, the Mt. Oliver Borough Code of Ordinances requires an inspection and the procurement of an occupancy permit for any real property subject to a change of ownership; and

WHEREAS, Pennsylvania Act 33 of 2016, which became effective on January 2, 2017, imposes new requirements on municipalities that require inspections and occupancy permits when real property changes ownership; and

WHEREAS, the Mt. Oliver Borough Council desires to amend its Code of Ordinance requirements for occupancy permits and inspections for real property subject to a change of ownership, so that such requirements are in compliance with Act 33 of 2016.

NOW, THEREFORE BE IT ORDAINED AND ENACTED by the Council of the Borough of Mt. Oliver, as follows:

I. The Council of the Borough of Mt. Oliver ordains that Chapter 178, Real Property, Sale of, of the Borough Code of Ordinances, is amended to add new Article II, Occupancy Permits & Inspections, to read as follows:

Article II. Occupancy Permits & Inspections.

§ 178-3. Definitions.

Borough. The Borough of Mt. Oliver.

Date of Transfer. The date on which title and right to possess the property is transferred pursuant to a Sale or Transfer, or, in cases where the property is sold pursuant to the Municipal Claim and Tax Lien Law, 53 P.S. §§ 7101, *et seq.*, the first day following the right of redemption period authorized under the Municipal Claim and Tax Lien Law.

Person. Any natural person, association, partnership, corporation, syndicate, institution, agency, authority, or other entity recognized by law as the subject of rights and duties.

Sale or Transfer. The sale, transfer or assignment of any interest in improved, residential real property, except for transactions solely between spouses and the refinancing of real property without a conveyance.

Substantial Violation. A violation of any building, housing, property maintenance or fire code or maintenance, health or safety nuisance ordinance of the Borough that makes a building, structure or any part thereof unfit for human habitation and is discovered during the course of a Borough inspection of a property and disclosed to the record owner or prospective purchaser of the property through issuance of a municipal report or other documentation used by the Borough to notify the record owner or prospective purchaser of ordinance violations.

Temporary Access Permit. A permit issued by the Borough as a result of the Borough inspection of a property incident to the resale of the property that identifies at least one Substantial Violation, and the purpose of the permit is to authorize the purchaser to access the property for the purpose of correcting Substantial Violations pursuant to this ordinance.

Temporary Use and Occupancy Permit. A permit issued by the Borough as the result of a Borough inspection of a property incident to the resale of the property that reveals a Violation but no Substantial Violation, and the purpose of the permit is to authorize the purchaser to fully utilize or reside in the property while correcting Violations pursuant to this ordinance.

Unfit for Human Habitation. A condition which renders a building, structure, or any part thereof, dangerous or injurious to the health, safety or physical welfare of an occupant or the occupants of neighboring dwellings. The condition may include Substantial Violations of a property that show evidence of: a significant increase to the hazards of fire or accident; inadequate sanitary facilities; vermin infestation; or a condition of disrepair, dilapidation or structural defects such that the cost of rehabilitation and repair would exceed one-half of the agreed-upon purchase price of the property.

Use and Occupancy Permit. A permit issued by the Borough stipulating that the property meets all ordinances and codes of the Borough and may be used or occupied as intended.

Violation. A violation of a building, housing, property maintenance or fire code or maintenance, health or safety nuisance ordinance of the Borough that does not rise to the level of a Substantial Violation and is discovered during the course of a Borough inspection of a property and disclosed to the record owner or prospective purchaser of the property through the issuance of a municipal report or other documentation used by the Borough to notify the record owner or prospective purchaser of ordinance violations.

§ 178-4. Application for Use and Occupancy Permit.

At least 15 days prior to the Date of Transfer of any improved, residential real property located within the Borough, the seller or transferor or its agent shall submit to the Borough Code Enforcement Officer an application for a Use and Occupancy Permit, on such form to be provided by the Borough. The fee for filing the completed application for Use and Occupancy Permit shall be established by the Council of the Borough of Mt. Oliver from time to time by resolution.

§ 178-5. Inspection Required.

1. Upon application for a Use and Occupancy Permit, as required in § 178-4 above, the property shall be inspected by the Borough Code Enforcement Officer or Building Inspector for compliance with the Borough's Building Code, Fire Prevention Code and Property Maintenance Code. The Borough Code Enforcement Officer or Building Inspector shall provide written notice to the seller or transferor or its agent, or the property owner if the Sale or Transfer has occurred, of any Violations or Substantial Violations.
2. An inspection shall not be required if, within three (3) months of the date of application of a Use and Occupancy Permit, the Borough Code Enforcement Officer or Building Inspector had inspected the property for compliance with the Borough's Building Code, Fire Prevention Code and Property Maintenance Code and found no Violations or Substantial Violations.

§ 178-6. Issuance of Permits.

