

WEST KITTANNING BOROUGH  
ORDINANCE NO. 2010-2, 2010

AN ORDINANCE REQUIRING THE REPAIR OR DEMOLITION OF UNSAFE STRUCTURES OR EQUIPMENT, SETTING FORTH EMERGENCY MEASURES TO BE TAKEN BY THE BOROUGH TO PROTECT PERSONS AND PROPERTY FROM UNSAFE STRUCTURES AND EQUIPMENT, PROVIDING FOR PENALTIES FOR VIOLATION OF THIS ORDINANCE, AND REPEALING ORDINANCE NO. 75, ADOPTED SEPTEMBER 10, 1973, AND ANY AMENDMENTS THERETO.

**1. General.** When a structure or equipment is found by the West Kittanning Borough Council (hereinafter "Borough") to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, such structure shall be condemned pursuant to the provisions of this code.

**1.1 Unsafe structures.** An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible. This definition may include vacant, as well as occupied structures.

**1.2 Unsafe equipment.** Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.

**1.3 Structure unfit for human occupancy.** A structure is unfit for human occupancy whenever the Borough finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is insanitary, vermin or rat infested, contains filth and

contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.

**1.4 Unlawful structure.** An unlawful structure is one found in whole or in part to be occupied by more persons than permitted under this code, or was erected, altered or occupied contrary to law.

**2 Closing of vacant structures.** If the structure is vacant and unfit for human habitation and occupancy, and is not in danger of structural collapse, the Borough, through an agent or agents, is authorized to post a placard of condemnation on the premises and order the structure closed up so as not to be an attractive nuisance. Upon failure of the owner to close up the premises within the time specified in the order, the Borough shall cause the premises to be closed and secured through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate and may be collected by any other legal resource.

**3 Notice.** Whenever the Borough has condemned a structure or equipment under the provisions of this section, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the owner or the person or persons responsible for the structure or equipment in accordance with Section 23. If the notice pertains to equipment, it shall also be placed on the condemned equipment. The notice shall be in the form prescribed in Section 22.

**4 Placarding.** Upon failure of the owner or person responsible to comply with the notice provisions within the time given, the Borough, through its agent or agents, shall post on the premises or on defective equipment a placard bearing the word "Condemned" and a statement of the penalties provided for occupying the premises, operating the equipment or removing the placard.

**4.1 Placard removal.** The Borough shall remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the Borough shall be subject to the penalties provided by this code.

**5 Prohibited occupancy.** Any occupied structure condemned and placarded by the Borough shall be vacated as ordered by the Borough. Any person who shall occupy

a placarded premises or shall operate placarded equipment, and any owner or any person responsible for the premises who shall let anyone occupy a placarded premises or operate placarded equipment shall be liable for the penalties provided by this code.

## EMERGENCY MEASURES

**6 Imminent danger.** When, in the opinion of the Borough, there is imminent danger of failure or collapse of a building or structure which endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the Borough is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. The Borough's agent shall cause to be posted at each entrance to such structure a notice reading as follows: "This Structure Is Unsafe and Its Occupancy Has Been Prohibited by the Borough Council of West Kittanning." It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or of demolishing the same.

**7 Temporary safeguards.** Notwithstanding other provisions of this code, whenever, in the opinion of the Borough, there is imminent danger due to an unsafe condition, the Borough shall order the necessary work to be done, including the boarding up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as the code official deems necessary to meet such emergency.

**8 Closing streets.** When necessary for public safety, the Borough or Mayor shall temporarily close structures and close, or order the authority having jurisdiction to close, sidewalks, streets, public ways and places adjacent to unsafe structures, and prohibit the same from being utilized.

**9 Emergency repairs.** For the purposes of this section, the Borough shall employ the necessary labor and materials to perform the required work as expeditiously

as possible.

**10 Costs of emergency repairs.** Costs incurred in the performance of emergency work shall be paid by the Borough. The Borough Solicitor shall institute appropriate action against the owner of the premises where the unsafe structure is or was located for the recovery of such costs.

**11 Hearing.** Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon petition directed to the Borough, be afforded a hearing before the full Borough Council.

## DEMOLITION

**12 General.** The Borough shall order the owner of any premises upon which is located any structure, which in the Borough's judgment is so old, dilapidated or has become so out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary or to demolish and remove at the owner's option; or where there has been a cessation of normal construction of any structure for a period of more than two years, to demolish and remove such structure.

**13 Notices and orders.** All notices and orders shall comply with this code.

**14 Failure to comply.** If the owner of a premises fails to comply with a demolition order within the time prescribed, the Borough shall cause the structure to be demolished and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such demolition and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

**15 Salvage materials.** When any structure has been ordered demolished and removed, the governing body or other designated officer under said contract or arrangement aforesaid shall have the right to sell the salvage and valuable materials at the highest price obtainable. The net proceeds of such sale, after deducting the

expenses of such demolition and removal, shall be promptly remitted with a report of such sale or transaction, including the items of expense and the amounts deducted, for the person who is entitled thereto, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state.

## PENALTIES

**16 Unlawful acts.** It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of any of the provisions of this code.

**17 Notice of violation.** The code official shall serve a notice of violation or order in accordance with this code.

**18 Prosecution of violation.** Any person failing to comply with a notice of violation or order served in accordance with this code shall be deemed guilty of a summary offense, punishable by a fine of not more than one thousand dollars (\$1,000.00), a term of incarceration in the Armstrong County Jail of not more than thirty (30) days, or both. The violation shall be deemed a strict liability offense. If the notice of violation is not complied with, the Borough Solicitor shall institute the appropriate proceeding at law to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto. Any action taken by the authority having jurisdiction on such premises shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

**19 Violation penalties.** Any person who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, shall be prosecuted within the limits provided by state or local laws. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

**20 Abatement of violation.** The imposition of the penalties herein prescribed shall not preclude a police officer from instituting appropriate action to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises, or to stop an illegal act, conduct, business or utilization of the building, structure or premises.

## NOTICES AND ORDERS

**21 Notice to person responsible.** Whenever the Borough determines that there has been a violation of this code or has grounds to believe that a violation has occurred, notice shall be given in the manner prescribed in Sections 22 and 23 to the person responsible for the violation as specified in this code. Notices for condemnation procedures shall also comply with Section 3.

**22 Form.** Such notice prescribed in Section 21 shall be in accordance with all of the following:

1. Be in writing.
2. Include a description of the real estate sufficient for identification.
3. Include a statement of the violation or violations and why the notice is being issued.
4. Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the dwelling unit or structure into compliance with the provisions of this code.
5. Inform the property owner of the right to appeal.
6. Include a statement of the right to file a lien in accordance with Section 18.

**23 Method of service.** Such notice shall be deemed to be properly served if a copy thereof is:

1. Delivered personally;
2. Sent by certified or first-class mail addressed to the last known address; or
3. If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice.

**24 Penalties.** Penalties for noncompliance with orders and notices shall be as set forth in Section 19.

**25 Transfer of ownership.** It shall be unlawful for the owner of any dwelling unit or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of

such dwelling unit or structure to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the Borough and shall furnish to the Borough a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

**REPEALER**

**26 Repealer.** Ordinance Number 75, adopted September 10, 1973, and any amendments thereto, is hereby repealed. Any provision of any ordinance which inconsistent with the terms of this ordinance is likewise repealed.

ENACTED AND ORDAINED this 4<sup>th</sup> day of May,  
2010.

ATTEST:

WEST KITTANNING BOROUGH

  
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Secretary

President



APPROVAL:

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Mayor