

ORDINANCE NO. 2018-02

JOHNSONBURG BOROUGH ELK COUNTY, PENNSYLVANIA

AN ORDINANCE TO SECURE THE PUBLIC PEACE, HEALTH, SAFETY, WELFARE AND CONVENIENCE FOR THE RESIDENTS AND PROPERTY OWNERS OF THE BOROUGH OF JOHNSONBURG, ELK COUNTY, PENNSYLVANIA, BY THE REGULATION OF DANGEROUS OR DETERIORATED STRUCTURES OR BUILDINGS THAT MAY BE INJURIOUS TO LIFE OR HEALTH AND TO PROVIDE PENALTIES FOR THE VIOLATION THEREOF

THE BOROUGH OF JOHNSONBURG ORDAINS AS FOLLOWS:

SECTION 1. TITLE

This Ordinance shall be known and cited as the Johnsonburg Borough Dangerous Building Ordinance and is enacted pursuant to the enabling authority provided 8 Pa.C.S. § 1202 of the P. A. Borough Code.

SECTION 2. DANGEROUS BUILDINGS OR STRUCTURES

All buildings or structures which have any or all of the following defects:

- A. Those whose interior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base;
- B. Those which, exclusive of the foundation, show damage or deterioration to thirty three percent (33%) of the supporting member or members, or damage or deterioration to fifty percent (50%) of the nonsupporting enclosing or outside walls or cover;
- C. Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used;
- D. Those which have been damaged by fire, wind or other causes so as to be dangerous to life, safety, or the general health and welfare of the occupants or the public;
- E. Those which are so damaged, dilapidated, decayed, unsafe, unsanitary, vermin

infested or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to cause injury to the health, safety or general welfare of those living therein;

- F. Those which have parts thereof which are so attached that they may fall and injure property or members of the public;
- G. Those which lack illuminations, ventilation or sanitation facilities or because of another condition are unsafe, unsanitary, or dangerous to the health, safety, or general welfare of the occupants or the public;
- H. Those which because of their location are unsanitary, or otherwise dangerous, to the health or safety of the occupants or public;
- I. Those existing in violation of any provision of the building code, fire prevention code, or other ordinances of the Borough of Johnsonburg.

CODE ENFORCEMENT OFFICER - the building code official appointed by the Borough and the state mandated building codes is hereby also appointed pursuant to 8 Pa.C.S. § 1005 to be the official enforcement officer to enforce the provisions of this ordinance.

DWELLING - any building which wholly or partly used or intended to be used for living or sleeping by human occupants.

DWELLING UNIT - any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living or sleeping by human occupants.

EXTERMINATION - control and elimination of insects, rodents or other pests by eliminating their harborage places, removing or making inaccessible, materials that may serve as their food, poisoning, spraying, fumigating, trapping, or by any other recognized and legal pest elimination methods.

GARBAGE - animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

INFESTATION - presence, within or around a dwelling, of any insects, rodents or other pests.

OWNER - person who, alone or jointly and severally with others;

1. Shall have legal title to any dwelling, or dwelling unit, with or without accompanying actual possession thereof; or
2. Shall have charge, care or control of any dwelling or dwelling unit, as owner or agent of the owner, or as executor, executrix., administrator, administratrix, or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this ordinance and with

rules and regulations adopted pursuant thereto, to the same extent as if he were the owner.

PERSON - any individual, partnership, corporation, association, institution, cooperative enterprise, municipal authority, Federal Government or Agency, State Institution or Agency and any other legal entity whatsoever which is recognized by law as the subject of rights and duties.

PROPERTY - a piece, parcel, lot or tract of land.

RUBBISH - combustible and noncombustible waste materials, except garbage, including residue from the burning of wood, coal, coke, and other combustible material, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust.

STRUCTURE -- anything constructed or erected with a fixed or ascertainable location on the ground including buildings, walls, fences, platforms, billboards, signs and walks.

SECTION 3. Dangerous Buildings Declared Nuisance

All dangerous buildings within the terms of Section 2 of this Ordinance are hereby declared to be public nuisances and shall be repaired, vacated, or demolished as herein provided.

SECTION 4. Standards for Repair, Vacation or Demolition

The following standards shall be followed in substance by the code enforcement officer of the Borough in ordering repair, vacation or demolition:

1. If the dangerous building can reasonably be repaired so that it will no longer exist in violation of the terms of this Ordinance, it shall be ordered to be repaired.
2. If the dangerous building is in such condition as to make it dangerous to the health, safety or general welfare of its occupant or the public and is so placarded, it shall be ordered to be vacated within such length of time, not exceeding thirty (30) days, as is reasonable.
3. No dwelling or dwelling unit which has been placarded as unfit for human habitation shall again be used for human habitation until written approval is secured from, and such placard is removed by the code enforcement officer. The code enforcement officer shall remove such placard whenever the defect or defects upon which the placarding action was based have been eliminated.
4. If a dangerous building is fifty percent (50%) or more damaged or decayed, or deteriorated from its original condition; if a dangerous building cannot be repaired, so that it will no longer exist in violation of the terms of this ordinance; or if a dangerous building is a fire hazard existing or erected in violation of the terms of this ordinance or any ordinance of the Borough or statute of the Commonwealth of Pennsylvania, it shall be ordered to be demolished, provided the cost of repairs to rectify or remove the conditions constituting the nuisance exceed fifty percent (50%) of the market value of the building at the time demolition is proposed.

