

ABANDONED AND DILAPIDATED BUILDING ORDINANCE

ARTICLE 1. AUTHORITY, EFFECTIVE DATE, TITLE, PURPOSE, JURISDICTION AND SEVERABILITY.

Section 1.0 Authority

This ordinance is adopted by virtue of the authority granted in Chapter Seven, Article One, Section three-ff (§ 7-1-3ff) of the Code of West Virginia as amended.

Section 1.1 Effective Date-

This ordinance shall become effective immediately upon the completion of all of the following: (1) an affirmative vote of the Wood County Commission in open session and in proper form; (2) the affixing of the signatures of the Commissioners present and voting; and (3) the filing of an executed copy thereof in the Order Book of the Wood County Commission.

Section 1.2 Title-

This ordinance shall be titled and cited as the Wood County ordinance for the clearance of refuse and debris from private lands; demolition of buildings and recovery of costs incurred; notice of demand thereof; and the procedure to contest demand.

Section 1.3 Purpose

The purpose of this ordinance is to promote the public safety or welfare of the citizens of Wood County, West Virginia by requiring the repair, alteration, improvement, vacating, closing, removal or demolition of dwellings or other buildings, or any combination thereof, unfit for human habitation due to dilapidation, defects increasing the hazard of fire, accidents or other calamities, lack of ventilation, light or sanitary facilities or other conditions prevailing in any dwelling or building, whether used for human habitation or not, which would cause such dwellings or other buildings to be unsafe, unsanitary, dangerous or detrimental to the public safety or welfare, whether the result of natural or manmade force or effect, and by requiring the removal and clean up of any accumulation of refuse or debris, overgrown vegetation or toxic spillage or toxic seepage located on private lands which is determined to be unsafe, unsanitary, dangerous or detrimental to the public safety or welfare whether the result or natural or manmade force or effect. PROVIDED, HOWEVER, this ordinance shall not apply to buildings utilized for farm purposes on land actually being used for farming.

Section 1.4 Jurisdiction

This ordinance shall apply to all properties within Wood County, West Virginia, exclusive of properties within incorporated towns and cities, properties of the United States Government, and of the West Virginia State Government.

Section 1.5 Severability

Should any article, section, subsection or provision of this ordinance be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the ordinance as a whole or any part thereof other than the part so declared to be invalid or unconstitutional.

Article 2. DEFINITIONS

Section 2.0 Interpretation

For the purpose of this ordinance, the following interpretations shall apply:

- (a) Words used in the present tense include the future.
- (b) The singular includes the plural.
- (c) The plural includes the singular.
- (d) The word "person" includes a corporation, unincorporated association or partnership, chartered associations, partnership, natural persons, joint ventures, joint stock company, club, company, business trust, or the manager, agent, servant, officer or employee of any of them.
- (e) The term "shall" is mandatory and the term "may" is permissive.

Section 2.1 Definitions

Building: Any man-made structure on a parcel of land that has one or more walls.

Commission: The County Commission of Wood County, West Virginia

Commissioner: An elected member of the County Commission of Wood County, West Virginia.

Compliance Officers: The officials appointed by the Wood County Commission duly sworn to enforce the laws of this ordinance.

County Engineer: An engineer employed by, or hired as a consultant to, the Wood County Commission, who is a member of the Enforcement Agency and who is registered by the West Virginia Board of Registration of Professional Engineers as a "Professional Engineer."

County Health Officer: Any health officer or other employee appointed or employed by any combined board of health pursuant to Chapter 16, Article 2, Section 3 of the Code of West Virginia (§ 16-2-3) of the Code of West Virginia.

County Litter Control Officer: A person appointed by the County Commission of Wood County, West Virginia, to perform the functions of County Litter Control Officer as authorized by the Code of West Virginia, Chapter 7, Article 1, Section 3ff.

Enforcement Agency: The Enforcement Agency is that agency of Wood County Government charged under Chapter 7, Article 1, Section 3ff (§ 7-1-3ff) of the Code of West Virginia with the investigation and enforcement of violations of that statute and this ordinance. Its membership includes: County Engineer, County Health Officer, Sheriff, an appointed Fire Chief, County Litter Control Officer and two other members at large. The Sheriff is an ex officio member.

