

ORDINANCE NO. 1 of 2020

TOWNSHIP OF SOUTH COVENTRY
CHESTER COUNTY, PENNSYLVANIA

AN ORDINANCE OF THE TOWNSHIP OF SOUTH COVENTRY, CHESTER COUNTY, PENNSYLVANIA REQUIRING A USE AND OCCUPANCY CERTIFICATE AT TIME OF SALE OF ANY PROPERTY AND IMPOSING AN OBLIGATION TO BRING PROPERTY INTO COMPLIANCE WITH THE TOWNSHIP SIDEWALK AND PATHWAY ORDINANCE

BE IT ORDAINED AND ENACTED by the Board of Supervisors of South Coventry Township, Chester County, Pennsylvania, as follows:

WHEREAS, the Township of South Coventry Township (the "Township") is a local municipal government governed by the Second-Class Township Code, 53 P.S. §§ 65101 *et seq.*; and

WHEREAS, the Board of Supervisors of South Coventry Township has authority under the Second-Class Township Code, 53 P.S. §§ 65101 *et seq.* to enact ordinances to protect the health, safety and welfare of the public; and to control public areas; and to recover costs for doing public work; and to regulate sidewalks and public areas; and

WHEREAS, the Township under its Sidewalk and Pathway Ordinance, has enacted an ordinance regulating the repair, construction and maintenance of public sidewalks and pathways on/or along public roads within the Township and requiring that sidewalks and pathways be kept and maintained by the abutting land owners in proper and safe condition for public use and establishing standards of proper sidewalk maintenance, repair and construction; and

WHEREAS, the Township wants to ensure that all sidewalks and pathways within the Township meet certain property maintenance requirements prior to property transfer in order to effectively and efficiently ensure that the sidewalks and pathways are in compliance with the Township Code, specifically, the Sidewalk and Pathway Ordinance and the Subdivision and Land Development Ordinance; and

WHEREAS, the Township has identified the time of sale as an appropriate time for the Township Code Enforcement Officer or his/her authorized designee or agent, to inspect such sidewalks and pathways before the transfer of title; and

WHEREAS, the Township has identified the time of sale as an appropriate time to assure that the Sidewalks and Pathways of Township Properties comply with the Township Code, specifically the Sidewalk and Pathway Ordinance and the Subdivision and Land Development Ordinance; and that the property can be certified to the foregoing through the procedure of obtaining a Use and Occupancy Certificate; and

NOW, THEREFORE under the authority granted to it under the Second-Class Township Code and other relevant statutory authority, and for the reasons recited above, be it **ORDAINED** by the Board of Supervisors of South Coventry Township, as follows:

1. Name. This ordinance shall be known and cited as the South Coventry Use and Occupancy Ordinance.
2. Purpose. The purpose of this Ordinance is to protect the health, safety and welfare of the public; and to control public areas; and to recover costs for doing public work; and to regulate sidewalks and public areas.
3. Definitions. For purpose of this Ordinance, the following terms shall have the meanings indicated unless otherwise expressly stated.

BOARD OF SUPERVISORS - The Board of Supervisors of the Township of South Coventry, Chester County, Pennsylvania.

CODE ENFORCEMENT OFFICER - Any person specifically designated as such by the Board of Supervisors to enforce this ordinance and shall include the duly authorized representative of said Code Enforcement Officer.

DATE OF PURCHASE - The date on which title and right to possess the property transfers to the purchaser or, in cases where the property is sold pursuant to the act of May 16, 1923 (P.L. 207., No 153), referred to as the Municipal Claim and Tax Lien Law, the first day following the right of redemption period authorized under the Municipal Claim and Tax Lien Law.

ENGINEER - The Township Engineer or authorized designee.

MCOCA - The Municipal Code and Ordinance Compliance Act, 68 P.S. §§ 1081-1083, as amended.

MUNICIPALITY - The Township of South Coventry.

OWNER - Any person who alone, jointly or severally with other(s) shall have legal or equitable title to any property.

PATHWAY - A pathway is an off-road facility shared use path separate from the public road. (though sometimes in the public road right-of-way).

