

CHAPTER 4

BUILDINGS

PART 1

DANGEROUS BUILDINGS

- §101. Dangerous Buildings Defined
- §102. Dangerous Buildings; Nuisances
- §103. Investigation Procedures
- §104. Duties of Borough Engineer
- §105. Hearing Procedures
- §106. Standards for Repair, Vacation or Demolition
- §107. Enforcement Procedures
- §108. Penalties
- §109. Administrative Liability

PART 2

BUILDING PERMITS

- §201. Statement of Intent
- §202. Definitions
- §203. Application Procedure
- §204. Issuance of Permit
- §205. Permit Changes
- §206. Placards
- §207. Expiration of Permits
- §208. Inspection and Revocation
- §209. Fees
- §210. Appeals
- §211. Penalties

PART 1

DANGEROUS BUILDINGS

§101. DANGEROUS BUILDINGS DEFINED.

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

- A. 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.
- B. Those which, exclusive of the foundation, show 33% or more of damage or deterioration of the supporting member or members, or 50% of damage or deterioration of the nonsupporting enclosing or outside walls or covering.
- C. 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.
- D. Those which have been damaged by fire, wind or other causes as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the Borough of Portage.
- E. Those which have become or are so dilapidated, decayed, unsafe, unsanitary 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, morals, safety or general welfare of those living therein.
- F. Those having light, air and sanitation facilities which are inadequate to protect the health, morals, safety or general welfare of human beings who live or may live therein.
- G. Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways elevators, fire escapes or other means of communication.
- H. Those which have parts thereof which are so attached that they may fall and injure members of the public or property.
- I. Those which, because of their condition are unsafe, unsanitary or dangerous to the health, morals, safety or general welfare of the people of this Borough.
- J. Those buildings existing in violation of any provision of other ordinances of the Borough.

BUILDINGS

(Ord. 3-1981, 9/18/1981, §1)

§102. DANGEROUS BUILDINGS; NUISANCES.

All dangerous buildings within the terms of §101 of this Part are hereby declared to be public nuisances, and may be repaired, vacated or demolished as hereinbefore and hereinafter provided.

(Ord. 3-1981, 9/18/1981, §2; as amended by Ord. 3-1999, 4/5/1999)

§103. INVESTIGATION PROCEDURES.

Whenever it shall be reported or come to the attention of any Borough official or police officer that any building or structure completed or in the process of construction, or any portion thereof, is in a dangerous condition, such person having knowledge thereof shall report same to the Council, and the Council shall immediately cause an investigation and examination to be made of such building or structure by the Borough Engineer. If such investigation or examination indicates such building or structure to be dangerous in accordance with the standards of §101 of this Part, written report of such investigation shall be submitted to the Council, specifying the exact condition of such building or structure and setting forth whether or in what respect the structure is dangerous and whether the structure is capable of being properly repaired or whether it shall be removed as a dangerous structure.

(Ord. 3-1981, 9/18/1981, §3)

§104. DUTIES OF BOROUGH ENGINEER.

The Borough Engineer shall:

- A. Inspect or cause to be inspected all public buildings, schools, halls, churches, theaters, hotels, taverns, commercial manufacturing or loft buildings for the purpose of determining whether any condition exists which renders such places a dangerous building within the terms of §101 of this Part.
- B. Inspect any building, wall or structure about which complaints are filed by any person to the effect that a building, wall or structure is or may be existing in violation of this Part.
- C. Inspect any building, wall or structure reported (as hereinafter provided for) by the Fire or Police Departments of this Borough as probably existing in violation of the terms of this Part.
- D. Notify in writing the owner, occupant, lessee, mortgagee, agent and all other persons having an interest in said building as shown by the land records of the Recorder of Deeds of the County of Cambria, State of Pennsylvania, of any

building found by him to be a dangerous building within the standards set forth in §101 of this Part that:

- (1) The owner must vacate, or repair or demolish said building in accordance with the terms of the notice and this Part.
 - (2) The occupant or lessee must vacate said building or may have it repaired in accordance with the notice and remain in possession.
 - (3) The mortgagee, agent or other persons having an interest in said building as shown by the land records of the Recorder of Deeds of Cambria County, Pennsylvania, or the Borough records may, at his own risk, repair, vacate or demolish said building or have such work or act done; provided, that any person notified under this subsection to repair, vacate or demolish any building shall be given such reasonable time not exceeding 30 days as may be necessary to do, or have done the work or act required by the notice provided for herein.
- E. Set forth in the notice provided for in subsection (D) hereof, a description of the building or structure deemed unsafe, a statement of the particulars which make the building or structure a dangerous building and an order requiring the same to be put in such condition as to comply with the terms of this Part within such length of time, not exceeding 30 days, as is reasonable.
- F. Report to the Borough Council any noncompliance with the notice provided for in subsections (D) and (E) hereof.
- G. Appear at all hearings conducted by the Borough Council and testify as to the conditions of dangerous buildings.
- H. The Borough Council may appoint a Building Inspector, but in the absence of an appointment, the Borough Engineer shall serve as Building Inspector.