Farm or Farm Operations: Shall have the same definition as contained in West Virginia Code Chapter 11, Article 1A, Section 3(f) [§ 11-1A-3(f)]. *Structure:* Anything constructed, the use of which requires a fixed location on the ground; or, anything attached to something having such location. Structures include prefabricated buildings even if they are not anchored to the ground. A structure does not include fences, individual driveways, or retaining walls.

Toxic Substances: Means any substance which because of its quantity, concentration or physical, chemical or infectious characteristics may (1) cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating or reversible illness; or (2) pose a substantial present or potential hazard to human health exclusive of any application of substances for bona fide farming operations.

ARTICLE 3. ENFORCEMENT AGENCY

Section 3.0 Membership

The Enforcement Agency shall consist of the following members: County Engineer, County Health Officer, a Fire Chief from a county fire company, County Litter Control Officer, and two members of the general public. The Sheriff of Wood County shall serve as an ex-officio member of the Enforcement Agency.

The County Commission shall select and appoint two members of the general public and a Fire Chief from a county fire company to serve staggered three-year terms. Upon initial appointment, one of the citizens-at-large shall serve a one (1) year term, the second citizen-at-large shall serve a two (2) year term and the Fire Chief shall serve a three (3) year term. Upon their reappointment or upon appointment of a successor at the end of a regular term, all future appointments shall be for a three-year term.

Section 3.1 Meetings

- (a) The members of the Enforcement Agency shall meet in public session quarterly on a certain date and time, to be determined by the Enforcement Agency after their appointment, and at the same meeting as the election of officers. In order that citizens shall know the date and time of the meeting, once the Enforcement Agency has selected the date and time for their monthly meeting, said date and time shall be published.

- (b) At the first meeting of the Enforcement Agency and on the one (1) year anniversary date thereafter, the members of the Enforcement Agency shall appoint: one of its members to serve as its President, and one of its members to serve as its Vice-President, and one of its members to serve as its Secretary. Each member so appointed to the office of President, Vice-President or Secretary shall serve a one (1) year term of office or until replaced.
- (c) Three members of the Enforcement Agency in attendance at the monthly meeting shall constitute a quorum.
- (d) Meetings of the Enforcement Agency shall be conducted generally in accordance with Robert's Rules of Order.
- (e) It is the intention of this County Commission that complaints shall be investigated as quickly and as expeditiously as possible. Therefore, at the monthly public meeting, the Enforcement Agency shall receive complaints from the County Compliance Officers, County Engineer and/or from the general public concerning: dwellings or other buildings or any combination thereof that may be dilapidated, unfit for human habitation or due to defects increasing the hazard of fire, accidents or other calamities, lack of ventilation, light or sanitary facilities, or any other conditions prevailing in these dwellings or other buildings whether used for human habitation or not, which would cause such dwellings or other buildings to be unsafe, unsanitary, dangerous or detrimental to the public safety or welfare whether the result of natural or manmade force or effect; and complaints concerning accumulation of refuse or debris, overgrown vegetation or toxic spillage or toxic seepage located on private lands which may be deemed to be unsafe, unsanitary, dangerous or detrimental to the public safety or welfare whether the result of natural or manmade force or effect. Complaints received by the County Administrator, or the County Commission may be forwarded to the County Compliance Officers or County Engineer for investigation without waiting for a meeting of the Enforcement Agency.
- (f) The County Compliance Officer or County Engineer may enter into an agreement with the landowner to remedy deficiencies. The Enforcement Agency shall be advised of the agreement at its next monthly meeting for approval. Such agreement shall state on its face: "THIS AGREEMENT SHALL NOT BE BINDING UPON THE WOOD COUNTY ABANDONED AND DILAPIDATED BUILDING ENFORCEMENT AGENCY UNLESS AND UNTIL APPROVED BY SAID ENFORCEMENT AGENCY AT ITS' MONTHLY MEETING." The landowner shall further be advised of the time and place of the next meeting of the Enforcement Agency.
- (g) The members of the Enforcement Agency may, if a quorum is present, by a majority vote of those present accept the complaint from the County Compliance Officers, or from a citizen for investigation by the Enforcement

