

ORDINANCE NO. 367

AN ORDINANCE OF THE BOROUGH OF ELIZABETHVILLE, DAUPHIN COUNTY, ADDING A PART 6 TO CHAPTER 10 OF THE CODE OF THE BOROUGH OF ELIZABETHVILLE FOR PROPERTY MAINTENANCE IN THE BOROUGH OF ELIZABETHVILLE.

Chapter 10, *Health and Safety*, of the Code of the Borough of Elizabethville, is amended to add a part 6, *Property Maintenance*, which provisions shall apply to all residential and nonresidential, multi-family, commercial, and business structures in the Borough of Elizabethville.

Part 6. Property Maintenance.

The provisions of this code shall apply to all existing residential and nonresidential, multi-family, commercial, business structures and all borough premises and private property.

1. Off-street parking of motor vehicles. Off-street parking shall be defined as carports or garages or properly graded and prepared areas designed for parking. Except for areas designed or approved by the Borough for parking, parking shall not be permitted in front, rear or side yards or grass areas.
2. Motorcycles, ATVs', and automobile parts. No motorcycles, ATVs', or similar or components thereof, or automobile parts or tires shall be stored on unenclosed porches, patios, decks, or similar improvements.
3. Furniture and appliances. Upholstered or unupholstered furniture, mattresses, cushions, appliances, fixtures and equipment that are designed and manufactured for indoor use shall not be permitted in yards or on patios, porches, decks and similar improvements open to the elements in whole or in part.
4. Accumulation of rubbish or garbage. All structures and Borough/Private properties exterior premises (including porches) shall be free from any accumulation (stacked, piled, thrown or caused to be placed) of rubbish, garbage, materials, including but not limited to: lumber, wood (except neatly stacked clean firewood), tree or vegetation prunings, building materials, boxes, barrels, bottles, cans, glass, scrap iron, wire, metal articles, pipe, broken stone or cement, broken crockery, broken plaster, salvage materials, automobile parts, tires, multiple (more than one) vehicles without both current inspection and registration.
5. Setbacks. For the purpose of buildings, sheds, garages, and or accessory or other structures, Elizabethville Borough will follow setbacks and footage between buildings as set

forth in the County Subdivision and Land Development Ordinance which will be addressed during the permit application.

A. Unsafe structures.

1. General. When a structure is found by the Code Officer to be unsafe or dangerous, such structure may be condemned pursuant to the provisions of this code.
2. Unsafe structures. For the purpose of this code, an unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or occupants of the structure, or because such structure is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation that partial or complete collapse will likely occur.
3. Dangerous structure or premises. For the purpose of this code any structure or premises that have any or all of the conditions or defects described below shall be considered dangerous:
 - a. Any portion of a structure, or appurtenance thereto, that has been damaged by fire, earthquake, wind, flood, deterioration, neglect, abandonment, vandalism or by any other cause to such an extent that it is likely to partially or completely collapse, or to become detached or dislodged.
 - b. Any part or portion of a structure that is not of sufficient strength or stability (including but not limited to roofs), or is not so anchored, attached or fastened in place so as to be capable of resisting natural or artificial loads of one and one-half the original designed value.
 - c. The structure, or part of the structure, because of dilapidation, deterioration, decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fail or give way.
 - d. The structure or any portion thereof is clearly unsafe for its use and occupancy, including living areas which do not have sufficient water supply, electricity and or heat.
 - e. The structure is neglected, damaged, dilapidated, unsecured or abandoned so as to be considered a nuisance, an attractive nuisance to children, becomes a harbor for vagrants, criminal activity, or enables persons to resort to the building or structure for committing a nuisance or an unlawful act, including but not limited to, structures with broken windows, unsecured windows and/or doors or any part of a structure which is open or partially open as to provide easy access for entry.
 - f. Any structure that has been constructed, exists or is maintained in violation of any specific requirement applicable to such building or structure provided by the approved building or fire code of the jurisdiction, or of any law or ordinance to such an extent as to present either a substantial risk of fire, building collapse or any other threat to life and safety.
 - g. Any portion of a structure remaining on a site after demolition or destruction of the structure or whenever any structure is abandoned so as to constitute a nuisance or hazard to the public.

4. Closing of unsafe or dangerous structures. Upon a finding by the Code Officer that a structure is unsafe or dangerous, but is not in danger of structural collapse, the Code Officer 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, a slightly nuisance, a hazard or easy accessible to the public. Upon failure of the owner to close up the premises within the time specified in the order, the Code Officer may 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 municipal lien upon such real estate and may be collected by any other legal resource. If a structure is found to be in danger of collapse, it may be ordered to be demolished. Such demolition shall be in acceptance with law.

5. Authority to disconnect service utilities. The code official shall have the authority to authorize disconnection of utility service to the structure or premises in case of emergency where necessary to eliminate an immediate hazard to life or property when such utility connection has been made without approval. The code official shall notify the serving utility and, whenever possible, the owner and any occupant of the structure of the decision to disconnect prior to taking such action. If not notified prior to disconnection, the owner or occupant of the structure shall be notified in writing as soon as practical thereafter. Notice may be hand delivered, mailed or made by posting.

