

TOWNSHIP OF WEST MAHANAY
County of Schuylkill in the
Commonwealth of Pennsylvania

Ordinance No. 1991-5

AN ORDINANCE OF THE TOWNSHIP OF WEST MAHANAY, COUNTY OF SCHUYLKILL IN THE COMMONWEALTH OF PENNSYLVANIA, PROVIDED FOR THE VACATING, REMOVAL, REPAIR OR DEMOLITION OF ANY STRUCTURES DANGEROUS TO THE HEALTH, MORALS, SAFETY OR GENERAL WELFARE OF THE PEOPLE OF THE TOWNSHIP OF WEST MAHANAY; 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.

WHEREAS, in the Township of West Mahanoy, County of Schuylkill in the Commonwealth of Pennsylvania, there are or may be in the future, buildings or structures that are dilapidated, unsafe, dangerous, unsanitary or any two or more from among these;

WHEREAS, these aforementioned buildings or structures constitute a menace to the health, morals, safety and general welfare of the people of the Township or at least one or more of these; and,

WHEREAS, these aforementioned buildings or structures tend to constitute a public nuisance and may also tend to constitute a fire menace.

AND NOW, THEREFORE, be it enacted and ordained by the Board of Supervisors for the Township of West Mahanoy, and it is hereby enacted and ordained by the authority of the same, as follows:

Section 1 - SHORT TITLE

This ordinance shall be known as and may be cited as "West Mahanoy Township Dangerous Buildings Ordinance."

Section 2 - APPLICATION

This ordinance shall apply uniformly to all persons, business organizations, nonprofit organizations and all other legal entities; and, it shall apply uniformly to all property and all property owners within the Township of West Mahanoy.

Section 3 - DEFINITIONS AND WORD USAGE

- a) Unless otherwise specifically defined below, words or phrases used herein shall be interpreted so as to give them the same meaning as they have in common usage and so as to give the ordinance its most reasonable application consistent with its intent.
- b) The word "shall" is always mandatory and not merely directory.
- c) The word "board" shall mean the Board of Supervisors of the Township of West Mahanoy (see "township" herein below).
- d) The word "township" shall mean the Township of West Mahanoy, County of Schuylkill in the Commonwealth of Pennsylvania.
- e) The words "dangerous buildings" shall mean all the buildings or structures which have any or all of the following defects; and, all such buildings or structures shall be deemed "dangerous buildings":
- i) Those which have been damaged by fire, wind or other cause so as to fail utterly to provide the amenities essential to decent living and are unfit for human habitation;
 - ii) Those which have been damaged by fire, wind or other cause so as to have become dangerous to the life and safety, morals or the general health and welfare of the occupants or the people of the Township;
 - iii) Those which have become or are so dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the amenities essential to decent living so that they are unfit for human habitation;
 - iv) Those which have become or are so dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the amenities essential to decent living and 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 Township;
 - v) Those which have parts thereof which are so attached that they might fall and injure members of the public or adjoining property; or,
 - vi) 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 Township.

f) Words used in the present text include the future and past, words in the plural number include the singular, words in the singular number include the plural, and words either in the feminine, masculine or neuter shall include words of the other two genders.

Section 4 - DANGEROUS BUILDINGS AS NUISANCES

a) All "dangerous buildings" are hereby declared to be public nuisances and shall be repaired, vacated or demolished.

b) Each day a nuisance in the form of a "dangerous building" continues, after notice is given that said dangerous building is to be repaired, vacated or demolished, shall constitute a separate offense in violation of this ordinance.

Section 5 - INVESTIGATION PROCEDURE

Whenever it shall be reported or come to the attention of any Township official or police officer that any building or structure, completed or in the process of construction, or any portion thereof, is in a dangerous condition, such person shall report the same to the Board; and, the Board shall immediately designate a Township official, employee or police officer to make an investigation and examination of such building or structure. If such investigation or examination indicates such building or structure to be a "dangerous building," a written report of such investigation shall be sent to the Board, specifying the exact condition of such building or structure and setting forth whether or in what respect the structure is dangerous and whether the structure is capable of being properly repaired or whether it shall be removed as a "dangerous building."

Section 6 - HEARING PROCEDURE

The Board of Supervisors of the Township shall:

a) Upon receipt of a report in accordance with the investigation procedure provided for herein in Section 5 of this ordinance, give written notice to the owner or owners of such dangerous building as determined by the record in the Office of the Recorder of Deeds in and for the County of Schuylkill in the Commonwealth of Pennsylvania, or failing to find any owner or owners, then such occupant, mortgagee, lessee, agent or any other person with an interest in said dangerous building who may be located, to appear before the Board on the dated specified in the notice, to show cause why the building or structure reported to be a "dangerous building" should not be repaired, demolished or vacated in accordance with the statement of particulars set forth in the notice provided for herein;

b) Within not less than ten (10) nor more than sixty (60) days from the date of such notice, hold a hearing and hear such testimony as the owner, occupant, mortgagee, lessee or other person having an interest in said building shall offer related to the "dangerous building";

c) Within thirty (30) days of such hearing, make written findings of fact from the testimony offered pursuant to the hearing as to whether or not the building in question is a "dangerous building"; and,

d) Within not more than thirty (30) days following the hearing provided for by subsection "b" hereof, issue an order, based upon findings of fact made pursuant to subsection "c" hereof, demanding the owner of said building to repair, demolish or vacate any building found to be a "dangerous building."