Agency; or if the complaint is from the County Engineer, and the investigation shall already have been made, the Enforcement Agency may accept the report of the County Engineer and proceed according to paragraph 3.1(h):

- (h) Upon the completion of the investigation of the citizen's complaint or complaint presented by the compliance officer, and without further public input, the members of the Enforcement Agency, relying upon the investigation report, by a majority vote of those members present in public session may:

- (1) dismiss the citizen's complaint; or
- (2) continue the matter over until a later monthly meeting to permit further investigation; or
- (3) enter into an agreement with the owner to remedy deficiencies and continue the matter over until a later monthly meeting to permit the property owner time to remedy deficiencies in accordance to an agreement between the Enforcement Agency and the property owner; or
- (4) continue the matter over until a later monthly meeting; or
- (5) requiring the property owner to repair, alter, improve, determine that the dwelling, building, accumulation of refuse or debris, overgrown vegetation, toxic spillage, or toxic seepage is unsafe, unsanitary, dangerous or detrimental to the public safety or welfare and should be repaired, altered, improved, vacated, removed, closed, cleaned up or demolished as the case may be and direct the County Engineer to initiate proceedings before the County Commission by petition/complaint to seek an order of the County Commission to:

- (A) vacate, remove, close, clean up or demolish the dwelling or building in question within a reasonable time; or
- (B) to remove or clean up any accumulation or refuse or debris, overgrown vegetation or toxic spillage or toxic seepage within a reasonable time; and
- (C) to impose daily civil monetary penalties upon the property owner who fails to obey the order of the County Commission; and
- (D) if necessary, to request that the County Commission advertise for and seek a contractor to make the ordered repairs, alterations, improvements, demolition, removal or clean up; and
- (E) to institute a civil proceeding in the Circuit Court of Wood County, West Virginia to subject the private land in question to a lien to satisfy the contractor's costs in making the ordered repairs, alterations, improvements, demolition, removal or clean up; the daily civil monetary

penalty imposed; reasonable attorney fees and court costs expended to order the private land in question sold to satisfy this lien; and order and decree that the contractor may enter upon the private land in question to perform the ordered repairs, alterations, improvements, demolition, removal or clean up.

Section 3.2 Condemnation of Unsafe Structures

- (a) *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.
- (b) *Imminent Danger.* When, in the opinion of the County Engineer, 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 or to the building occupants or those in the proximity of any structure deemed dangerous, the Compliance Officer is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. The Compliance Officer shall cause to be posted at each entrance to such structure a notice reading as follows: "Following inspection by the County Engineer, this structure has been determined unsafe and its occupancy has been prohibited by the County Compliance Officer." 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.
- (c) *Structure unfit for human occupancy.* A structure is unfit for human occupancy whenever the County Engineer finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is unsanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.
- (d) *Closing of vacant structure.* If the structure is vacant and unfit for human habitation and occupancy, and is not in danger of structural collapse, the Compliance Officer or County Engineer 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 within the order, the Compliance Officer 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 source.

