

FOX TOWNSHIP BOARD OF SUPERVISORS

**PROPOSED
ORDINANCE 2010-09**

AN ORDINANCE TO REGULATE “DANGEROUS OR DILAPIDATED BUILDINGS” EXISTING IN FOX TOWNSHIP, ELK COUNTY AND FURTHER ENHANCE THE HEALTH, SAFETY AND WELFARE OF THE CITIZENS OF FOX TOWNSHIP.

DANGEROUS OR DILAPIDATED BUILDINGS

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101. Dangerous or Dilapidated Buildings Defined.

All buildings or structures which have any or all of the following defects shall be deemed "dangerous buildings:"

- A. Those whose interior or exterior walls or other vertical structural members lean, list or buckle to such an extent that they are 3% or more of their longitudinal dimension from being vertically plumb or horizontally straight.
- B. Those which, exclusive of the foundation, show 33%, or more of damage or deterioration of the surrounding member or members or 50% of damage or deterioration of the non-supporting enclosing or outside walls or coverings.
- C. Those which have improperly distributed loads upon the floors, roof or walls as a result of settlement or decay in which any structural member is overloaded or has insufficient strength to be reasonably safe.
- D. Those which have been damaged by fire, wind or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of Fox Township.
- E. Those which have become are so dilapidated, decayed, unsafe, unsanitary 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 work injury to the health, moral, safety or general welfare of those living therein.
- F. Those which have light, air and sanitation facilities which are inadequate to protect the health, safety or general welfare of human beings who live or may live therein.
- G. Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes or other means of communication.
- H. Those which have parts thereof which are so attached that they may fall and injure members of the public or property.
- I. Those which because of their condition are unsafe, unsanitary or dangerous to the health, safety or general welfare of the people of this Township.

102. Standards for Repair, vacation or Demolition.

The following standards shall be followed in substance by the Building Inspector or assistants specially designated thereto, and the Township Supervisors in ordering repair, vacation or demolition:

- A. If the dangerous or dilapidated building can be repaired as determined by the Building Inspector, so that it will no longer exist in violation of the terms of this Part, it shall be ordered repaired.
- B. If the "dangerous or dilapidated 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 or dilapidated building" cannot be reasonably repaired as determined by the building inspector, it shall be demolished and in all cases where a building cannot be repaired so that it will no longer exist in violation of the terms of this Part, it shall be demolished. In cases where a "dangerous and dilapidated building" is a fire hazard existing or erected in violation of the terms of this Part or of any ordinances of the Township or statute of the Commonwealth of Pennsylvania, it shall be demolished.

103. Dangerous buildings; Nuisances.

All dangerous buildings within the terms of 101 of this Part are hereby declared to be public nuisances, and shall be repaired, vacated or demolished as hereinbefore and hereinafter provided.

104. Duties of the building Inspector.

The Building Inspector, or assistants specially designated thereto, shall:

- A. Inspect any building, wall or structure about which complaints are filed by any person to the effect that a building wall or structure is or may be existing in violation of the terms of this Part.
- B. Inspect any building reported as probably existing in violation of the terms of this Part.

- C. Notify in writing the owner, occupant, lessee, mortgagee, agent and all other person having an interest in said building as shown by the deed registration files of the Township and/or the Recorder of Deeds of the County of Elk, of any building found by him to be a "dangerous building" within the standards set forth in §101 of this Part, that:
- (1) The owner must vacate, or repair or demolish said building in accordance with the terms of the notice and this Part.
 - (2) The occupant or lessee must vacate said building or may have it repaired in accordance with the notice and remain in possession.
 - (3) The mortgagee, agent or the other persons having an interest in said building as shown by the land records of the Recorder of Deeds of the County of Elk, may at his own risk, repair, vacate or demolish said building and shall be given such reasonable time, not exceeding 30 days as may be necessary to do, or have done, the work or act required by the notice provided for herein.
- D. Set forth in the notice provided for in subsection (C) hereof, a description of the building or structure deemed unsafe, a statement of the particulars which make the 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 this Part within such length of time, not exceeding 30 days, as is reasonable.
- E. Report to the Township Supervisors any noncompliance with the "notice" provided for in subsections (C) and (D) hereof.
- F. Appear at all hearings conducted by the Township Supervisors and testify as to the condition of "dangerous buildings."
- G. Place a notice on all "dangerous buildings" reading as follows:
- "This building has been found to be a dangerous building by the Building Inspector, or assistants specially designated thereto. 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 owner, occupant, lessee, mortgagee or agent of this building and all other persons having an interest in said building as shown by the land records of the deed registration files of the Recorder of Deeds of the County of Elk. It is unlawful to remove this notice until such notice is complied with."

