

SCOTT TOWNSHIP
LACKAWANNA COUNTY, PENNSYLVANIA

ORDINANCE NO. 99-4-21

AN ORDINANCE PROHIBITING DANGEROUS PROPERTIES, STRUCTURES AND BUILDINGS IN SCOTT TOWNSHIP, LACKAWANNA COUNTY, PENNSYLVANIA AS PUBLIC NUISANCES, PROVIDING FOR THE CORRECTION, REPAIR, VACATION OR DEMOLITION OF THE SAME, AND PRESCRIBING PENALTIES FOR VIOLATIONS.

Be It Enacted and Ordained by the Board of Supervisors of Scott Township, Lackawanna County, Pennsylvania, under the authority of the Second Class Township Code, Act of May 1, 1933 (P.L. 103, No. 69), reenacted and amended November 9, 1995 (P.L. 350, No. 60), as amended, and the ~~Insurance Company Law of 1921 (P.L. 682, No. 284) as amended by Act 98 of 1992~~, as follows:
FIRE INSURANCE ESCROW LAW OF 1994.

Section 1 Definitions

As used in this Ordinance, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

ATTRACTIVE PUBLIC NUISANCE - A condition of property which may reasonably be construed to be a source of danger to the persons who may resort on the premises, or who may, by reason of something which may be expected to attract them, come to the premises.

BUILDING - An independent structure having a roof supported by columns or walls resting on its own foundation and includes dwelling, dwelling unit, garage, barn, stable, shed, greenhouse, mobile home, plant, factory, warehouse, school or similar structure.

DANGEROUS PREMISES- Any building, structure or property which has any or all of the following defects:

- A. Any structure which, exclusive of the foundation, shows damage or deterioration to thirty-three (33) percent of the supporting member or members, or damage or deterioration to fifty (50) percent of the non-supporting enclosing or outside walls or covering;
- B. Any structure which has improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which has insufficient strength to be reasonably safe for the purpose used;
- C. Any structure which has 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;
- D. Any structure which is so damaged, dilapidated, decayed, unsafe, unsanitary, vermin infested or which so utterly fails to provide the amenities essential to decent living that it is unfit for human habitation, or is likely to cause sickness or disease, so as to work injury to the health, safety or general welfare of those living therein;
- E. Any structure which has parts which are so inadequately attached that they may fall and injure, occupants, property or members of the public;

- F. Any structure which lacks illumination, ventilation or sanitation facilities or because of another condition is unsafe, unsanitary, or dangerous to the health, safety, or general welfare of the occupants or the public;
- G. Any building, structure or property which because of its location or due to an accumulation of garbage or rubbish is unsanitary, or otherwise dangerous, to the health or safety of the occupants or the public.
- H. Any building, structure or property which can be construed as an attractive public nuisance.

DWELLING - Any building which is 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.

EMERGENCY CASE - A dangerous premises which poses an imminent threat to the public health, safety or welfare and which requires immediate action to eliminate such imminent threat. Such action may include but need not be limited to securing by boarding-up an open building to prevent entry or erecting fencing to secure an exposed foundation.

ENFORCEMENT OFFICER - The person appointed by the Scott Township Board of Supervisors to enforce the provisions of this Ordinance.

EXTERMINATE - To control and eradicate 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.

OCCUPANT - The owner of a premises and/or any person having charge, care, custody or control of such premises or unit therein, including but not limited to a tenant or lessee.

OWNER - The person who, alone or jointly or severally with others is the owner of record of the premises as filed with the Lackawanna County Recorder of Deeds. In the case where an owner is represented by an agent, including but not limited to a manager, executor, executrix, administrator, administratrix, or guardian of the estate of the owner, 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 / PUBLIC - Any individual, firm, corporation, association or partnership, or other legal entity.

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

RUBBISH - Combustible and non combustible waste materials including but not limited to, garbage,

junk, residue from the burning of wood, coal, coke, and other combustible material, paper, rags, cartons, boxes, wood, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass crockery and dust, and similar materials.

STRUCTURE - Anything constructed or erected with a fixed or ascertainable location on the ground or in water, whether or not affixed to the ground or anchored in the water, including buildings, dwellings, dwelling units, walls, fences, platforms, docks, wharves, billboards, signs, and walks. Whenever the words "structure" or "premises" are used in this Ordinance, they shall be construed as though they were followed by the words "or any part thereof".

VERMIN INFESTED - Presence, within or around a premises, of any insects, rodents or other pests.