(Ord. 3-1981, 9/18/1981, §4)

§105. HEARING PROCEDURES.

The Borough Council shall:

- A. Upon receipt of a report of the Borough Engineer as provided in §104(F), hereof, give written notice to the owner, occupant, mortgagee, lessee, agent and all other persons having an interest in said buildings as shown by the land records of the Recorder of Deeds of the County of Cambria, State of Pennsylvania, to appear before them on the date specified in the notice to show cause why the building or structure reported to be a dangerous building should not be repaired, vacated or demolished in accordance with the statement of particulars set forth in the Borough Engineer's notice provided for herein in §104(E).

BUILDINGS

- B. Hold a hearing and hear such testimony as the Borough Engineer or the owner, occupant, mortgagee, lessee or any other person having an interest in said building as shown by the land records of the Recorder of Deeds of Cambria County, State of Pennsylvania, shall offer relative to the dangerous building.
- C. Make written findings of fact from the testimony offered pursuant to subsection (B) as to whether or not the building in question is a dangerous building within the terms of §101, hereof.
- D. Issue an order based upon findings of fact made pursuant to subsection (C) commanding the owner, occupant, mortgagee, lessee, agent and all other persons having an interest in said building as shown by the land records of the Recorder of Deeds of Cambria County, State of Pennsylvania, to repair, vacate or demolish any building found to be a dangerous building within the terms of this Part and provided that any person so notified, except the owners, shall have the privilege of either vacating or repairing said dangerous building; or any person not the owner of said dangerous building but having an interest in said building as shown by the land records of the Recorder of Deeds of the County of Cambria, State of Pennsylvania, may demolish said dangerous building at his own risk to prevent the acquiring of a lien against the land upon such said dangerous building by the Borough.

(Ord. 3-1981, 9/18/1981, §5)

§106. STANDARDS FOR REPAIR, VACATION OF DEMOLITION.

The following standards shall be followed in substance in ordering repair, vacation or demolition:

- A. 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 repaired.
- B. If the dangerous building is in such condition as to make it dangerous to the health, morals, safety or general welfare of its occupants, it shall be ordered to be vacated.
- C. In any case where a dangerous building is 50% damaged or decayed or deteriorated from its original value or structure, it shall be demolished, and in all cases where a building cannot be repaired so that it will no longer exist in violation of the terms of this Part, it shall be demolished. In all cases where a dangerous building is a fire hazard existing or erected in violation of the terms of this Part or any ordinance of the Borough or statute of the State of Pennsylvania, it shall be demolished.

(Ord. 3-1981, 9/18/1981, §6)

§107. ENFORCEMENT PROCEDURES.

1. If any structure is deemed to be a dangerous building within the standards set forth in §101 of this Part, the Borough Council shall forthwith cause written notice to be served upon the owner, occupant, lessee, mortgagee, agent and all other persons having an interest in said building as shown by the deed of registration of any such dangerous building.
2. The notice required by this Section shall be served personally upon the owner of a dangerous building, if the owner resides in the Borough, or personally upon his agent if such agent resides within the Borough. If personal service as required herein cannot be obtained or if the owner resides outside of the Borough, such notice shall be sent to the owner of a dangerous building by registered mail at the last known address thereof.
3. The notice shall identify the building or structure deemed dangerous and contain a statement of the particulars which made this building or structure a dangerous building and an order requiring the same to be put in such condition as to comply with the terms of the order of this Part; provided, in any case where the notice prescribed the repair of any structure, the owner thereof shall have the option to remove such structure in lieu of making the repairs thereto within the above time limits.
4. Such notice shall require any person notified to repair, vacate or demolish any building to commence the work or act required by the notice within 10 days of such notice and to complete such repair or removal within 30 days thereof.
5. The Borough Council shall cause to be placed on all dangerous buildings a notice reading substantially as follows:

"This building has been found to be a dangerous building by the Council of the Borough of Portage. This notice is to remain on this building until it is repaired, vacated or demolished in accordance with the notice which has been give to the owner, occupant, lessee, mortgagee or agent of this building. It is unlawful to remove this notice until compliance is made under the terms contained and notice given to the above named party."

6. The Borough Engineer is hereby given the duties to inspect and enforce this Part. [Ord. 3-1999]

(Ord. 3-1981, 9/18/1981, §7; as amended by Ord. 1-1985, 2/4/1985; and by Ord. 3-1999, 4/5/1999)

§108. PENALTIES.