PROPERTY - Any residential or nonresidential building or condominium unit or vacant lot or open space for occupancy or use.

SIDEWALK - A walkway along the margin of a street designated and prepared for the use of pedestrians to the exclusion of vehicles.

TOWNSHIP - The Township of South Coventry, a Second-Class Township.

SUBSTANTIAL VIOLATION - A violation of an adopted building, housing, property maintenance or fire code or maintenance, health or safety nuisance ordinance that makes a building, structure or any part thereof unfit for human habitation and is discovered during the course of Township inspection of a property and disclosed to the record owner or prospective purchaser of the property through issuance of a Township Use and Occupancy report *or such other definition as set forth in the Municipal Code and Ordinance Compliance Act (MCOCA), 68 P.S. §§ 1081-1083, as amended.*

TEMPORARY ACCESS CERTIFICATE - A certificate issued by the Township as a result of the Township inspection of a property that identifies at least one substantial violation, and the purpose of the certificate is to authorize the purchaser to access the property for the purpose of correcting substantial violations pursuant to all applicable laws, ordinances, and regulations of the Township of South Coventry and the Commonwealth of Pennsylvania, including the Property Maintenance Code, as adopted. No person may occupy a property during the term of a "Temporary Access Certificate," but the owner shall be permitted to store personal items 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 Certificate" *or such other definition as set forth in the Municipal Code and Ordinance Compliance Act (MCOCA), 68 P.S. §§ 1081-1083, as amended.*

TEMPORARY USE AND OCCUPANCY CERTIFICATE - A certificate issued by the Township as a result of the Township inspection of a property for the items in section 7 (B) that reveals a violation but no substantial violation and the purpose of the certificate is to authorize the purchaser to fully utilize or reside in the property while correcting violations pursuant to all applicable laws, ordinances, and regulations of the Township of South Coventry and the Commonwealth of Pennsylvania, including the Property Maintenance Code, as adopted *or such other definition as set forth in the Municipal Code and Ordinance Compliance Act (MCOCA), 68 P.S. §§ 1081-1083, as amended.*

UNFIT FOR HUMAN HABITATION - A condition which renders a building or 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 repair would exceed one-half of the agreed-upon purchase price of the property *or such other definition as set forth in the Municipal Code and Ordinance Compliance Act (MCOCA), 68 P.S. §§ 1081-1083, as amended.*

USE AND OCCUPANCY CERTIFICATE - A certificate issued by the Township as a result of the Township Inspection of a property that stipulates that the property meets all ordinances and codes as they relate to the subject of the inspection as set forth in Section 7 (B) and may be used or occupied as intended or such other definition as set forth in the Municipal Code and Ordinance Compliance Act (MCOCA), 68 P.S. §§ 1081-1083, as amended.

VIOLATION - A violation of a properly adopted building, housing, property maintenance or fire code or maintenance, health or safety nuisance ordinance that does not rise to the level of a substantial violation and is discovered during the course of a municipal inspection of a property and disclosed to the record owner or prospective purchaser of the property through the issuance of a municipal report or such other definition as set forth in the Municipal Code and Ordinance Compliance Act (MCOCA), 68 P.S. §§ 1081-1083, as amended.

4. Applicability. This Ordinance shall apply to any residential or nonresidential property within the Township transferred by title, deed or other legal means.
5. Use and Occupancy Certificate Required Prior to Sale. No existing property as defined by this Ordinance shall be occupied or used by a new owner as a result of a transfer by title, deed or other legal means until either a "Use and Occupancy Certificate", a "Temporary Use and Occupancy Certificate", or a "Temporary Access Certificate" has been issued by the Township Code Enforcement Officer or his authorized representative.
6. Application for Use and Occupancy Certificate. Prior to the sale of any property in the Township the owner of the property to be sold must make application for a Use and Occupancy Certificate to the Township on forms available at the Township Office requiring an inspection by the Code Enforcement Officer and approval of the property at issue for compliance with the Township Sidewalk and Pathway Ordinance and the Township Subdivision and Land Development Ordinance, as it relates to sidewalks and pathways, and all other relevant Township Codes and any State Law requirements.
7. Certificate Application Procedures and Fees. Certificates of use and occupancy for the transfer of property shall be issued in accordance with the following procedures:
 - A. Application. Applications for a certificate of use and occupancy shall be filed with the Township by the seller of the property not later than 30 days prior to date of purchase. If the date of purchase is scheduled for less than 30 days after the execution of the agreement of sale between the buyer and seller, the certificate of use and occupancy application shall be submitted not less than 14 days prior to date of purchase. Applications shall contain such information

