

ORDINANCE ON DANGEROUS STRUCTURE
CHAPTER 4, BUILDINGS
Part 2, Dangerous Structures

§201. Title.

This Part shall be known as the "Housing Ordinance."
(Ord. 69-1, 7/8/1969, §1)

§202. Definitions.

The following terms, whenever used in this Part, have the meanings indicated in this section, except where the context indicates a clearly different meaning.

BUILDING – a roofed structure, enclosed by one or more walls, for the shelter, housing, storage or enclosure of persons, goods, materials, equipment or animals, including but not limited to dwelling, garage, barn, stable, shed, greenhouse, mobile home, plant, factory, warehouse, school, or similar structure.

COURT – an open and unoccupied space on a lot enclosed on at least three sides by the walls of a building.

DANGEROUS BUILDING – all buildings or structures which have any or all of the following defects shall be deemed dangerous buildings:

1. Those whose interior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.

2. Those which, exclusive of the foundation, show damage or deterioration to 33% of the supporting member or members or damage or deterioration to 50% of the nonsupporting enclosing or outside walls or covering.

3. Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded or which have insufficient strength to be reasonably safe for the purpose used.

4. Those which have been damaged by fire, wind or other causes so as to be dangerous to life, safety or the general health and welfare of the occupants or the public.

5. Those which are so damaged, dilapidated, decayed, unsafe, unsanitary, vermin-infested, 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, safety, or general welfare of those living therein.

6. Those which have parts thereof which are so attached that they may fall and injure property or members of the public.

7. Those which lack illumination, ventilation or sanitation facilities or because of another condition are unsafe, unsanitary or dangerous to the health, safety or general welfare of the occupants or the public.

8. Those which because of their location are unsanitary, or otherwise dangerous, to the health or safety of the occupants or the public.

9. Those existing in violation of any provision of the Code of Ordinances of Smith Township.

DWELLING – any building or structure, or part thereof, occupied or intended or designed to be occupied as the home, residence or sleeping place of one or more persons. A dwelling may include one or more dwelling units or rooming units or a combination of both.

DWELLING UNIT – a room or group of rooms located within any dwelling and forming a single habitable unit with facilities for living, sleeping, cooking, and eating.

GARBAGE – putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

INFESTATION – the presence of insects, rodents, vermin and/or other pests.

LOT – plot, tracts, premises, or a parcel of land, with or without improvements thereto.

OWNER – a person, corporation or entity who, alone or jointly or severally with others:

1. Has title to a dwelling, either with or without possession of the dwelling; or
2. Has charge, care or control of a dwelling, either as agent of the owner or as administrator, administratrix, executor, executrix, or guardian of the estate of the owner, or trustee; or
3. Is the lessee of the whole dwelling where the dwelling is a two-family dwelling, multiple dwelling, or rooming house.

PERSON – a natural person, corporation, partnership, association or any other identifiable entity.

PREMISES – the ground, yard, lawn or court, or the private way, walk, alley or approach used or intended to be used in connection with a dwelling, building or the like.

REFUSE – all putrescible and nonputrescible solid waste, including garbage, rubbish, ashes, dead animals and market and industrial wastes.

RUBBISH – combustible and noncombustible waste materials, except garbage, including residue from the burning of wood, coal, coke and other combustible material, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass crockery and dust.

UNOCCUPIED HAZARD – any building or part thereof or man-made structure which remains unoccupied for a period of more than six months, with either doors, windows, or other openings broken, removed, boarded or sealed up, or any building under construction upon which little or no construction work has been performed for a period of more than six months.

YARD – any open space on the same lot with a building and for the most part unobstructed from the ground up.
(Ord. 69-1, 7/8/1969, §2; as amended by Ord. 1985-2, 8/12/1985; and by Ord. 90-1, 4/30/1990)

§203. Dangerous Buildings Declared Nuisances.

All dangerous buildings within the terms of §202 of this Part are hereby declared to be public nuisances and shall be repaired, vacated, or demolished as herein provided.
(Ord. 69-1, 7/8/1969, §3; as amended by Ord. 1984-4, 10/29/1984, §1; and by Ord. 90-1, 4/30/1990)

§204. Standards for Repair, Vacation or Demolition.

The following standards shall be followed in substance by the Enforcement Officer of the Township in ordering repair, vacation, or demolition:

1. If the dangerous building can reasonably be repaired so that it will no longer exist in violation of the terms of this Part, it shall be ordered to be repaired.
2. If a dangerous building is in such condition as to make it dangerous to the health, safety or general welfare of its occupants or the public and is so placarded, it shall be ordered to be vacated within such length of time, not exceeding 30 days, as is reasonable.
3. No dwelling or dwelling unit which has been placarded as unfit for human habitation shall again be used for human habitation until written approval is secured from, and such placard is removed by, the Enforcement Officer. The Enforcement Officer shall remove such placard whenever the defect or defects upon which the placarding action were based have been eliminated.
4. If a dangerous building is 50% or more damaged or decayed or deteriorated from its original condition; if a dangerous building cannot be repaired so that it will no longer exist in violation of the terms of this Part; or if a dangerous building is a fire hazard existing or erected in violation of the terms of this Part or any other part of the Code of Ordinances of Smith Township or statute of the Commonwealth of Pennsylvania, it shall be ordered to be demolished, provided that the cost of repairs to rectify or remove the conditions constituting the nuisance exceed 50% of the market value of the building at the time demolition is proposed.
(Ord. 69-1, 7/8/1969, §6; as amended by Ord. 90-1, 4/30/1990)

§205. Duties of Enforcement Officer.

