

ORDINANCE #95-3

An Ordinance providing for the vacation, removal, repair, or demolition of any structures dangerous to the health, morals, safety or general welfare of the people of the Borough of Hop Bottom; and for the assessment of the cost of vacation, removal, repair or demolition thereof as a municipal lien or assessment against such premises; providing for the recovery of such costs in an action at law; and prescribing penalties for the violation thereof. Pursuant to Act 98 of 1992, commonly known as the Fire Insurance Escrow Law, providing that in certain fire losses the Insurance Company, Association or Exchange shall transfer Insurance proceeds to a designated officer of the Municipality as a portion of the Insurance proceeds to be held as security against the total cost of removing, repairing, or securing the damage building, providing for fees, providing for penalties for violation and setting forth procedures and requirements pertaining to such Insurance proceeds and to implementation of Act 98 of 1992 in the Borough of Hop Bottom.

Whereas, in the Borough of Hop Bottom, in Susquehanna County, Pennsylvania, there are and may be in the future, buildings or structures which are dilapidated, unsafe, dangerous, unsanitary and a menace to the health, morals, safety and general welfare of the people of the Borough and which might tend to constitute a fire menace and which are a public nuisance.

Now, therefore, be it ordained and enacted by the Council of Hop bottom Borough, Susquehanna County, Pennsylvania, and it is hereby enacted and ordained by the authority of the same as follows:

SECTION I. A. Title. This ordinance shall be known and referred to as the "Hop Bottom Borough Dangerous Buildings Ordinance".

B. Definitions. Unless the context specifically and clearly indicates otherwise, the meanings of terms used in this Ordinance shall be as follows:

1. The word "Borough" shall mean the Borough of Hop Bottom, Susquehanna County, Pennsylvania.
2. The word "Council" shall mean the Council of Hop Bottom Borough, Susquehanna County, Pennsylvania.
3. The words "dangerous buildings" shall mean all buildings or structures which have any or all of the following defects and all such buildings or structures shall be deemed to be "dangerous buildings":
 - i. Those which have been damaged by fire, wind or other causes so as to have become dangerous to the life, safety, morals, or the general health and welfare of the occupants or the people of the Borough;
 - ii. Those which have become or are so dilapidated, decayed, unsafe, unsanitary, vermin infested or which so utterly fail to provide the amenities essential to the decent living that they are unfit for human habitation or are likely to cause accidents, sickness, or disease so as to work injury to the health, morals, safety, or general welfare of those living therein as well as other citizens of the Borough;
 - iii. Those which have parts thereof which are so attached that they might fall and injure members of the public or adjoining property;
 - iv. Those which because of their general condition are unsafe, unsanitary, or dangerous to the health, morals, safety or general welfare of the people of the Borough.

- v. 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.
- vi. Those which exclusive of the fountain, show damage or deterioration to thirty-three (33%) of the supporting member or members, or damage or deterioration to fifty percent (50%) of the nonsupporting enclosing or outside walls or covering;
- vii. Those which have improperly distributed loads upon the floors or roof or in which the same are overloaded or which have insufficient strength to be reasonably safe for the purpose used;
4. 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.
5. Garbage animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.
6. Infestation - Presence, within or around a dwelling of any insects, rodents or other pests.
7. Rubbish - Combustible and noncombustible waste materials, except garbage including residue from the burning wood, coal, coke, and other combustible material paper, rags, cartons, boxes, excelsior, rubber, leather, three branches, yard trimmings, tin cans, metal mineral matter, glass, crockery and dust.

SECTION II - DANGEROUS BUILDING AS NUISANCES

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

SECTION III - INVESTIGATION PROCEDURES

Whenever it shall be reported or come to the attention of any Borough Official or police officer that any building or structure, completed or in the process of construction or any portion thereof, shall report same to the Council and the Council shall immediately cause an investigation and examination indicates such building or structure to be dangerous in accordance with the standards of Section I B-3 of this Ordinance, a written report of such investigation shall be submitted to the Council, specifying the exact condition of such building or structure and setting forth whether or in what respect the structure is dangerous and whether it shall be removed as a dangerous building. It shall be the responsibility of the Council to make a finding, based upon said report, as to whether or not any building is a "dangerous building" as defined hereinabove.

SECTION IV STANDARDS FOR REPAIR, VACATION OR DEMOLITION

The following standards shall be followed in substance by the Council in ordering repair, vacation or demolition of dangerous buildings:

- A. If the dangerous building can be repaired as determined by Council so that it will no longer exist in violation of the terms of this Ordinance, it shall be ordered repaired;
- B. If the dangerous building is in such condition as to make it dangerous to the health, morals, safety or general welfare of its occupants, it shall be ordered to be vacated.