SECTION 5. Duties of Code Enforcement Officer

1. The code enforcement officer shall inspect on a regular basis dwellings, buildings and structures to determine whether any conditions exist which render such premises dangerous buildings within the terms of Section 2 above.

2. Whenever an inspection discloses that a dwelling, building or structure has become a public nuisance, the enforcement officer shall issue a written notice to the person or persons responsible therefore. The notice:

A. shall be in writing;

B. shall include a statement of the reasons it is being "issued";

C. shall state a reasonable time to rectify the conditions constituting the nuisance or to remove and demolish the dwelling, building or structure;

D. shall be served upon the owner, or his agent, or the occupant, as the case may require.

1) Except in emergency cases and where the owner, occupant, lessee, or mortgagee is absent from the Borough, all notices shall be deemed to be properly served upon the owner, occupant or other person having an interest in the dangerous building, if a copy thereof is served upon him personally, or if a copy thereof is posted in a conspicuous place in or about the structure affected by the notice; or if he is served with such notice by any other method authorized or required under the laws of the Commonwealth.

2) Except emergency cases, in all other cases where the owner, occupant, lessee, or mortgagee is absent from the Borough, all notices or orders provided for herein shall be sent by registered mail to the owner, occupant, and all other persons having an interest in said building, as shown by the records of the County Recorder of Deeds, to the last known address of each and a copy of such notice shall be posted in a conspicuous place on the dangerous building to which it relates. Such mailing and posting shall be deemed adequate service.

E. May contain an outline of remedial action which, if taken, will constitute compliance with the provisions of this Ordinance and with the rules and regulations adopted pursuant thereto.

3. Appear at all hearings and testifying as to the condition of dangerous buildings.

SECTION 6. Removal of Notice Prohibited

No person shall remove or deface the notice of dangerous building, except as provided in

section 4 (3).

SECTION 7. Emergency Cases

Whenever the enforcement officer finds that an emergency exists which required immediate action to protect the public health, he may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as is necessary to meet the emergency. Notwithstanding the other provisions of this ordinance, such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately, but upon petition to the enforcement officer shall be afforded a hearing as soon as possible. After such hearing, depending upon the findings as to whether the provisions of this ordinance have been complied with, the enforcement officer shall issue a written notice in the same manner as provided herein for other cases.

SECTION 8. Abatement by Borough

If the owner, occupant, mortgagee, or lessee fails to comply with the order of the enforcement officer within the time specified in the notice issued by the enforcement officer, the enforcement officer shall cause such building or structure to be repaired, vacated, or demolished as the facts may warrant, under the standards hereinbefore provided. The Borough may collect the cost of such repair, vacation or demolition together with a penalty of 10 percent (10%) of such cost, in the manner provided by law.

SECTION 9. Applicability of State Laws

Violations of this Ordinance shall also be subject the provisions applicable State Laws including, but not limited to, Act 90 of 20 10 and, in particular, to the provisions and remedies provided by the Neighborhood Blight Reclamation and Revitalization Act as set forth at 53 Pa.C.S.A § 6101 et seq.

SECTION 10. Penalty

Any person violating any of the provisions of this chapter shall, upon summary conviction thereof in a summary proceeding before a Magisterial District Judge, be sentenced to pay a fine of not more than \$1,000.00 and costs and, in default of the payment of such fine and costs, be imprisoned in the county jail for a period of exceeding 30 days. Each and every day upon which any person violates or continues to violate the provisions of the chapter shall constitute a separate offense.

SECTION 11. Repealer

Any ordinances or provisions of Ordinances contrary to this Ordinance are hereby repealed to the extent of their inconsistency.

PASSED, ENACTED, AND ADOPTED THIS 10TH DAY OF SEPTEMBER, 2018.

THE BOROUGH OF JOHNSONBURG

Alfred J. Maletto
Alfred Maletto, President of Borough Council

ATTEST:

Rachel Kilhoffer
Borough Secretary

EXAMINED AND APPROVED BY THE MAYOR OF JOHNSONBURG THIS 10TH DAY
OF September, 2018

John E. Fabel
Mayor, The Borough of Johnsonburg