1. The Enforcement Officer shall inspect on a regular basis dwellings, buildings and structures to determine whether any conditions exist which render such premises dangerous buildings within the terms of §202 above.
2. Whenever an inspection discloses that a dwelling, building or structure has become a public nuisance, the Enforcement Officer shall issue a written notice to the person or persons responsible therefor. The notice:
 - A. Shall be in writing;
 - B. Shall include a statement of the reasons it is being issued;

C. Shall state a reasonable time to rectify the conditions constituting the nuisance or to remove and demolish the dwelling, building or structure;

D. Shall be served upon the owner, or his agent or the occupant, as the case may require.

(1) Except in emergency cases and where the owner, occupant, lessee, or mortgagee is absent from the municipality of Smith Township, all notices shall be deemed to be properly served upon the owner, occupant, or other person having an interest in the dangerous building or structure if a copy thereof is served upon him personally, or if a copy thereof is posted in a conspicuous place in or about the structure affected by the notice, or if he is served with such notice by other method authorized or required under the laws of this commonwealth.

(2) Except emergency cases, and all other cases where the owner, occupant, lessee, or mortgagee is absent from the Township, all notices or orders provided for herein shall be sent by registered mail to the owner, occupant, and all other persons having an interest in said structure, as shown by the records of the County Recorder of Deeds, 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.

E. May contain an outline of remedial action which, if taken, will effect compliance with the provisions of this Part and with the rules and regulations adopted pursuant hereto.

3. Appear at all hearings conducted by the Township Supervisors and/or any and all other hearings as may be held under the circumstances and testify as to the condition of dangerous buildings or structures.

4. Enforce this Part in accordance with its regulations and amendments and supplements thereto.

5. File any and all actions, citations, criminal complaints and the like that are deemed necessary and appropriate under the circumstances for purposes of obtaining compliance and/or enforcement and to do so in the name of and on behalf of the Township of Smith. (Ord. 69-1, 7/8/1969; as amended by Ord. 1984-4; and by Ord. 90-1, 4/30/1990)

§206. Hearings.

1. Any person affected by any notice which has been issued in connection with the enforcement of any provision of this Part may request and shall be granted a hearing on the matter before the Township Board of Supervisors, provided that such persons shall file with the Township Board of Supervisors a written petition requesting such hearing and setting forth a brief statement of the grounds therefor within 10 days after the day the notice was served. Upon receipt of such petition, the Township Board of Supervisors shall set a time and place for such hearing, which may be held at a regularly scheduled public meeting, and shall give the petitioner written notice of the date and time of place thereof. At such hearing, the petitioner shall be given an opportunity to be heard and to show why such notice should be modified or withdrawn. The hearing shall be commenced not later than 30 days after the day on which the petition was filed. Furthermore, the person requesting said hearing shall be required, prior to the date and time of said hearing, to tender a fee or payment equal to the amount of the cost of advertising the same. The Board of Supervisors, by and through its Secretary, shall notify said applicant of the amount of said fee or costs as soon as possible under the circumstances. Failure of the Township to notify the applicant of the costs and/or fee prior to the date of hearing shall absolve the applicant or person requesting said hearing from paying the same.

2. After such hearing, the Board of Supervisors shall sustain, modify or withdraw the notice. If the Board of Supervisors sustains or modifies such notice, it shall be deemed a final decision and an order. Any notice served pursuant to this Part shall automatically become an order if a written petition for a hearing is not filed within 10 days after such notice is served or if the advertising fee or costs is not paid by the date of hearing.

3. Any aggrieved party may appeal the final order to the Court of Common Pleas of Washington County in accordance with provisions of the Local Agency Law. (Ord. 69-1, 7/8/1969, §7; as amended by Ord. 1984-4, 10/29/1984, §4; and by Ord. 90-1, 4/30/1990)

§207. Removal of Notice Prohibited.

No person shall remove or deface the notice of dangerous building or other notice except as otherwise provided in §204, Subsection 3. (Ord. 69-1, 7/8/1969, §8; as amended by Ord. 1984-4, 10/29/1984, §3; and by Ord. 90-1, 4/30/1990)

§208. Emergency Cases.

Whenever the Enforcement Officer or the Township Board of Supervisors finds that an emergency exists which requires immediate action to protect the public health, he or it may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as is necessary to meet the emergency. Notwithstanding the other provisions of this Part, such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately, but upon petition to the Township Board of Supervisors shall be afforded a hearing as soon as possible. After such hearing, depending upon the findings as to whether the provisions of this Part have been complied with, the Supervisors shall continue such order in effect, or modify or revoke it. The cost of such emergency repair, vacation or demolition of such dangerous building or structure or condition shall be collected in the same manner as provided herein for other cases. (Ord. 69-1, 7/8/1969, §9; as amended by Ord. 1985-2, 8/12/1985; and by Ord. 90-1, 4/30/1990)

§209. Abatement by the Township.

If the owner, occupant, mortgagee, or lessee fails to comply with the order of the Enforcement Officer within the time specified in the notice issued by the Enforcement Officer, the Enforcement Officer shall cause such building or structure or condition to be repaired, vacated, or demolished as the facts may warrant, under the standards hereinbefore provided. The Township may collect the cost of such repair, vacation or demolition, together with a penalty of 10% of such cost, in the manner provided by law. (Ord. 1984-4, 10/29/1984, §6; as amended by Ord. 90-1, 4/30/1990)

§210. 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 less than \$100 nor 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.

(Ord. 69-1, 7/8/1969, §9; as amended by Ord. 1985-2, 8/12/1985; and added by Ord. 90-1, 4/30/1990; as amended by Ord. 97-5, 11/19/1997)