Section 2 Declared Nuisances

All dangerous premises as defined by this Ordinance are hereby declared to be an attractive public nuisances and shall be repaired, corrected, vacated, or demolished as herein provided.

Section 3 Repair, Correction, Vacation or Demolition

The following standards shall be followed in substance by the Enforcement Officer of Scott Township in ordering repair, correction, vacation, or demolition:

- A. Repair/Correction - If the dangerous premises or condition can reasonably be repaired or corrected, or the vermin therein can be exterminated, so that it will no longer exist in violation of the terms of this Ordinance, it shall be ordered by the Enforcement Officer to be repaired or corrected by the owner and/or occupant.
- B. Vacation - If the dangerous premises is in such condition as to make it dangerous to the health, safety, or general welfare of its occupants, or the public and is so declared by the Enforcement Officer, it shall be ordered to be vacated within such length of time, not exceeding thirty (30) days, as is reasonable.
- C. Habitation - No premises which has been declared as unfit for human habitation and ordered vacated shall again be used for human habitation until written approval is secured from the Enforcement Officer whenever the defect or defects have been eliminated.
- D. Demolition - If a dangerous premises is fifty (50%) percent or more damaged or decayed, or deteriorated from its original condition; if a dangerous premises cannot be repaired or corrected, so that it will no longer exist in violation of the terms of this Ordinance; or, if a dangerous premises is a fire hazard existing or erected in violation of the terms of this Ordinance or any requirement of Scott Township or statute of the Commonwealth of Pennsylvania, it shall be ordered to be demolished; provided, the cost of repairs or corrections to rectify or remove the conditions constituting the nuisance exceed fifty (50%) percent of the market value of the premises, but not including the value of the land on which the premises is situated, at the time demolition is proposed.

Section 4 Enforcement Officer; Notice

The Board of Supervisors shall appoint an individual, agency or firm to serve as the Enforcement Officer, who shall be responsible for enforcing the terms of this ordinance.

- A. Inspections - The Enforcement Officer may inspect properties, dwellings, dwelling units, buildings and structures to determine whether any conditions exist which render such premises dangerous as defined by Section 1 of this Ordinance. Prior to entering upon any property to conduct an inspection, the Enforcement Officer shall obtain the permission of the owner or occupant for the same. If after due diligence, the Enforcement Officer is unable to obtain such permission, the Enforcement Officer shall have the authority to conduct the necessary inspection in accord with this Ordinance and the applicable laws of the Commonwealth. The Enforcement Officer may, upon authorization of the Board of Supervisors, consult with the Township Engineer or any other qualified person, in making the determination regarding a dangerous premises.
- B. Notice - Whenever an inspection discloses that a property, dwelling, dwelling unit, building or structure has become dangerous, the Enforcement Officer shall issue a notice to the owner and/or occupant of the premises. The notice:
1. Shall be in writing;
 2. Shall include a statement of the reasons it is being issued;
 3. Shall state a reasonable time to rectify the conditions constituting the nuisance or to remove and demolish the dwelling, dwelling unit, building or structure, and may contain an outline of remedial action which, if taken, will effect compliance with the provisions of this Ordinance and with the rules and regulations adopted pursuant thereto
 4. Shall inform the owner that he has a right to a hearing before the Board of Supervisors in accord with this Ordinance.
 5. Shall inform the owner that should he fail to comply with the order or request a hearing, the Township Supervisors will order the correction of the nuisance and/or the repair or removal of the structure, and in accord with Section 8 and Section 9, will assess any and all costs, expenses, and penalties incurred against the land on which the nuisance is located.
- C. Service of Notice - Except in emergency cases, the notice shall be sent by registered mail or by certificate of mailing, or personally delivered to, the owner, and/or the occupant of the premises. Where the owner is absent from Scott Township, all notices shall be deemed to be properly served upon the owner if:
1. A copy of the notice is served upon the owner personally; or,
 2. A copy of the notice is sent by registered mail or by certificate of mailing to the last known address of the owner, and is posted in a conspicuous place on or about the premises affected by the notice; or,
 3. The owner is served with such notice by any other method authorized under the laws of the Commonwealth.
- D. Hearing Appearance - The Enforcement Officer shall appear at all hearings conducted by the Board of Supervisors and testify as to the condition of dangerous premises.