- (e) *Temporary Safeguards.* Notwithstanding other provisions of this ordinance, whenever, in the opinion of the County Engineer, there is imminent danger due to an unsafe condition, the Compliance Officer shall order the necessary work to be done, including 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 County Engineer deems necessary to meet such an emergency.
- (f) *Structural Members.* All structural members shall be maintained free from deterioration, and shall be capable of safely supporting the imposed dead and live loads. Structures severely damaged by fire, or other calamity, should be demolished if not deemed structurally safe.
- (g) *Notice.* Whenever the County Engineer has condemned a structure 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. If the property owner disagrees with the County Engineers determination and designation, the property owner may contract with a licensed (in the State of West Virginia), structural engineer to analyze the structure and to complete the necessary engineering calculations. The property owner could then use this technical report to object to the 'dilapidated' or 'condemned' designation.
- (h) *Placarding.* Upon failure of the owner or person responsible to comply with the notice provisions with the time given, the Compliance Officer shall post on the premises a placard bearing the word "Condemned" and a statement of the penalties provided for occupying the premises or removing the placard.
- (i) *Placard Removal.* The Compliance Officer 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 Compliance Officer shall be subject to the penalties provided by Section 3.2 (l) of this ordinance.
- (j) *Prohibited Occupancy.* Any person who shall occupy a placarded premises, and any owner or any person responsible for the premises who shall let anyone occupy a placarded premises shall be liable for the penalties provided by Section 3.2 (l) of this ordinance.
- (k) *Liability.* The Compliance Officer, County Engineer, officer or employee charged with the enforcement of this ordinance, while acting for the county, shall not thereby be rendered liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act required or permitted in the discharge of official duties. Any suit instituted against any officer or employee in the lawful discharge of duties and under the provisions of this ordinance shall be defended by the legal

representative of the county until the final termination of the proceedings. The Compliance Officer, County Engineer, or any subordinate shall not be liable for costs in an action, suit or proceeding that is instituted in pursuance of the provisions of this ordinance; and any officer or employee acting in good faith and without malice, shall be free from liability for acts performed under any of its provisions or by reason of any omission in the performance of official duties in connection therewith.

- (1) *Violation Penalties.* Any person who shall violate a provision of the ordinance, or fail to comply therewith, or with any of the requirements thereof, shall be prosecuted within the limits provided by West Virginia Code Chapter 17-23-9. Each day that a violation continues after due notice has been served shall be deemed a separate offense. The Wood County Commission has the right to abate the nuisance and recover costs of abatement with respect to the property owner.

Section 3.3 Enforcement Agency Rules for Conducting Investigations

(a) Upon the members of the Enforcement Agency voting to accept the citizen's complaint or, upon acceptance of the complaint by the County Engineer, the County Engineer, who may be assisted by County Compliance Officers shall conduct an investigation; the County Engineer in the course of his investigation may contact some or all of the following public officials and ascertain some or all the following information, depending upon what kind of complaint is filed:

- (1) Sheriff's Tax Office to ascertain the property owner's address, the tax district, tax map and parcel number for the property in question; its assessed value for both the lands and buildings; acreage of lot size if known by the Sheriffs Tax Office and the status of taxes paid or due and owing on this property; any lien information.
- (2) Clerk of the County Commission to ascertain any information about judgment liens, tax liens, mechanics liens or deed of trust liens on the subject property and obtain a copy of the deed, or other document by which the owner obtained title to the property in question.
- (3) Assessor's Office to ascertain lot or parcel size and a copy of a tax map for the property in question.
- (4) County Health Officer to ascertain the type of water and sewer system serving the property in question.
- (5) County Fire Departments to ascertain the number of fire service or ambulance calls to that property in the last three years.
- (6) Planning Commission staff to ascertain the number of improved lots in that or nearby subdivisions; location of the property in question insofar as flood prone areas, river, streams, and ponds are concerned; the location of nearby

schools, hospitals and residences in the immediate area and in the watershed area.

