

MONONGALIA COUNTY COMMISSION

COURTHOUSE
MORGANTOWN, WEST VIRGINIA 26505

Robert "Bob" Bell, Commissioner
Asel Kennedy, Commissioner
John W. Pyles, Commissioner

Telephone: 304 291-7257



AMENDED ORDINANCE

AN ORDINANCE OF THE COUNTY COMMISSION OF MONONGALIA COUNTY, WEST VIRGINIA, REGARDING REGULATING THE REPAIR, ALTERATION, IMPROVEMENT, VACATING, CLOSING, REMOVAL OR DEMOLITION OF UNSAFE OR UNSANITARY STRUCTURES AND THE CLEARANCE AND REMOVAL OF REFUSE, DEBRIS, OVERGROWN VEGETATION, TOXIC SPILLS OR TOXIC SEEPAGE ON PRIVATE LAND, ALL UNDER THE AUTHORITY OF CHAPTER 7, ARTICLE 1, SECTION 3ff OF THE WEST VIRGINIA CODE, AS AMENDED.

(Original adoption date: August 4, 1998. 1st amendment date: June 27, 2001)

It appearing to the County Commission of Monongalia County, West Virginia, that said Commission is authorized to regulate the repair, alteration, improvement, vacating, closing, removal or demolition of unsafe or unsanitary structures and the clearance and removal of refuse, debris, overgrown vegetation, toxic spills or toxic seepage on private land, pursuant to the power granted the Commission by Chapter 7, Article 1, Section 3ff of the West Virginia Code, as amended, the Commission hereby adopts the following ordinance and it shall read as follows:

(A) The Monongalia County Commission is hereby authorized to regulate the repair, alteration or improvement, or the vacating and closing or removal or demolition, or any combination thereof, of any dwellings or other buildings, except for buildings utilized for farm purposes on land actually being used for farming, 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, whether the result of natural or manmade force or effect.

(B) The Monongalia County Commission is further authorized to regulate 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 of natural or manmade force or effect.

(C) The Monongalia County Commission does hereby designate an enforcement agency for this ordinance, which shall consist of the county engineer (or other technically qualified county employee or consulting engineer), county health officer or his or her designee, a fire chief from a county fire company, the county litter control officer, if the commission chooses to hire one, and two members at large selected by the Monongalia County Commission to serve for two-year terms. The county sheriff shall serve as an ex officio member of the enforcement agency and the county officer charged with enforcing the orders of the Monongalia County Commission under this section.

(D) The enforcement agency, or its agents, under this ordinance shall have the power to investigate dwelling or building conditions, accumulation of refuse or debris, overgrown vegetation or toxic spillage or toxic seepage. Any investigation by the enforcement agency that requires entrance upon premises shall be made in such a manner as to cause the least possible inconvenience to the persons in possession, but in every instance the enforcement agency shall have the power to enter said property in accordance with this provision.

(E) The Monongalia County Commission shall under this ordinance hear and determine complaints of the enforcement agency. Complaints shall be initiated by citation (Notice of Violation) issued by the county litter control officer or by petition of the county engineer (or other technically qualified county employee or consulting engineer) on behalf of and at the direction of the enforcement agency, but only after that agency has investigated and determined that any dwelling, building, accumulation of refuse or debris, overgrown vegetation or 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 or demolished. The Monongalia County Commission shall cause the owner or owners of the private land in question to be served with a Notice of Violation or letter sent by return/receipt certified mail prior to a more formal complaint issued at the direction of the County Commission. Service shall be accomplished in the manner provided in rule four of the West Virginia Rules of Civil Procedure. The complaint shall state the findings and recommendations of the enforcement agency and that unless the owner or owners of the property file with the Clerk of the County Commission of Monongalia County a written request for a hearing within ten days of receipt of the complaint, an order will be issued by the Monongalia County Commission implementing the recommendations of the enforcement agency. If the owner or owners of the property file a request for a hearing,

