

TOWN OF BATH
ORDINANCE 2016-03

BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF BATH, MORGAN COUNTY, WEST VIRGINIA AS FOLLOWS:

A special ordinance enacted by the Mayor and Council of the Town of Bath establishing **West Virginia Code 8-12-16 Ordinances regulating the repair, closing, demolition, etc., of dwellings or buildings unfit for human habitation; procedures.**

- (a) Plenary power and authority are hereby conferred upon every municipality to adopt ordinances regulating the repair, alteration or improvement, or the vacating and closing or removal or demolition, or any combination thereof, of any dwellings or other buildings 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 any 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.
- (b) The governing body in formally adopting the ordinances shall designate the enforcement agency, which shall consist of the mayor, the municipal engineer or building inspector and one member at large, to be selected by and to serve at the will and pleasure of the mayor. The ranking health officer and fire chief shall serve as ex officio members of the enforcement agency.
- (c) Any ordinance adopted pursuant to the provisions of this section must provide fair and equitable rules of procedure and any other standards deemed necessary to guide the enforcement agency, or its agents, in the investigation of dwelling or building conditions, and in conducting hearings: Provided, that any entrance upon premises for the purpose of making examinations is made in a manner as to cause the least possible inconvenience to the person in possession.
- (d) The governing body of every municipality has plenary power and authority to adopt an ordinance requiring the owner or owners of any dwelling or building under determination of the State Fire Marshal, as provided in section twelve, article three, chapter twenty-nine of this code, or under order of the enforcement agency of the municipality, to pay for the costs of repairing, altering or improving, or of vacating and closing, removing or demolishing any dwelling or building.

(e) Every municipality:

- (1)** May file a lien against the real property in question for an amount that reflects all costs incurred by the municipality for repairing, altering or improving, or of vacating and closing, removing or demolished any dwelling or building; and
- (2)** May institute a civil action in a court of competent jurisdiction against the landowner or other responsible party for all cost incurred by the municipality with respect to the property and for reasonable attorney fees and court costs incurred in the prosecution of the action.

(f) Not less than ten days prior to instituting a civil action as provided in this section, the governing body of the municipality shall send notice to the landowner by certified mail, return receipt requested, advising the landowner of the governing body's intention to institute such action.

(g) The notice shall be sent to the most recent address of the landowner of record in the office of the assessor of the county where the subject property is located. If, for any reason, such certified mail is returned without evidence of proper receipt thereof, then in such event, the governing body shall cause a Class III-0 legal advertisement to be published in a newspaper of general circulation in the county wherein the subject property is located and post notice on the front door or other conspicuous location on the subject property.

(h) If any landowner desires to contest a demand brought forth pursuant to this section, the landowner may seek relief in a court of competent jurisdiction.

(i) For purposes of this section, "owner" or "landowner" means a person who individually or jointly with others:

- (1)** Has legal title to the property, with or without actual possession of the property;
- (2)** Has charge, care or control of the property as owner or agent of the owner;
- (3)** Is an executor, administrator, trustee or guardian of the estate of the owner;
- (4)** Is the agent of the owner for the purpose of managing, controlling or collecting rents; or
- (5)** Is entitled to control or direct the management or disposition of the property.

(j) All orders issued by the enforcement agency shall be served in accordance with the law of this state concerning the service of process in civil actions, and be posted in a conspicuous place on the premises affected by the complaint or order. Provided, That, no ordinance may be adopted without providing for the right to apply to the circuit court for a temporary injunction restraining the enforcement agency pending final disposition of the cause.

(k) In the event, such application is made, a hearing thereon shall be had within twenty days, or as soon thereafter as possible, and the court shall enter such final order or decree as the law and justice may require. Note: WV Code updated with legislation passed through the 2015 Regular Session.

This Ordinance shall take effect upon the 2nd reading and approval of the Town of Bath Council.

1st Reading December 6, 2016

2nd Reading December 20, 2016

Scott E. Meek
Mayor

Attest: Delora Peck
Recorder - Pro Tem