- (7) United States Department of Agriculture Offices to ascertain the types of farming operations in the area in question and the soil types.
- (8) West Virginia State Police and Wood County Sheriff's Department to ascertain the nature and number of law enforcement problems originating from the property in question in the last three years.
- (9) The County Engineer shall, whenever possible, take written statements from the complaining party, the property owner, neighbors and other interested persons and attach these statements to the investigative report.
- (10) The County Engineer shall at the conclusion of the investigation prepare a written investigative report providing a copy to each member of the Enforcement Agency at the monthly meeting of the Enforcement Agency where the investigative report shall be considered.
- (11) The County Engineer may propose an agreement between the property owner and the Enforcement Agency whereby the property owner agrees to remedy all deficiencies to the satisfaction of the Enforcement Agency within a designated period of time.
- (12) The County Engineer shall, at the direction of the Enforcement Agency, initiate by petition/complaint on behalf of the Enforcement Agency, an action before the County Commission to seek an order of the County Commission requiring the property owner to repair, alter, improve, vacate, remove, close, clean up or demolish the dwelling or building in question within a reasonable time; or to remove or clean up any accumulation of refuse or debris, overgrown vegetation or toxic spillage or toxic seepage within a reasonable time; and to impose daily civil monetary penalties upon the property owner who fails to obey the order of the County Commission; and if necessary, to request that the County Commission advertise for and seek a contractor to make the ordered repairs, alterations, improvements, demolition, removal or clean up; and to institute a civil proceeding in the Circuit Court of Wood County, West Virginia to subject the private land in question to a lien to satisfy: the contractor's costs in making the ordered repairs, alterations, improvements, demolition, removal or clean up; the daily civil monetary penalty imposed; reasonable attorney fees and court costs expended and to order the private land in question sold to satisfy this lien; and order and decree that the contractor may enter upon the private land in question to perform the ordered repairs, alterations, improvements demolition, removal or clean up.
- (13) Upon completion of the investigation, and approval of the investigative report by the Enforcement Agency, the County Engineer shall file his petition before the county commission and shall request that the Clerk of the Wood County Commission deliver notice to the property owner, in the manner provided in Rule 4 of the West Virginia Rules of Civil Procedure, stating therein the findings and recommendations of the Enforcement Agency and further, advising the property owner that the County Commission shall enter an Order implementing the recommendations unless, within ten days of the receipt of the notice, the property owner shall have filed with the Clerk of the Wood County Commission a written request for a hearing.

- (14) The members of the Enforcement Agency are specifically authorized to enter upon lands under their jurisdiction, as set out in Section 1.4 *supra*, without a warrant for the sole purpose of making the investigation required herein; however, any such entrance upon the property in question shall be made in such a manner as to cause the least possible inconvenience to the persons in possessing.
- (15) The County Litter Control Officer shall have authority to issue citations for violations of the provisions of Chapter 20, Article 7, Section 26 (§20-7-26) of the Code of West Virginia, after completing a training course offered by the West Virginia Division of Natural Resources. Nothing in this sub-section supersedes the authority or duty of other law enforcement officers to preserve law and order and enforce the litter control program.

ARTICLE 4. PROCEEDINGS BEFORE THE COUNTY COMMISSION

Section 4.0 Institution of Proceeding Before the County Commission

Enforcement action begins with the County Engineer filing the petition/complaint in the Office of the Clerk of the County Commission of Wood County, on behalf of the Enforcement Agency as set out in Article 3, *supra*.

Section 4.1 Service of a Copy of the Enforcement Agency Petition/Complaint Upon the Property Owner

The Clerk of the County Commission of Wood County shall receive and file the petition/complaint of the Enforcement Agency and shall cause a copy thereof to be served upon the property owner in the manner provided in Rule Four (4) of the West Virginia Rules of Civil Procedure. The Clerk of the County Commission of Wood County shall note on the original petition/complaint the date service was accomplished if by personal service, and cause the person making personal service to certify that personal service was performed on that date. A copy of this return of service shall be provided by the Clerk of the County Commission to the County Engineer.

Section 4.2 Failure of the Property Owner to Request a Hearing Before the County Commission Upon the Petition/Complaint of the Enforcement Agency.

- (a) If the property owner or owners shall fail to file with the Clerk of the County Commission a written request for a hearing before the County Commission upon the petition/complaint of the Enforcement Agency within ten (10) days of service of the petition/complaint upon said owner or owners, the County Commission may enter an order implementing the determinations and recommendations of the Enforcements Agency and ordering the property owner to repair, alter, improve, vacate, remove, close, clean up or demolish the dwelling or building in question within a reasonable time or to remove or clean up any accumulation or refuse or

debris, overgrown vegetation or toxic spillage or toxic seepage within a reasonable time and to impose daily civil monetary penalties on any owner or owners who fail to obey such an order as appropriate under the facts of the case.