the Monongalia County Commission shall issue an order setting this matter down for hearing within twenty days. Hearings shall be recorded by electronic device or by court reporter. The West Virginia rules of evidence do not apply to the proceedings, but each party has the right to present evidence and examine and cross-examine all witnesses. The enforcement agency has the burden of proving its allegation by a preponderance of the evidence and has the duty to go forward with the evidence. At the conclusion of the hearing the Monongalia County Commission shall make findings of fact, determinations and conclusions of law as to whether the dwelling or building: Is unfit for human habitation due to dilapidation; has defects that increase the hazard of fire, accidents or other calamities; lacks ventilation, light or sanitary facilities; or any other conditions prevailing in the dwelling or building, whether used for human habitation or not, and whether the result of natural or manmade forces or effect, which would cause such dwelling or other building to be unsafe, unsanitary, dangerous or detrimental to the public safety or welfare; or whether there is an accumulation of refuse or debris, overgrown vegetation; toxic spillage or toxic seepage on private lands which is determined to be unsafe, unsanitary, dangerous or detrimental to the public safety or welfare, whether the result of natural or manmade force or effect. The Monongalia County Commission has authority to order the owner or owners thereof to repair, alter, improve, vacate, remove, close, clean up or demolish the dwelling or building in question 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 on the owner or owners who fail to obey an order. Appeals from the Monongalia County Commission to the Monongalia County Circuit Court shall be in accordance with the provisions of article three, chapter fifty-eight of the West Virginia Code.

(F) Upon the failure of the owner or owners of the private land to perform the ordered duties and obligations as set forth in the order of the Monongalia County Commission, the Monongalia County Commission may advertise for and seek contractors to make the ordered repairs, alterations or improvements, or the ordered demolition, removal or cleanup. The Monongalia County Commission may enter into any contract with any such contractor to accomplish the ordered repairs, alterations or improvements, or the ordered demolition, removal or clean up.

(G) A civil proceeding may be brought in the Circuit Court of Monongalia County by the Monongalia County Commission against the owner or owners of the private land which is the subject matter of the order of the Monongalia 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 Monongalia County Commission shall have the authority to institute a civil action in a court of competent jurisdiction against the landowner or other responsible party for all costs incurred by the Monongalia County Commission with respect to the property and for reasonable attorney fees and court costs incurred in the prosecution of the action.

(H) In addition to the powers and duties imposed by this section, county litter control officers shall have authority to issue citations for violations of the provisions of section twenty-six, article seven, chapter twenty of the code, after completing a training course offered by the West Virginia division of natural resources. Nothing in this subsection supercedes the authority or duty of other law-enforcement officers to preserve law and order, and enforce the litter control program.

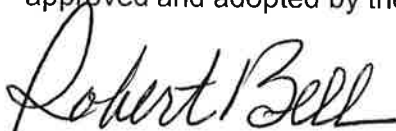
(I) The Monongalia County Commissioners shall have the power and authority to receive and accept grants, subsidies, donations and services in kind consistent with the objectives of this ordinance.

(J) This ordinance and amendments shall become effective on and after passage and upon adoption by the Monongalia County Commission.

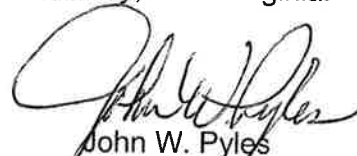
PASSED by the County Commission of Monongalia County, West Virginia on FIRST READING this 23rd day of June, 2004.

A SECOND READING and public hearing was held on the 14th day of July, 2004, after notice of a public hearing on said ordinance was published as a Class II legal advertisement and upon motion of Asel Kennedy seconded by John Pyles.

Following said SECOND READING and PUBLIC HEARING, on a motion of Asel Kennedy the ordinance with amendments shall be and is hereby approved and adopted by the County Commission of Monongalia County, West Virginia.


Robert L. Bell
President


Asel Kennedy
Commissioner


John W. Pyles
Commissioner