- C. In any case where a dangerous building cannot be reasonably repaired as determined by the Council as provided for in A of this Section, it shall be demolished. In case where a dangerous building is a fire hazard existing or erected in violation of the terms of this Ordinance, or any Statute of the Commonwealth of Pennsylvania, it shall be demolished.

SECTION V - ENFORCEMENT PROCEDURES

A. If any structure is deemed to be a "dangerous building" within the standards set forth in Section I B-3 of this Ordinance, the Council shall forthwith cause written notice to be served upon the owner, occupant, lessee, mortgagee, agent and all other persons having interest in said building as shown by Deed of registration in the Recorder's office of Susquehanna County, Pennsylvania of any such dangerous building.

B. The Notice required by this Section shall be served personally upon his agent if such an agent resides within the Borough. If the personal service as required herein cannot be obtained or if the owner resides outside the Borough, such Notice shall be sent to the owner of the dangerous building by Certified Mail at the last known address thereof. The notice shall be effective when mailed and not received.

C. The Notice shall identify the building or structure deemed dangerous and contain a statement of the particulars which made this building or structure a dangerous building and an order requiring the same to be put in such condition as to comply with the terms of the order of this Ordinance, provided, in any cause where the Notice prescribed the repair of any structure, the owner thereof shall have the option to remove such structure in lieu of making the repairs thereto within the above time limits.

D. Such Notice shall require any person to repair, vacate or demolish any building to commence the work or act required by the Notice within ten (10) days of such notice and to complete such repair removal within a reasonable time, as prescribed by the Council.

E. The Council shall cause to be placed on all dangerous buildings a Notice reading substantially as follows:

"This building has been found to be a dangerous building by the Council of the Borough of Hop Bottom, Susquehanna, Pennsylvania. This Notice is to remain on this building until it is repaired, vacated or demolished in accordance the the Notice which has been given to the owner, occupant, lessee, mortgagee or agent of this building. It is unlawful to remove this Notice until compliance is made under the terms contained and the Notice given to the above name party."

SECTION VI - PENALTIES

A. The owner, occupant, mortgagee, lessee, or any other persons who shall fail to comply with any Notice or order to repair, vacate, or demolish any such dangerous building given by any person authorized by this Ordinance, or any regulation or order issued thereunder, shall, upon conviction before a District Justice, be subject to a fine not exceeding Three Hundred Dollars (\$300.00) and costs and, in default of the payment of the fine and costs, shall be subject to imprisonment in the Susquehanna County Jail for a period not exceeding thirty (30) days, provided, each day's continuance of a violation shall constitute a separate offense. Penalties contained in this Ordinance are in addition to any other remedies provided by this Ordinance;

B. Any person removing the Notice provided for in Section V hereof, shall, upon conviction before the District Justice, be subject to a fine not exceeding Fifty (\$50.00) Dollars and cost for each offense, and in default of payment of the fine and costs for each offense shall be subject to imprisonment in the Susquehanna County Jail for a period not exceeding ten (10) days.

C. If the owner, occupant, mortgagee, lessee, or any other person having an interest in said building, as shown by the land records of the Recorder of Deeds of Susquehanna County fails to comply with any notice or order to repair, vacate, or demolish any dangerous building within the time specified from the receipt of the such Notice, the Council is empowered to cause such building or structure to be repaired, vacated or demolished by the Borough and to cause the costs of such repair, vacation or demolition, together with a penalty of ten (10%) percentum to be charged against the land on which the building existed as a municipal lien or to recover such costs and penalty in a suit at law against the owner or other such person having an interest in the building, PROVIDED, the recovery of such cost and expense, together with the penalty, may be in addition to the penalty imposed in A and B of this Section.

SECTION VII EMERGENCY CASES

In cases wherein it reasonably appears that there exists an immediate danger to the life or safety of any person caused or created by a "dangerous building" as defined herein, the Council shall cause the immediate repair, vacation or demolition of such "dangerous building" shall be collected in the same manner as provided for in Section V - C.

SECTION VIII ACT 98 OF 1992 - FIRE ESCROW LAW

The Commonwealth of Pennsylvania has enacted Action 98 of 1992 effective on September 7, 1992 amending the Insurance Company law of 1992 to provide procedures for the payment of certain fire loss claims. It is the purpose of said legislation to deter the commission of arson and related crimes, to discourage the abandonment of property, and to prevent urban plight and deterioration. Pursuant to Section 508 of the Insurance Company Law of 1921 to provide for the payment of proceeds from certain fire loss claims to the Municipality as followed:

- A. The Secretary or such Official's Designee is hereby appointed as the designated Officer who is authorized to carry out all responsibilities and duties stated herein.
- B. No Insurance Company, Association or Exchange (hereinafter the "Insuring Agent") doing business in the Commonwealth of Pennsylvania shall pay a claim of a named insured for fire damage to a structure located within the Borough of Hop Bottom (hereinafter the "Municipality") where the amount recoverable for the fire loss to the structure under all policies exceeds Five Thousand Dollars (\$5,000) unless the named Insured or Insuring Agent is furnished by the Municipal Treasurer with a Municipal Certificate pursuant to Section 508 (B) of Act 98 of 1992 and unless there is compliance with Section 508 (C) and (D) of Act 98 of 1992 and the provisions of this Ordinance.