105. Duties of Township Supervisors.

The Township Supervisors shall:

- A. Upon receipt of a report of the Building Inspector or assistants specially designated thereto; as provided for in §104(E) hereof, give written notice to the owner, occupant, mortgagee, lessee, agent and all other persons having an interest in said building as shown by the land records of the deed registration of the Recorder of Deeds of Elk County, to appear before the Supervisors on the date specified in the notice to show cause why the building or structure reported to be a "dangerous building" should not be repaired, vacated or demolished in accordance with the statement of particulars set forth in the Building Inspector's notice provided for herein in §104(D).
- B. Hold a hearing and hear such testimony as the Building Inspector or assistants specially assigned thereto, or 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 the County of Elk, shall offer relative to the "dangerous building."
- C. Make written findings of fact from the testimony offered pursuant to subsection (B) as to whether or not the building in question is a "dangerous building" within the terms of §101 hereof.
- D. Issue an order based upon findings of fact made pursuant to subsection (C) commanding the owner, occupant, mortgagee, lessee or any other person having an interest in said building, as shown by the land records of the deed registration file of the Recorder of Deeds of the County of Elk shall order to repair, vacate or demolish any found to be a "dangerous building" within the terms of this Part and provided that any person so notified, except the owners, shall have the privilege either of vacating or repairing said "dangerous building"; or any person not the owner of said "dangerous building" but having an interest in said building as shown by the land records and the deed registration files of the Recorder of Deeds of the County of Elk, may demolish said "dangerous building" at his own risk to prevent the acquiring of a lien by the Township against the land upon which said "dangerous building" stands, as provided in subsection (E) thereof.
- E. If the owner, occupant, mortgagee or lessee fails to comply with the order provided for in subsection (D) hereof, within thirty (30) days, the Supervisors shall cause such building or structure to be repaired, vacated or demolished as the facts may warrant, under the standards hereinbefore provided for in §102 of this Part, and shall, with the assistance of the Township Solicitor, cause the costs of such repair, vacation or demolition to be charged against the land on which the building existed as a municipal lien, or to be recovered in a suit at law against the owner; provided, that in cases where such procedure is desirable and any delay thereby caused will not be dangerous to the health, morals, safety general welfare of this Township. The

Township Supervisors shall notify the Township Solicitor to take legal action to force the owner to make all necessary repairs or demolish the building.

- F. Report to the Township Solicitor the names of all persons not complying with the order provided for in §105(D) thereof.

106. Penalties.

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof in an action brought before a district justice in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

107. Emergency Cases.

In cases where it reasonably appears that there is immediate danger to life or safety of any person unless a "dangerous building," as defined herein, is immediately repaired, vacated or demolished, the Building Inspector or assistants specially designated thereof, shall report such facts to the Township Supervisors and the Supervisors shall cause the immediate repair, vacation or demolition of such "dangerous buildings." The cost of such emergency repair, vacation or demolition of such "dangerous building" shall be collected in the same manner as provided in §105(E) hereof.

108. Where owner Absent from the Township.

In cases, except emergency cases, where the owner, occupant, lessee or mortgagee is absent from the Township, all notices or orders provided for herein, shall be sent by certified mail to the owner, occupant, mortgagee, lessee and all other persons having an interest in said building as shown on the land records of the deed registration files of the Recorder of Deeds of the County of Elk, 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. Where desirable, the notices and orders provided for herein may be served in the same manner a summons is served in the courts of general jurisdiction.

109. Administrative Liability.

No officer, agent or employee of the Township Supervisors shall render himself personally liable for any damage that may accrue to person or property as a result of any act required or permitted in the discharge of his duties under this Part. Any suit brought against any officer, agent or employee of the Township Supervisors as a result of any act required or permitted in the discharge of his duties under this Part shall be defended by the Township Solicitor until the final determination of the proceedings therein.

110. Appeal.

Any owner, occupant, mortgagee, lessee or any other person having an interest in a building subject to an order of the Township Supervisors, may file an appeal of said order with the court of Common Pleas of the 59th Judicial District within 30 days of the entry of said order.

Adopted this _____ day of _____, 2010 and to become effective 5 days from adoption.

ATTEST:

FOX TOWNSHIP SUPERVISORS

Kathleen Dowie, secretary-treasurer

Michael Keller

Randy Gradizzi

David Mattiuz