

Legislation Details (With Text)

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On agenda:		Final action:			
Title:	Amending Title 10 of The Philadelphia Code, entitled "Regulation of Individual Conduct and Activity," Chapter 10-800, "Safety," by adding a new Section 10-840, "Criminal Squatters," prohibiting conduct related to criminal squatting, establishing and clarifying procedures to investigate criminal squatters on real property, establishing and clarifying procedures for the removal of criminal squatters, and establishing procedures for the dissemination of information on eviction and ejection proceedings, and emergency housing, all under certain terms and conditions.				
Sponsors:	Councilmember Taubenberger				
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Date	Ver.	Action By	Action	Result	Tally
2/15/2018	0	Committee on Housing, Neighborhood Development and The Homeless	HEARING NOTICES SENT		
2/15/2018	0	Committee on Housing, Neighborhood Development and The Homeless	Cancellation of Scheduled Public Hearing		
2/1/2018	0	CITY COUNCIL	Introduced and Referred	Pass	

Amending Title 10 of The Philadelphia Code, entitled "Regulation of Individual Conduct and Activity," Chapter 10-800, "Safety," by adding a new Section 10-840, "Criminal Squatters," prohibiting conduct related to criminal squatting, establishing and clarifying procedures to investigate criminal squatters on real property, establishing and clarifying procedures for the removal of criminal squatters, and establishing procedures for the dissemination of information on eviction and ejection proceedings, and emergency housing, all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Title 10 of The Philadelphia Code is hereby amended to read as follows:

TITLE 10. REGULATION OF INDIVIDUAL CONDUCT AND ACTIVITY.

* * *

CHAPTER 10-800. SAFETY.

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§ 10-840. Removal of Criminal Squatters

(1) *Definitions. For the purposes of this Section 10-840, the following definitions shall apply:*

(a) *Alleged criminal squatter. An alleged criminal squatter is a person who the owner of a property alleges is criminally squatting on the owner's residential property under this Section 10-840.*

(b) *City of Philadelphia Appropriate Eviction and Ejectment Proceedings Fact Sheet. A fact sheet created by the Law Department in consultation with appropriate City offices and departments, which shall, at a minimum:*

(.1) *Explain the procedures for eviction or ejectment available before the Court of Common Pleas and Municipal Court, and emergency preliminary injunction proceedings in the courts.*

(.2) *Explain the procedure set forth in this Section 10-840 as well as the limitations on self-help evictions set forth in Chapter 9-1600.*

(.3) *Provide contact information for legal resources available to homeowners such as local legal services agencies and the county bar association's lawyer referral service.*

(c) *City of Philadelphia Emergency Housing Fact Sheet. A fact sheet created by the Law Department in consultation with appropriate City offices and departments, which shall, at a minimum:*

(.1) *Provide contact information for agencies that may be able to assist in obtaining housing services.*

(.2) *Provide contact information for legal resources available to persons seeking shelter such as local legal services agencies and the county bar association's lawyer referral service.*

(d) *Criminal Squatter. A person who occupies the residential property of another without any of the following:*

(.1) *title, including by twenty-one (21) years of adverse possession of the real property;*

(.2) *permission of the owner of said real property;*

(.3) *the payment of rent or rent substitute to an individual whom the person in good faith believes is the owner of the property or is acting on such owner's behalf;*

(.4) *a legally recognized ground to withhold rent otherwise due; or*

(.5) *any interaction with the owner of said real property, a prior owner of said real property, or an agent of either of the foregoing that would indicate a relationship recognized as a landlord-tenant relationship pursuant to the Pennsylvania Landlord-Tenant Act of 1951, April 6, 1951 (P.L. 69, No. 20), as amended, 68 P.S. § 250.101, et seq. (the "Landlord-Tenant Act"), with respect to said real property.*

(e) *Owner Affidavit Alleging Criminal Squatting. A signed affidavit by the owner of residential property or an authorized agent of such owner that states the following and shall include*

such other information as prescribed by the Police Department.

(i) The affiant is the owner of the residential property located at a given address, or the authorized agent of such owner.

(ii) A person who is not licensed or privileged to do so has entered and remained on the owner's property.

(iii) Neither the owner or affiant has ever had a landlord-tenant relationship with the person currently occupying the property, or provided verbal or written authorization or permission to the person or persons currently occupying the property to occupy the property, nor has any agent or personal representative established such a relationship on the affiant's behalf.

(iv) To the affiant's knowledge, information, and belief, no owner of the property, including a prior owner, established a landlord-tenant relationship, or provided verbal or written authorization or permission to authorize the person or persons to occupy the property, nor has any agent or personal representative done so on such an owner's behalf.

(v) The affiant is requesting assistance from the Philadelphia Police because the affiant believes a crime is being committed.