Where pursuant to Section 508 (B) (1) (I) of Act 98 of 1992, the municipal treasurer issues a certificate indicating that there are no delinquent taxes, assessments, penalties or users charges against real property, the Insurance Agent shall pay the claim of the named insured, provided however, that if the loss is agreed upon by the named insurer and the Insuring Agent equals or exceeds 60 percent of the aggregate limits of liability on all fire policies covering the building restructure, the following procedures must be followed:

- (1) The Insuring Agent shall transfer from the insurance proceeds to the designated officer of the Municipality in the aggregate of \$1,000 for each \$20,000 of a claim and for each fraction of that amount of a claim, this section to be applied such that if the claim is \$20,000. or less, the amount transferred to the Municipality shall be \$1,000; or

(2) If at the time of a proof of loss agreed to between the named insured and the Insuring Agent, the named insured has submitted a contractor's signed estimate of the costs of removing, repairing, or securing the building or other structure, the Insuring Agent shall transfer to Municipality from the insurance proceeds the amount specified in the estimate.

(3) The transfer of proceeds shall be on pro rata basis by all companies, associations or exchanges insuring the building or other structure.

(4) After the transfer, the named insured may submit a contractor's signed estimate of the costs of removing, repairing, or securing the building or other structure, and the designated officer shall return the amount of the funds transferred to the Municipality in excess of the estimate to the named insured, if the Municipality has not commenced to remove, repair or secure the building or other structure.

(5) Upon receipt of proceeds under this section, the Municipality shall do the following:

(a) The designated officer shall place the proceeds in the separate fund to be used solely as security against the total costs of removing, repairing, or securing the building or structure which are incurred by the Municipality. Such costs shall include, without limitation, any engineering, legal or administrative costs incurred by the municipality in connection with such removal, repair or securing of the building or any proceedings related thereto; and

(b) It is the obligation of the Insuring Agent when transferring the proceeds to provide the municipality with the name, and address of the named insured. Upon receipt of the transferred funds and the name and address of the named insured, the designated officer shall contact the named insured certify that the proceeds have been received by the Municipality and notify the named insured that the procedures under this subsection shall be followed; and

(c) When repairs, removal or securing of the building or other structure have been completed in accordance with all applicable regulations and orders of the Municipality and the required proof of such completion received by the designated officer, and if the Municipality has not incurred any costs for repair, removal or securing, the funds shall be returned to the named insured. If the Municipality has incurred costs for repair, removal, or securing of the building or other structure, the costs shall be paid from the fund and if excess funds remain, the Municipality shall transfer the remaining funds to the named insured; and

(d) To the extent that interest is earned on proceeds held by the Municipality pursuant to this Section, and not returned to the named insured, such interest shall belong to the Municipality. To the extent that proceeds shall be distributed to the named insured at the time that the proceeds are returned.

(e) Nothing in this section shall be construed to limit the ability of the Municipality to recover any deficiency. Furthermore, nothing in this subsection shall be construed to prohibit the Municipality and named insured from entering into an agreement that permits the transfer of funds to the named insured of some other reasonable disposition of damaged property has been negotiated.

C. The Borough of Hop Bottom may by Resolution adopt procedures and regulations to implement Act 98 of 1992 and this Ordinance and may by resolution fix reasonable fees to be charged for municipal activities for certificated and bills, performance of inspections and opening separate fund accounts.

D. An owner of property, any named insured or any insuring Agent who violated this Section VIII shall be subject to a penalty of up to \$1,000. per violation

SECTION IX SEVERABILITY

If any sentence, clause or section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall not effect or impair any of the remaining provisions, sentences, clauses or sections or parts of this Ordinance. It is hereby declared as the intent of the Council that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

SECTION X REPEALING CLAUSE

Any Ordinance or part of Ordinance or Resolution heretofore adopted by the Council is hereby repealed insofar as the same conflicts with or effects this Ordinance.

SECTION XI This Ordinance shall become effective immediately upon its passage or enactment.

Enacted by the Borough Council of the Borough of Hop Bottom at the meeting held on the 1st day of August, 1995.

BOROUGH OF HOP BOTTOM

By: Arlene M. Zablotsky
PRESIDENT

ATTEST

Terma K Isaac
SECRETARY

Lance M Benedict
MAYOR