as the Township may require. A fee in the amount as determined by the Township annually in its fee's ordinance shall accompany the application.

B. Inspection.

(1) Upon receipt of completed application, the Code Enforcement Officer shall, within five (5) business days, conduct an inspection of the property to determine compliance with the following requirements:

(a) Sidewalks.

- (i) Maintenance of public sidewalks shall be in accordance with the Township Sidewalk and Pathway Ordinance.
- (ii) All sidewalks or portions thereof shall comply with the specification as contained in the South Coventry Township Subdivision and Land Development Ordinance.
- (iii) All sidewalks or portions thereof shall comply with the Code of the Township of South Coventry.
- (iv) Sidewalks which abut the property shall be kept in good repair and in a safe condition for public use. Sidewalks with a horizontal crack or a difference of elevation of more than 1/2 inch shall be deemed not in a safe condition and shall be replaced upon the issuance of a permit by the Township Code Enforcement Officer.
- (v) If any sidewalk or pathway deficiencies or violations are observed by the Code Enforcement Officer during the inspection, the Code Enforcement Officer will identify them for the property owner by marking the appropriate sidewalk or pathway sections.

(2) The Code Enforcement Officer, upon completion of the property inspection, shall, within three (3) business days, issue an inspection report in accordance with the Municipal Code and Ordinance Compliance Act (MCOCA), 68 P.S. §§ 1081-1083, as amended.

C. Inspection Report.

- (1) The Inspection Report shall be issued within three (3) business days of the completion of the inspection and shall be mailed to the property owner and a copy shall also be mailed to the applicant, if the applicant is not the owner.
- (2) If the inspection reveals any violations, the Code Enforcement Officer will issue a report identifying any violations in accordance with the Municipal Code and Ordinance Compliance Act (MCOCA), 68 P.S. §§ 1081-1083, as amended.

- (3) The Inspection Report shall indicate whether any conditions not in compliance with the relevant Township Ordinances were revealed and each of the noncomplying conditions shall be noted as either a "violation" or a "substantial violation".
- (4) If a "violation", a "substantial violation", or a combination of "violations" and "substantial violations" are revealed, the Inspection Report shall clearly describe the "violation" and/or "substantial violation" and provide the remedial action required for compliance.
- (5) If the inspection reveals at least one "violation", but no "substantial violations", the Code Enforcement Officer shall issue an Inspection Report noting the violations and shall also issue a "Temporary Use and Occupancy Certificate".
- (6) If the inspection reveals at least one substantial violation, the Code Enforcement Officer shall issue an Inspection Report that shall specifically note those items on the report that are "substantial violations" and shall also issue a "Temporary Access Certificate."
- (7) If the inspection reveals no violations and no deficiencies are identified, the Code Enforcement Officer shall issue an inspection report indicating "no violations or deficiencies" and shall issue a "Use and Occupancy Certificate."

D. Compliance Requirement.

- (1) Time Period. *(as required by MCOCA §1083 a.1)*
 Within 12 months, or such other time period as required and set forth in the Municipal Code and Ordinance Compliance Act (MCOCA), 68 P.S. §§ 1081-1083, as amended, of the date of purchase, the purchaser of a property known to be in violation of this ordinance, or any other relevant ordinance referenced herein, shall, at his option, either:
 - (a) bring the property into compliance with the Township codes or ordinances; or
 - (b) demolish the building or structure in accordance with law.
- (2) Negotiation of Longer Time Period Allowed.
 Nothing in this ordinance shall prohibit or preclude the negotiation, between the Township and the property owner, of a longer time period for a property under a temporary certificate to come into compliance provided that:
 - (a) the property owner requests the extension; and
 - (b) the negotiation for a longer time period for compliance is at the sole discretion of the Township; and

(c) the initial 12-month time period or such other time period as required and set forth in the Municipal Code and Ordinance Compliance Act (MCOCA), 68 P.S. §§ 1081-1083, as amended is not be shortened.

