

TOWN OF WEST HAMLIN, WEST VIRGINIA

ORDINANCE NO. 17 (AMENDED)

AN ORDINANCE TO PROTECT THE HEALTH, SAFETY AND WELFARE OF THE PEOPLE OF THE CITY OF WEST HAMLIN BY ESTABLISHING MINIMUM STANDARDS RELATING TO THE REPAIR, CLOSING AND OR DEMOLITION OF DWELLINGS OR BUILDINGS UNFIT FOR HUMAN HABITATION.

WHEREAS, the Town Council of West Hamlin deems it advisable and necessary that it establish standards and procedures to be utilized in addressing the repair, closing, and or demolition of dwellings or buildings unfit for human habitation.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF WEST HAMLIN as follows:

1. Unsafe Dwelling Or Other Building Or Structure.

a. No responsible party shall keep or maintain a dwelling or other building or structure that is in an unsafe condition due to, but not limited to the following:

i. Unsanitary conditions.

ii. Inadequate exit facilities.

iii. Existence of a fire hazard.

iv. Any condition which is dangerous to human life or the public welfare or which presents a public health hazard.

b. The Responsible Party shall make the dwelling or other building or structure safe by repairing or removing the condition which has made it unsafe.

2. Unfit Dwelling Or Other Building Or Structure.

a. Any dwelling or other building or structure, in whole or in part, which shall be found to have any of the following defects shall be deemed to be unfit for human habitation, occupancy or use:

- i. One which is damaged, decayed, dilapidated, unsanitary, unsafe or vermin-infested so that it creates a serious hazard to the health or safety of the occupants or to the public.
- ii. One which does not include a stove or other cooking facilities, a refrigerator, or space for dry goods storage; except, however where said facilities are not required for particular types of dwelling, other building or structure.
- iii. One which exposes or could expose the occupants to dangerous levels of air pollution from carbon monoxide, sewer gas, dust, or other harmful pollutants.
- iv. One which, because of its location, exposes or could expose the occupants to serious adverse environmental conditions, natural or manmade, such as dangerous walks, steps, instability, flooding, poor drainage, septic tank back-ups, sewage hazard, mud slides, or excessive noise, vibration, or vehicular traffic.

ENFORCEMENT AND PENALTY

1. Basis of Inspections.

- a. Inspections shall be made by Unfit Property Committee which shall consist of the mayor, a councilperson selected by the Town Counsel, and one member selected at large. The ranking county health officer or his/her designee and the chief of the West Hamlin Volunteer Fire Department shall serve as ex officio members of the Committee.

- b. Inspections will be made to obtain and maintain compliance with this Ordinance based upon one or more of the following:
- i. Probable cause to believe there is a violation of the standards of this Ordinance.
 - ii. An Observation by the Town of a violation of the standards of this Ordinance.
 - iii. A report or observation of a dwelling that is unoccupied and unsecured or a dwelling that is fire damaged.
 - iv. The need to determine compliance with an order or notice issued by the Town.
 - v. Designation by the Unfit Property Commission of an area where all dwellings are to be inspected uniformly or intensively or for specific violations.
 - vi. An emergency observed or reasonably believed to exist.
 - vii. A request for an inspection by a responsible party.
 - viii. Requirements of law where a dwelling is to be demolished by the Town or where ownership is to be transferred to the Town.

2. Right of Entry

- a. Authorized inspections inside a dwelling shall be made during reasonable hours. Entry without the consent of an occupant or responsible party shall require an administrative search warrant.
- b. Administrative Search Warrant.
 - i. If the Owner or occupant fails to comply with the Town of West Hamlin's Inspection requests for a dwelling unit or residential rental property, the enforcing

agency shall obtain a search warrant from a court of competent jurisdiction. The enforcing agency shall prepare the affidavit and warrant stating:

- (1) The address of the building to be inspected;
- (2) The nature of the inspection as defined in this Ordinance;
- (3) The reasons for the inspection;
- (4) That it is issued pursuant to this Housing Ordinance.

3. Procedure if Property Determined to be Unfit or Unsafe for Human Habitation.

a. If property subject to inspection under section (1) of the Enforcement Section of this Ordinance reveals that the inspected property is Unfit or Unsafe for Human Habitation, Occupancy or Use, as defined in this ordinance then the Unfit Property Commission shall do the following:

i. Issue an Order to Repair or Correct Conditions to the responsible party.

The Order to Repair or Correct shall be issued:

- (1) By delivering the Order to the responsible party personally, as evidenced by an affidavit attesting to the same.
- (2) By sending the Order by Certified Mail to the responsible party.

b. Order to Repair or Correct.

i. The Order to Repair or Correct Conditions Shall:

- (1) Specify the date of the inspection.
- (2) Specify the address where the violation was found.
- (3) Include the name, telephone number and signature of the inspector.
- (4) Include a description and the location of each violation observed by the inspector.

(5) Order the responsible party to correct all listed violations by a specified date and to contact the Unfit Building Commission if the necessary work requires a permit or that the work be performed by a licensed contractor. The date specified in the order for repair shall take into consideration the time required for the ordered repair to be made in a reasonable amount of time.

(6) State that re-inspection will be made to determine whether all violations have been corrected by the date specified.

c. Appeals

i. If the Property Owner or other Responsible Party disagrees with an inspection conducted pursuant to this Ordinance, said Owner or Responsible Party may appeal the findings of said inspection to the full Town Council by requesting a hearing at the next council meeting.

(1) Hearing request. A hearing regarding a Property Owner or Responsible Party's appeal of an inspection shall be in writing and shall state the specific areas of disagreement with said inspection.

(2) Time. A hearing requested subject to this provision of this Ordinance shall be made within thirty (30) days of the date the Order to repair or Correct was served or delivered on the Property Owner or Other responsible party.

ii. If the Property Owner or other Responsible Party disagrees with an adverse ruling of the aforementioned appeal, said Owner or Responsible Party may contest the adverse ruling of said appeal in a court of competent jurisdiction, pursuant to that court's policies and procedures, but said

contest of appeal shall be filed no more than thirty (30) days from the date of the adverse ruling or said adverse ruling becomes final.

4. Non-Compliance.

a. Upon failure of a Property Owner or other Responsible Party to make the corrections or repairs issued under this Ordinance, or to file a timely appeal under the provisions of this Ordinance, the Town may:

i. Make the repairs or corrections as issued in the Order to Repair or Correct and file a lien against the property for the costs of the repair.

(1) The Town may, in the alternative, institute a civil action to collect the costs expended to make the repairs or corrections contained in the Order. Said costs shall include the costs of the civil action taken by the Town.

ii. Institute Condemnation proceedings against the Property Owner for the purpose of the Town taking Ownership of the subject Property.