(b) The Clerk of the County Commission of Wood County shall cause such order of the commission to be filed and an attested copy of such order to be served upon the property owner or owners by United States Postal Service by certified mail, return receipt requested, at the same address used by the Sheriff to mail the property owner his tax bill. The Clerk shall note on the file copy of the order the date of the mailing and the address to which it was mailed.

Section 4.3 Setting a Date and Time for a Hearing on the Petition/Complaint of the Enforcement Agency When Requested by the Property Owner.

After receipt of a written request for a hearing upon the Enforcement Agency's petition/ complaint by the property owner, the County Commission at its next regular meeting shall enter an order setting this matter down for hearing at a particular time and date within twenty (20) days of the receipt of the written request. In that regards the Clerk of the County Commission shall note the date of the filing of the written request upon the face of the written request. Upon the entry of the order setting this matter down for hearing, the Clerk of the County Commission shall file the original order and mail attested copies thereof to the property owner and County Engineer by United States Postal Service first class mail, within ten (10) days at the return address specified in the property owner's written request for hearing; or, if no return address is on the request for hearing, at the address utilized by the Sheriff for the property owner's tax bill. The Clerk of the County Commission shall note on the filed order the address, date of mailing of each attested copy mailed.

Section 4.4 Hearing Before the County Commission

The hearing before the County Commission upon the petition/complaint of the Enforcement Agency shall be either recorded by electronic device or by court reporter. The President of the County Commission will call the hearing to order and note on the record, each member of the County Commission in attendance and whether a quorum exists to proceed. The President will note on the record of presence or absence of each of the litigants in person, pro se and/or by their respective counsel. Witnesses will be administered an oath by the President prior to testifying. The President of the County Commission will conduct the hearing and rule on matters of procedure and law. The West Virginia Rules of Evidence shall not apply to the proceedings, but each party shall have the right to present evidence and examine and cross-examine all witnesses. Documentary evidence will be marked as exhibits and if relevant and probative admitted into evidence. The County Commission shall have the right to recess the hearing and visit the property in question for a view. Facts discerned by commission members on the view are evidence that may be considered. Each party shall have the right to make an

opening and a closing statement. The Enforcement Agency has the burden of providing its allegations by a preponderance of the evidence and shall have the duty to go forward with the evidence.

Section 4.5 Findings of Fact, Determinations, Conclusions of Law, Orders, and Civil Monetary Penalties by the County Commission.

- (a) At the conclusion of the Section 4.4 hearing regarding a dwelling or building, the County Commission shall by a majority vote make findings of fact, determinations and conclusions of law as to whether a dwelling or building:
 - (1) Is unfit for human habitation due to dilapidation, whether the result of natural or manmade force or effect which would cause the dwelling or other buildings to be unsafe, unsanitary, dangerous or detrimental to the public safety or welfare; and/or
 - (2) Has defects that increase the hazard of fire, accidents or other calamities, whether the result of natural or manmade force or effect, which would cause the dwelling or other building to be unsafe, unsanitary, dangerous or detrimental to the public safety or welfare; and/or
 - (3) Lacks ventilation, light or sanitary facilities whether the result of natural or manmade force or effect which would cause the dwelling or other building to be unsafe, unsanitary, dangerous or detrimental to the public safety or welfare; and/or
 - (4) Has other conditions prevailing therein whether used for human habitation or not, and whether the result of natural or man-made force or effect, which would cause such dwelling or other building to be unsafe, unsanitary, dangerous or detrimental to the public safety or welfare.
- (b) If these findings of fact, determinations and conclusion of law are made, the County Commission may by majority vote, order the property owner or owners to repair, alter, improve, vacate, remove, close, clean up or demolish the dwelling or building in question within a reasonable time and to impose a daily civil monetary penalty not to exceed \$100 per day per violation upon the property owner or owners jointly and severally for each day after the time limitation has passed for the ordered work to be performed and completed to the satisfaction of the County Commission and the ordered work has not been completed, or for any other failure to obey the order of the County Commission beyond the time limitation set for that compliance to have occurred.
- (c) At the conclusion for the Section 4.4 hearing regarding trash, debris, vegetation or toxic substances, the County commission shall by a majority vote make findings of fact and conclusions of law as to whether:
 - (1) There is an accumulation of refuse or debris on private land whether the result of natural or manmade force of effect, which would cause such dwelling or other building to be unsafe, unsanitary, dangerous or detrimental to the public safety or welfare; and/or,