6. Placarding. Upon failure of the owner or person responsible to comply with the notice provisions with the time given, the code official 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.

7. Prohibited occupancy. Any occupied structure condemned and placarded by the code official shall be vacated as ordered by the code official. Any person who shall occupy a placarded premise, and any owner or any person responsible for the premises who shall allow anyone to occupy a placarded premises, shall be in violation of this code and subject to the penalties provided by this code.

8. Abatement methods. The owner, operator or occupant of a structure or premises deemed unsafe or dangerous by the code official, shall abate or cause to be abated or corrected such unsafe conditions either by repair, rehabilitation, demolition or other approved corrective action. In the case of a building with historical significance or character, methods of abatement which preserve and protect that significance or character shall be encouraged and reasonably supported by the code official.

9. Record. The code official shall cause a written report to be made to the Borough council on an unsafe or dangerous condition. The report shall state the occupancy of the structure and the nature of the unsafe or dangerous condition.

B. Emergency measures.

1. Imminent danger. When, in the opinion of the code official, there is imminent danger of failure or collapse of a 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 occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials or operation of defective or dangerous equipment, the code official is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. The code official shall cause to be posted at each entrance to such structure a notice containing as follows: "This structure is unsafe and its occupancy has been prohibited by the code official". 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.

2. Temporary safeguards. Notwithstanding other provisions of this code, whenever, in the opinion of the code official, there is imminent danger due to an unsafe condition, the code official shall order the necessary work to be done, including the 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 code official deems necessary to meet such emergency.

3. Closing streets. When necessary for public safety, the code official shall temporarily close structures and the Borough shall close sidewalks, streets, public ways and places adjacent to unsafe structures, and prohibit the same from being utilized.

4. Emergency repairs. For the purpose of this section, the Borough shall employ the necessary labor and materials to perform the required work as expeditiously as possible. Elizabethville Borough officials, employees and contractors in such event shall have the right and power to enter upon the offending premises to accomplish the foregoing.

5. Cost of emergency repairs. Total costs incurred plus 10% in the performance of emergency work by the Borough and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a municipal lien upon such real estate and may be collected by any other legal resource.

C. Demolition.

1. General. The code official may order the owner of any premises upon which is located any structure, which in the code official's judgment after review is so deteriorated or dilapidated or has become so out of repair as to be dangerous or unsafe, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe, or board up and hold for future repair, or where there has been a cessation of normal construction of any structure for a period of more

than two years, the Code Officer may order the owner to demolish and remove such structure, or board up until future repair or completion. Boarding the building up for future repair or completion shall not extend beyond one year, unless approved by the Code Officer. Demolition shall consist of complete removal of all debris and structure including foundation and footings unless otherwise approved to remain by Code Officer. Foundation and footings are to be filled to grade with approved clean fill. All utilities are to be capped by approved methods.

2. Failure to comply. If the owner of a premises fails to comply with a demolition order within the time prescribed, the Code Officer may cause the structure to be demolished and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such demolition and removal shall be charged against the real estate upon which the structure is located and shall be a municipal lien upon such real estate. Elizabethville Borough in such event and pursuant to its statutory shall have the right and power to enter upon the offending premises to accomplish the foregoing.

3. Salvage materials. When any structure has been ordered demolished and removed, the governing body or other designated officer under said contract or arrangement aforesaid shall have the right to sell the salvage and valuable materials at the highest price obtainable. The net proceeds of such sale, after deducting the expenses of such demolition and removal plus 10%, shall be promptly remitted with a report of such sale or transaction, including the items of expense and the amounts deducted, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state.

D. Violations and Penalties.

Any person who shall violate any of the provisions of this part shall upon conviction thereof before a District Justice, be sentenced to pay a fine of not more than \$500 and all costs of prosecution for each and every offense. And, in the default of the payment of such fine and costs, to imprisonment for not more than thirty (30) days. Each day's violation of any of the provisions of this part shall constitute a separate offense. A person found guilty of violation of this ordinance shall be responsible for all reasonable costs and attorney's fees incurred by the Borough Engineer, the Borough Solicitor and other professional consultant deemed necessary by the Code Enforcement Officer of the Borough for the proper enforcement of this Ordinance.

Adopted as an Ordinance of the Borough of Elizabethville on this 13th day of May, 2019.

ATTEST:

Peggy P. Kahler
Borough Secretary

By: Gam J. Saull
Borough Council President

APPROVED:

“This ordinance was approved by vote of the Borough Council at their regularly scheduled meeting on May 13, 2019. The Mayor did not approve the ordinance, nor did the Mayor return it with objections. Therefore, pursuant to the Borough Code, Section 3301.3(a)(3), the ordinance is in full force and effect as of the regularly scheduled Borough Council meeting on June 10, 2019, as per Section 3301.3(b)(3).”

Mayor