Section 7 - STANDARDS FOR REPAIR, VACATION OR DEMOLITION

The following standards shall be followed in substance by the Board in ordering repair, vacation or demolition of a dangerous building:

a) If the "dangerous building" can be repaired as determined by the Board 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) If the "dangerous building" cannot be reasonably repaired as determined by the Board, it shall be demolished.

d) If the "dangerous building" is a fire hazard or is existing or erected in violation of the terms of this ordinance, any other ordinance in the Township or any statute of the Commonwealth of Pennsylvania, it shall be demolished.

Section 8 - ENFORCEMENT PROCEDURES

a) If any structure is deemed to be a "dangerous building" within the standards of this ordinance, the Board shall forthwith cause notice to be served upon the owner or owners of such dangerous building as determined by the record in the Office of the Recorder of Deeds in and for the County of Schuylkill in the Commonwealth of Pennsylvania, or failing to find any owner or owners, then such occupant, mortgagee, lessee, agent or any other person with an interest in said dangerous building who may be located.

b) The notice required by this section shall be served personally upon the owner or owners of a dangerous building if such owner resides, or such owners, reside in the Township or personally upon his agent if such agent resides within the Township. If personal required herein cannot be obtained, such notice shall be sent to the owner or owners of a dangerous building by certified mail at the last known address according to the records available in the Tax Assessment Office in and for the County of Schuylkill in the Commonwealth of Pennsylvania.

c) Such notice shall identify the building or structure deemed dangerous, contain a statement of the particulars which made this building or structure a dangerous building and include an order requiring the same to be put in such condition as to conform with the terms of this ordinance; provided further in any case where the notices prescribes 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 time period provided.

d) Such notice shall require any person notified 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 comply with such repair, vacation or demolition within sixty (60) days from the receipt of such notice.

e) The Board 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 Board of Supervisors for the Township of West Mahanoy, County of Schuylkill in the Commonwealth of Pennsylvania. This notice is to remain on this building until it is repaired, vacated or demolished in accordance with the notice which has been given to the owner, occupant, lessee, mortgagee or agent of the building. It is unlawful to remove this notice until compliance is made under the terms contained in the notice served on the above named party."

Section 9 - PENALTIES

a) All fines provided for in this section shall be in addition to costs.

b) Any person who shall fail to comply with any notice or order to repair, vacate or demolish any dangerous building, which notice is served by any person authorized to do so by the Board, shall upon conviction before a District Justice,

be subject to a fine not exceeding three hundred (\$300.00) dollars; and, in default of payment of the fine and costs, shall be subject to imprisonment for a period of not exceeding thirty (30) days.

c) Any person removing the notice provided for in Section 8(e) shall, upon conviction before a District Justice, be subject to a fine not exceeding one hundred (\$100.00) dollars; and, in default of payment of the fine and cost shall be subject to imprisonment for a period not exceeding fifteen (15) days.

d) Any person having an interest in any building who fails to comply with any notice or order to repair, vacate or demolish any dangerous building within sixty (60) days of the receipt of such notice, by such failure, does empower the Board to cause such building or structure to be repaired, vacated or demolished by the Township and to cause the costs of such repair, vacation or demolition together with a penalty of ten (10%) percent to be charged upon the land upon which the building exists as a municipal lien, or alternatively to recover such costs and penalty in a suit at law against the owner or owners but failing to recover same to have the judgement therefor to be charged upon the land as a lien; and, this subsection is separate from and in addition to the fine, penalty and costs which may be imposed by any other subsection of this section.

Section 10 - EMERGENCY CASES

In cases where it reasonably appears that there exists an immediate danger to the life or safety of any person caused or created by a dangerous building, the Board shall cause the immediate repair, vacation or demolition of such dangerous building. The costs of such emergency repair, vacation or demolition of such dangerous building shall be collected as provided for in Section 9(d) of this ordinance.

Section 11 - SEVERABILITY

a) In the event of any provision, section, sentence, clause or part of this ordinance being held to be invalid, such invalidity shall not effect or impair any remaining provision, section, sentence, clause or part of the ordinance, it being the intent of the Township that such remainder shall be and shall remain in full force and effect and for this purpose these provisions of this ordinance are hereby declared to be severable.

b) In the event of any legislation by the Commonwealth of Pennsylvania becoming effective dealing with the same or similar subject matter as that included herein, such shall remain in full force and effect if it is more restrictive, and not inconsistent with, such legislation; but, if such legislation is more restrictive than, inconsistent with, or both, then this ordinance shall be interpreted according to such legislation and shall be superseded to the extent necessary to give such legislation appropriate effect. However, all the remainder of the ordinance shall be and shall remain in full force and effect and for this purpose the provisions of this ordinance are hereby declared to be severable.

Section 12 - REPEALER

All ordinances or parts of ordinances expressly inconsistent herewith, or dealing with the same or similar subject matter of this ordinance, are expressly repealed.

Section 13 - EFFECTIVE DATE

This ordinance shall be and become fully effective and applicable on JULY 17, 1991.

DULY ENACTED AND ORDAINED, this 17 day of JULY, 1991, by the Board of Supervisors for the Township of West Mahanoy, County of Schuylkill in the Commonwealth of Pennsylvania, in lawful session duly assembled.

TOWNSHIP OF WEST MAHANNOY
COUNTY OF SCHUYLKILL, PENNSYLVANIA

BY: Peter Paul Sarno, Jr.
Chairman of the Board of Supervisors

(SEAL)

Walter J. Sarno
Member of the Board of Supervisors

ATTEST:

Charles P. Mckeone
Member of the Board of Supervisors

Charles P. Mckeone
Secretary

Charles P. Mckeone