E. Re-inspection of Property.

At the expiration of the time period set forth in section D (1) or D (2) above, the Township Code Enforcement Officer shall reinspect the property for the purpose of determining compliance with the cited violations.

Prior to the time period set forth in section D (1) or D (2) above upon correction of any violation or substantial violation, the property owner may request reinspection of the property for the purposes of determining compliance with the cited violations by notifying the Code Enforcement Officer in writing, requesting a reinspection, which shall be conducted within 5 business days from receipt of said request.

If a "Temporary Access Certificate" has been issued and reinspection indicates that the noted substantial violations have been corrected but other cited violations have not yet been corrected, the Code Enforcement Officer shall issue a "Temporary Use and Occupancy Certificate" to be valid for the time remaining on the original "Temporary Access Certificate".

If the reinspection indicates that all noted violations have been corrected, the Code Enforcement Officer shall issue a "Use and Occupancy Certificate" for the property.

Upon determining that the property complies with the full provisions of this article, a Use and Occupancy Certificate shall be issued by the Code Enforcement Officer.

8. Sidewalk must be Operational. As there is particular concern in the Township that sidewalks be operational, it is specifically required that:
 - A. Any existing sidewalks and/or curbs must be made operational if determined to be substandard by the Code Enforcement Officer upon inspection of the property (due to a deteriorating, unsafe, or otherwise hazardous condition). Such repair (or replacement) shall be done in a manner as stipulated by the Code Enforcement Officer and shall comply with the standards for sidewalk/curb repair (or replacement) contained in the Township's Ordinances.
9. Violations and Penalties. Any person who violates or permits a violation of this chapter shall be guilty of a summary violation and, upon conviction, shall be sentenced to pay a fine of not more than \$1,000, plus all court costs, including


reasonable attorney's fees, incurred by the Township in the enforcement of this ordinance. Each day a violation exists shall constitute a separate offense. In default of the payment of any fine, the defendant shall be sentenced to imprisonment to the extent allowed by law for the punishment of summary offenses. Further, the appropriate officers or agents of the Township are hereby authorized to seek any other available relief at law or equity, including injunction, to enforce compliance with this ordinance.


10. Indemnification of Township. Any person, firm, corporation or other entity applying for any permit under the ordinance shall indemnify the Township against all liability of whatever nature, excepting only that of the Township, arising during the performance of work for which a permit is granted, whether or not said liability arises as a result of the negligence of the person, firm, corporation or other entity to whom the permit was issued.
11. Coordination/Conflict with Existing Ordinances. All Sections or parts of sections of the Township Ordinances, all ordinances or part of ordinances, and all Resolutions, or parts of Resolutions, in conflict with the ordinance are repealed to the extent of such conflict.
12. Constitutionality. If any section, clause, sentence, or phrase of the ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the remaining portions of the ordinance.
13. Appeal of Decision of the Code Official. The Township UCC Board of Appeals is empowered to hear appeals from decisions of the Code Enforcement Officer made pursuant to this ordinance and the procedures and time limits relating hereto shall be the same as for appeals from decisions made under the Township's UCC Ordinance.
14. Effective Date. This ordinance shall be effective upon passage in accordance with the requirements of the Township Code.

ORDAINED and ENACTED by the Board of Supervisor of the Township of South
Coventry this 3rd day of February, 2020.

**BOARD OF SUPERVISORS
SOUTH COVENTRY TOWNSHIP**

Attest: 
Amanda Shaner, *Secretary*

By: 
William Nesley, Jr., *Chairperson*

By: 
Cory Mowrer, *Vice-Chairperson*

By: _____
Timothy Blevins, *Supervisor*