

BUILDING SAFETY ORDINANCE REVISED

- A. Per WVC 7-1-3FF (a, et.al.) The Mineral County Commission hereby adopts this ordinance 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, except for buildings used 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 the 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. This ordinance voids and replaces the similar Building Safety Ordinance of March 11th, 2008, consistent with 2017 regular legislation updating the West Virginia State Code and supersedes the earlier version of this ordinance November 10, 2021.

Additionally, the Mineral County Commission agrees to include any and all five municipalities within Mineral County to partner in this Ordinance, sharing one and in the same, the Building Safety Committee and later agreed to financial sharing of operational costs. Proceedings against property owners in municipalities shall be the responsibility of the Mayor and Council of that particular municipality.

- B. This ordinance authorizes the regulations for the removal and clean-up of any accumulation of refuse or debris, 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 Mineral County Commission, shall appoint a building safety evaluation and determination committee.

This committee shall consist of the following members:

- i. The county engineer (or other technically qualified county employee or consulting engineer),
- ii. county health officer or his or her designee,
- iii. a fire chief from a county fire company,
- iv. the county litter control officer (if the Commission chooses to hire one),
- v. and two members-at-large selected by the County Commission to serve two-year terms.
- vi. The county Sheriff shall serve as an ex officio member of the committee and shall serve as the county officer and staff charged with enforcing the orders of the County Commission under this section.

- D. In addition to the powers and duties imposed by this section, county litter control officers shall have authority to issue citations for open dumps, as prohibited by §22-15-10(a) of this code, unlawful disposal of litter, as prohibited by §22-15A-4 of this code, and failure to provide proof of proper disposal of solid waste, as prohibited by §22C-4-10(a) of this code, after completing a training course offered by the West Virginia Department of Environmental Protection: Provided, That any litter control officer who is trained and certified as a law-enforcement officer and whose certification is active has the same authority as any other law-enforcement officer to enforce all litter laws in this code. Nothing in this subsection supersedes the authority or duty of the Department of Environmental Protection or other law-enforcement officers to preserve law and order and enforce the litter control program.
- E. Citizens that wish to bring a complaint before the Committee shall submit a letter or email to the County Administrator outlining at minimum:
- a. The address of the unsafe property,
 - b. the name and mailing address of the property owner (if known),
 - c. a narrative specifying the nature and scope of any hazardous or unsafe conditions on the property,
 - d. and a name, address, and telephone number in which the complainant can be reached.

The Administrator will then present the letter or email to the Commission for consideration to be brought before the Building Safety Committee.

- F. The Commission adopts the following rules of procedure and standards necessary to guide the Enforcement Agency designated above:

(1) Complaints authorized by this section shall be brought before the County Commission. Complaints shall be initiated by citation issued by the county litter control officer or petition of the county engineer (or other technically qualified county employee or consulting engineer) on behalf of and at the direction of the Building Safety Committee, but only after the committee has investigated and determined that any dwelling, building, accumulation of refuse or debris, 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.

(2) The county commission shall cause the owner or owners of the private land in question to be served with a copy of the complaint. Service shall be accomplished in the manner provided in rule four of the West Virginia Rules of Civil Procedure.

(3) 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 a written request for a hearing within 10 days of receipt of the

complaint, an order will be issued by the county commission implementing the recommendations of the enforcement agency.

(4) If the owner or owners of the property file a request for a hearing, the county commission shall issue an order setting this matter down for hearing within 20 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.

(5) 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.

(6) At the conclusion of the hearing, the 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 force or effect, which would cause the 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, 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.

(7) The 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, 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.

(8) Appeals from the county commission to the circuit court shall be in accordance with the provisions of §58-3-1 et seq.

(g) 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 county commission, the county commission may advertise for and seek contractors to make the ordered repairs, alterations, or improvements or the ordered demolition, removal, or clean up. The county commission may enter into any contract with any contractor to accomplish the ordered repairs, alterations, or improvements or the ordered demolition, removal, or clean up.

(h) A civil proceeding may be brought in circuit court by the county commission against the owner or owners of the private land or other responsible party that the subject matter of the order of the county commission to subject the private land in question: (1) To obtain 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; (2) to order and decree the sale of the private land in question to satisfy the lien; (3) to order and decree that the contractor may enter upon the private land in question at any and all times necessary to make ordered repairs, alterations, or improvements, or ordered demolition, removal, or clean up; and (4) to order the payment of all costs incurred by the county with respect to the property and for reasonable attorney fees and court costs incurred in the prosecution of the action.

(i) In accordance with state code the Mineral County Commission may receive and accept grants, subsidies, donations, and services in kind consistent with the objectives of this ordinance.

First reading passed on the 13th day of October, 2021.

Second reading passed on the 27th day of October, 2021.

Third reading passed on the 10th day of November, 2021.

First reading of amended ordinance passed on the 22nd of March, 2022.

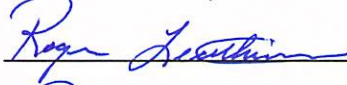
Second reading of amended ordinance passed on the 12th day of April, 2022.

Third reading of amended ordinance passed on the 26th day of April, 2022.

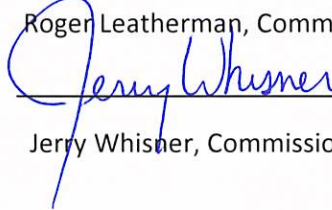
By Order of the Mineral County Commission, this updated Ordinance shall be effective and adopted on the 26th day of April, 2022.



Richard Lechliter, President

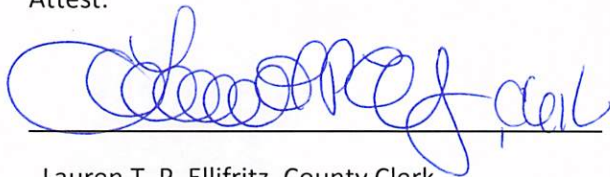


Roger Leatherman, Commissioner



Jerry Whisner, Commissioner

Attest:



Lauren T. P. Ellifritz, County Clerk