1. If the inspection required pursuant to § 178-5 above reveals no Violations or Substantial Violations, the Borough Code Enforcement Officer or Building Inspector shall issue a Use and Occupancy Permit for the property.
2. If the inspection required pursuant to § 178-5 above reveals at least one Violation, but no Substantial Violations, the Borough Code Enforcement Officer or Building Inspector shall issue a Temporary Use and Occupancy Permit for the property.
3. If the inspection required pursuant to § 178-5 above reveals at least one Substantial Violation, the Borough Code Enforcement Officer or Building Inspector shall issue a Temporary Access Certificate for the property.
4. No person may occupy a property during the term of a Temporary Access Permit, but the owner of the property shall be permitted to store personal property that is related to the proposed use or occupancy of the property or is needed to repair the Substantial Violations during the time of the Temporary Access Permit.
5. A Temporary Use and Occupancy Permit and Temporary Access Certificate shall expire 12 months from the date of the issuance of such Permit, or 12 months from the Date of Transfer of the property, whichever period is longer, unless the Borough has extended the time period for such Permit pursuant to § 178-7.2 below.

§ 178-7. Compliance Requirement.

1. Within twelve (12) months of the date of the issuance of a Temporary Use and Occupancy Permit or Temporary Access Certificate, or within 12 months of the Date of Transfer, whichever period is longer, the owner of the property shall either:

- a. Correct all Violations or Substantial Violations identified by the Borough Code Enforcement Officer or Building Inspector, so that the property is in compliance with the Borough's Building Code, Fire Prevention Code and Property Maintenance Code.
 - b. Demolish the building or structure on the property, in accordance with applicable law.
2. At the request of the owner of the property, the Borough may, at its sole discretion, extend the time period for maintenance and repair of the building or structure located on the property and for which a Temporary Use and Occupancy Permit or Temporary Access Certificate has been issued.
3. At the expiration of the time period set forth in § 178-7.1 or 178-7.2 above, or earlier if requested by the property owner, the Borough Code Enforcement Officer or Building Inspector shall re-inspect the property for the purpose of determining whether the Violations or Substantial Violations identified by the Borough Code Enforcement Officer or Building Inspector have been corrected.
 - a. If a Temporary Access Permit has been issued and the re-inspection indicates that the cited Substantial Violations have been corrected, but other cited Violations have not yet been corrected, the Borough shall issue a Temporary Use and Occupancy Permit to be valid for the time remaining on the original Temporary Access Permit, if any.
 - b. If the re-inspection indicates that all cited Substantial Violations and/or Violations have been corrected, the Borough shall issue a Use and Occupancy Permit for the property.

§ 178-8. Penalties.

1. If the property owner fails to comply with § 178-7.1 above, the Borough may revoke the Temporary Use and Occupancy Permit or Temporary Access Permit.
2. A property owner who violates § 178-7.1 shall be personally liable for the costs of maintenance, repairs or demolition incurred by the Borough sufficient to correct the cited Substantial Violations and/or Violations, and the Borough may file an action in assumpsit to recover such costs.
3. A property owner who violates § 178-7.1 shall, upon conviction in a summary proceeding, shall be fined no less than \$1,000 and not more than \$10,000.
4. Any Person who fails to submit an application for a Use and Occupancy Permit as required in § 178-4 above, or occupies a property subject to this Article without a Use and Occupancy Permit shall, upon conviction thereof, shall be sentenced to pay a fine

of not more than \$1,000 plus costs. Each day that a violation continues shall be considered a separate violation.

5. Nothing contained herein shall be deemed to preclude the Borough from seeking other relief or from availing itself of any remedy that may be at law or in equity to prevent continuing violations of this Article.

§ 178-9. Appeals.

1. Any person aggrieved by the denial, issuance or revocation of a Use and Occupancy Permit, Temporary Use and Occupancy Permit or Temporary Access Permit may appeal by submitting a request for a Local Agency Law hearing to the Borough Secretary within thirty (30) days after the date of the decision appealed from. Such application shall state the grounds for the appeal and shall be accompanied by a nonrefundable appeal fee of \$50.00, the amount of such fee to be subject to adjustment by resolution of the Mt. Oliver Borough Council.
2. The appellant shall be responsible for the cost of the stenographic appearance fee and any cost of advertising the hearing. The Borough Council may act as the Local Agency Law appeal hearing body or may appoint a tribunal or hearing officer to hear the appeal and either to decide the appeal or make a recommending ruling to the Borough Council.

II. If any provision of this Ordinance is for any reason held to be legally invalid, such decision shall not affect remaining portions of this Ordinance and they shall remain in full force and effect, and to this end, the provisions of this Ordinance are hereby declared severable.

III. In the event of any inconsistency between the provisions of this Ordinance and any prior Ordinance, the provisions hereof shall be determined to govern.

IV. This Ordinance shall be effective immediately upon adoption.

This Ordinance ORDAINED AND ENACTED INTO LAW by the Borough Council of the Borough of Mount Oliver at a duly assembled public meeting this 18th day of February, 2019.

ATTEST:

BOROUGH OF MOUNT OLIVER



Manager

By: 

President, Borough Council