- (2) There is overgrown vegetation on private lands, whether the result or natural or manmade force or effect, which would cause such lands to be unsafe, unsanitary, dangerous or detrimental to the public safety or welfare; and/or,
 - (3) There is toxic spillage on private lands, whether the result or natural or manmade for or effect, which would cause such dwelling or other building to be unsafe, unsanitary, dangerous or detrimental to the public safety or welfare; and/or
 - (4) There is toxic seepage on private land whether the result of natural or manmade force or effect which would cause such dwelling or other building to be unsafe, unsanitary, dangerous or detrimental to the public safety or welfare.
- (d) If these findings of fact and conclusions of law show that a violation of this ordinance exists, the County Commission may by a majority vote order the property owner or owners to remove or clean up any accumulation of refuse or debris, overgrown vegetation or toxic spillage or toxic seepage from the private land in question within a reasonable time and to impose a daily civil monetary penalty not exceeding \$100.00 per day per violation upon the property owner or owners jointly and severally for each day after the time limitation has passed for the ordered work to be performed and completed to the satisfaction of the County Commission and the ordered work has not been completed, or for any other failure to obey the order of the County Commission beyond the time limitation set for that compliance to have occurred.

ARTICLE 5. APPEAL OF DECISION OF THE COUNTY COMMISSION TO CIRCUIT COURT

Section 5.0 Appeals of Decisions of County Commission to Circuit Court

Appeals from the County Commission's decisions made in the Section 4.4 hearings to Circuit Court shall be in accordance with the provisions of Article Three, Chapter Fifty-eight (§ 58-3-1 et seq.) of the Code of West Virginia as amended.

ARTICLE 6. PROCEDURES FOR CONTRACTING WITH VENDORS TO PERFORM ORDERED REPAIRS, ALTERATIONS, IMPROVEMENTS, DEMOLITION, REMOVAL OR CLEAN UP UPON THE FAILURE OF THE PROPERTY OWNER TO COMPLY WITH THE ORDER OF THE COUNTY COMMISSION

Upon the failure of the property owner or owners to perform the ordered duties and obligations as set forth in the order of the County Commission within the time limitation set by said order, the County Commission shall advertise for and seek contractors to make the ordered repairs, alterations, improvements, demolition, removal or clean up, and may enter into any contract with any such contractor to accomplish the ordered repairs, alteration, improvements, demolition removal or clean up. Any such bids awarded shall require product and debris removed from the site to be deposited in a licensed landfill operating in Wood County, West Virginia.

A civil proceeding shall be brought in a court of competent jurisdiction by the county commission against the owner or owners of the private land which is the subject matter of the order of the county commission to subject the private land in question to a lien for the amount of the contractor's costs in making these ordered repairs, alterations or improvements, or ordered demolition, removal or clean up together with any daily civil monetary penalty imposed and reasonable attorney fees and court costs and to order and decree the sale of the private land in question to satisfy the lien, and to order and decree that the contractor may enter upon the private land in question at any and all times necessary to make improvements, or ordered repairs, alterations or improvements, or ordered demolition, removal or clean up. In addition, the county commission shall have authority to institute a civil action in a court of competent jurisdiction against the landowner or other responsibility party for all costs incurred by the county with respect to the properly and for reasonable attorney fees and court costs incurred in the prosecution of the action.

This County Commission shall have the power and authority and accept grants, subsidies, donations, and services in kind consistent with the objectives of this section.

ADOPTED this 23rd day of July 1998.

REVISED September 18, 2003 (Name Change)

REVISED February 9, 2006 (Addition of County Litter Control Officer) REVISED March 26, 2009 (Requires Use of Wood County Landfill on county projects)

REVISED _____

Approved:

The County Commission of Wood County

Jimmy Colombo, Commissioner

Robert K. Tebay, Commissioner

David Blair Couch, Commissioner