Section 5 Hearings

- A. Hearing Request - Any person affected by any notice which has been issued in connection with the enforcement of any provision of this Ordinance, may request and shall be granted a hearing on the matter before the Township Board of Supervisors; provided, that such person shall file with the Board in writing a request for a hearing setting forth a brief statement of the grounds therefore within ten (10) days after the day the notice was served in accord with Section 4,C. Upon receipt of such request a time and place for such hearing shall be scheduled and advertised in accord with the Pennsylvania Sunshine Law. At such hearing the person requesting the hearing shall be given an opportunity to be heard and to show why such notice should be modified or withdrawn. The hearing shall be commenced not later than twenty (20) days after the day on which the request was received in the municipal office.
- B. Board Action - After such hearing the Board of Supervisors shall sustain, modify or withdraw the notice. If the Board sustains or modifies such notice, it shall be deemed to be an order. Any notice served pursuant to this Ordinance shall automatically become an order if a written request for a hearing is not filed with the Board of Supervisors within ten (10) days after such notice is served.
- C. Appeal - Any aggrieved party may appeal the final order to the Court of Common Pleas of Lackawanna County in accordance with the provisions of the Local Agency Law.
- D. Fee - The person requesting the hearing shall pay the fee for such hearing as may be established by resolution of the Board of Supervisors.

Section 6 Removal of Notice Prohibited

No person shall remove or deface the notice of dangerous premises, except as provided in Section 3,C, when the Enforcement Officer provides written approval for habitation of the premises following correction of all identified defects.

Section 7 Emergency Cases (See definition in Section 1.)

Whenever the Enforcement Officer finds that an emergency exists which requires immediate action to protect the public health, welfare or safety, 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 immediately repair, correct, secure or demolish the condition or structure to eliminate the emergency.

Notwithstanding the other provisions of this Ordinance, such order shall be effective immediately. The costs of such emergency repair, correction or demolition of such dangerous premises shall be collected in the same manner as provided herein for other cases. (See Section 8 and Section 9.)

Section 8 Abatement by Scott Township

If the owner and/or occupant fails to comply with the order of the Enforcement Officer within the time specified in the notice issued by the Enforcement Officer, or fails to appeal to the Board of Supervisors, or fails to comply with the determination of the appeal to made by the Board of Supervisors, the Enforcement Officer may cause such premises to be repaired, corrected, secured, vacated, or demolished as the facts may warrant, under the standard hereinbefore provided. The Township of Scott may collect the cost of such repair, correction, vacation or demolition together with a penalty of ten (10) percent of such cost, plus expenses, attorney fees and interest, in the manner provided by law. The recovery of such cost and expense, together with the penalty, may be in addition to the penalty imposed as provided in

Section 9 of this Ordinance.

Section 9 Enforcement Officer; Appointment; Duties

The Board of Supervisors may appoint one or more Enforcement Officers, who may be an individual, firm or agency of the Township, to conduct inspections, make reports and administer other parts of this Ordinance as determined by the Board of Supervisors.

Section 10 Enforcement Remedies

- A. Fine - Any person who has violated or permitted the violation of any of the provisions of this Ordinance shall upon judgement thereof by any District Justice, be sentenced to pay a fine of not less than one hundred dollars (\$100.00), nor more than one thousand dollars (\$1,000.00) per day of violation, together with the costs of suit, and/or shall be committed to the Lackawanna County Prison for a period not exceeding thirty (30) days. Each day of violation shall constitute a separate offense, for which a summary conviction may be sought. All judgments, costs, interest and reasonable attorney fees collected for the violation of this Ordinance shall be paid over to the Township.
- B. Court of Common Pleas - The court of common pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment.
- C. Other Remedies - In addition to any penalty herein provided, any person, persons, firm, partnership or corporation who or which shall violate any provision of this Ordinance shall be subject to any law or laws, of the Commonwealth of Pennsylvania, which affords a remedy for such violation in any court of the Commonwealth, including but not limited to, equitable or injunctive relief.
- D. Recovery of Costs - Additionally, if the owner of any dangerous premises, to whom or which a notice to repair or to remove such premises shall be sent under the provisions of this Ordinance, fails to commence or to complete such repair or removal within the time limit prescribed by such notice, the Board of Supervisors shall be empowered to cause such work of repair or removal to be commenced and/or completed by the Township, and the cost and expense thereof, with a penalty of ten (10) percent, plus expenses, attorney fees and interest, shall be collected from the owner of such premises, in the manner provided by law.

ENACTED AND ORDAINED into law by the Board of Supervisors of Scott Township, Lackawanna County, Pennsylvania, on this 21 day of April of 1999.

George J. Llesky
Jack E. Beem

ATTEST:

Kimberly Mack