(f) Residential property. All property legally used or held out for individuals to live in, regardless of whether such property is occupied by the owners of said property, rented, or vacant. The term shall also include the residential portion of a mixed-use building or development

(2) Prohibited Conduct.

(a) No person shall engage in activity that qualifies such person as a criminal squatter after being directed to vacate a property by or on behalf of the owner of such property.

(b) No person shall make a material statement such person does not believe to be true in an attempt to force an alleged criminal squatter to vacate a property or otherwise cause an alleged criminal squatter's removal from a property. A statement is material if it could or has affected a determination of whether an alleged criminal squatter is a criminal squatter under this Section 10-840.

(3) Police Procedures.

(a) General Rule. A law enforcement officer having probable cause to believe that a person on residential property is criminally trespassing within the meaning of 18 Pa.C.S. § 3503 (relating to criminal trespass) shall have the authority to make an arrest or take such other steps to investigate the situation as is appropriate under the circumstances, all in a manner consistent with the Police Department's internal protocol for investigating criminal squatters, and shall obtain a warrant authorizing entry into the premises where appropriate. Nothing in this Section 10-840 shall limit the authority of the Police to conduct an investigation, or make an arrest, or in any other way diminish or interfere with the Police's authority to enforce the criminal laws in the City or Commonwealth concerning trespass, or otherwise.

(b) Owner initiated investigations. Once the owner of a property complains to the Police that an alleged criminal squatter is occupying his or her real property, the Police shall promptly investigate the matter in accordance with its internal protocol for investigating criminal squatters.

The owner of a residential property may initiate such an investigation by providing to the Police an owner affidavit alleging criminal squatting. Blank copies of such affidavits shall be available on the Police Department and City website.

(c) *Mandated report.* A police officer conducting an investigation pursuant to this subsection 10-840(2) shall make an incident report, and such other reports as prescribed by Police Department policy and protocol, which shall at a minimum document:

- (1) *the parties involved and any verifiable identification provided, or lack thereof;*
- (2) *the facts as alleged by the respective parties;*
- (3) *any visual or other observations made by the officer that support statements made by any party; and*
- (4) *any documentation concerning the alleged existence of a lease or other agreement concerning the current living arrangements.*

(d) *Provision of Information.* A police officer conducting an investigation shall make owners and alleged criminal squatters aware of the availability of the City of Philadelphia Appropriate Eviction and Ejectment Proceedings Fact Sheet and the City of Philadelphia Obtaining Emergency Housing Fact Sheet. Such fact sheets shall be available on the Police Department and City website.

(4) Court Procedures.

(a) *Upon the filing with the Court of Common Pleas of Philadelphia of a complaint for ejectment supported by an owner affidavit alleging criminal squatting and a motion for emergency preliminary injunction pursuant to Pennsylvania Rules of Civil Procedure 1051-1058 and Philadelphia Court of Common Pleas Local Rule *208.3(a), the Court shall schedule an emergency hearing within five (5) business days, or such other time period as is necessitated by the circumstances presented or applicable court procedure.*

(b) *A judge shall grant an emergency preliminary injunction, order the alleged criminal squatter to vacate the premises, and authorize the issuance of a writ of possession if the owner proves by a preponderance of the evidence that the owner is likely to prevail on the merits of the action for ejectment and a preliminary injunction is otherwise appropriate under applicable law.*

(c) *Court to adopt means of service.* The Court shall adopt a means of prompt and effective service in those instances where the plaintiff avers that service cannot be safely effected by an adult individual other than a law enforcement officer or where the court so orders.

(d) *Simplified Forms and Assistance.* The Courts may:

(i) *Provide simplified forms and clerical assistance in English and Spanish to help with the writing and filing of the complaint in ejectment, motion for emergency preliminary injunction, and responses thereto for individuals not represented by counsel.*

(ii) Provide the plaintiff and defendant with written and oral referrals in English and Spanish, to local legal services agencies and to the county bar association's lawyer referral service.

(5) Penalty. Any person who violates Section 10-840(2) shall be subject to a fine of not more than three hundred (300) dollars. Each day of violation shall constitute a separate offense.

(6) Repeat Offenders. Any person who commits, on more than one occasion, a violation of Section 10-840 (2) shall be guilty of a separate offense of Repeat Violation, and for each such Repeat Violation, shall be subject to a fine of not more than three hundred (300) dollars, or imprisonment for not more than ninety (90) days, or both. A person shall be guilty of a Repeat Violation regardless of whether the second or subsequent violation occurs before or after a judicial finding of a first or previous violation. Each violation, after the first, shall constitute a separate Repeat Violation offense.

SECTION 2. Effective Date. This Ordinance shall take effect immediately, provided that the fact sheets described in Section 10-840(1)(b) and (c) shall be available within 30 days after this ordinance becomes law.

Explanation:

[Brackets] indicate matter deleted.
Italics indicate matter added.