1. The owner, occupant, mortgagee, lessee or any other person who shall fail to comply with any notice or order to repair, vacate or demolish any such dangerous building given by any person authorized by this Part, or any regulation or order issued

BUILDINGS

thereunder shall, upon conviction thereof, be sentenced to pay a fine not to exceed \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days; provided, each day's continuance of a violation shall constitute a separate offense. Penalties contained in this Part are in addition to any other remedies provided by this Part.

2. Any person removing the notice provided for in §107(E), hereof shall, upon conviction thereof, be sentenced to pay a fine not to exceed \$600 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days.

If the owner, occupant, mortgagee, lessee or any other person having an interest in said building, as shown by the land records of the Recorder of Deeds of the County of Cambria fails to comply with any notice or order to repair, vacate or demolish any dangerous building within 30 days, the Borough Council is empowered to cause such building or structure to be repaired, vacated or demolished by the Borough and to cause the costs of such repair, vacation or demolition, together with a penalty of 10%, and together with reasonable attorney's fees and costs, to be charged against the land on which the building existed as a municipal lien or to recover such costs in a suit at law against the owner or other such person having an interest in the building. Provided, the recovery of such costs and expense, together with the penalty, may be in addition to the penalty imposed in subsections (1) and (2) of this Section.

(Ord. 3-1981, 9/18/1981, §8; as amended by Ord. 3-1999, 4/5/1999)

§109. ADMINISTRATIVE LIABILITY.

No officer, agent or employee of the Borough of Portage shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this Part. Any suit brought against any officer, agent or employee of the Borough of Portage as a result of any act required or permitted in the discharge of his duties under this Part shall be defended by the Borough Solicitor until final determination of the proceedings therein.

(Ord. 3-1981, 9/18/1981, §10)

PART 2
BUILDING PERMITS

§201. STATEMENT OF INTENT.

It shall be unlawful for any person, partnership, business or corporation to undertake or cause to be undertaken the construction, reconstruction, enlargement, alteration or relocation of any building or structure unless an approved building permit has been obtained from the Borough Building Permit Officer.

(Ord. 320, 2/3/1975, §1; as amended by Ord. 2-2002, 4/1/2002, §2)

§202. DEFINITIONS.

For the purposes of this Part, the following definitions shall apply:

BUILDING - a combination of materials to form a permanent structure having walls and a roof. Included shall be all mobile homes and trailers to be used for human habitation.

PERSON - any person, persons, partnership, business or corporation.

STRUCTURE - a combination of materials to form anything constructed or erected on the ground or attached to the ground including, but not limited to, buildings, factories, sheds, cabins, mobile homes, carports, porches, driveways, swimming pools and other similar items.

(Ord. 320, 2/3/1975, §2)

§203. APPLICATION PROCEDURE.

Application for such a building permit shall be made in writing to the Building Permit Officer on forms supplied by the Borough. Such applications shall contain at least the following:

- A. Name and address of applicant.
- B. Name and address of owner of land on which proposed construction is to occur.
- C. Name and address of contractor.
- D. Site location.

BUILDINGS

- E. Brief description of proposed work and estimated cost.
- F. A plan of the site showing the exact size and location of the proposed construction as well as any existing buildings or structures.

(Ord. 320, 2/3/1975, §3)

§204. ISSUANCE OF PERMIT.

The Building Permit Officer shall issue a building permit only after it has been determined that the proposed construction will be in conformance with all applicable requirements and regulations.

(Ord. 320, 2/3/1975, §4)

§205. PERMIT CHANGES.

The Building Permit Office shall issue a building permit only after it has been determined that the proposed construction will be in conformance with all applicable requirements and regulations.

(Ord. 320, 2/3/1975, §5)

§206. PLACARDS.

In addition to the building permit, the Building Permit Officer shall issue a placard which shall be displayed on the premises during the time construction is in progress. This placard shall show the number of the building permit, the date of its issuance and be signed by the Building Permit Officer.

(Ord. 320, 2/3/1975, §6)

§207. EXPIRATION OF PERMITS.

Work on the proposed construction shall begin within 6 months after the date of issuance of the building permit or the permit shall expire. Work on the proposed construction shall be completed within 1 year after the date of issuance of the building permit or the permit shall expire. Extensions of the permit periods may be granted by the Borough Council in its sole discretion. Requests for extensions shall be made by the permit holder by appearing in person at a regularly scheduled Council meeting. Construction shall be considered to have started with the first placement of permanent construction of the site, such as pouring of slabs or footings or any work beyond the stage of excavation. For a structure without a basement or poured footings, the start of construction includes the first permanent framing or assembly of the structure or any part thereof on its pilings or foundation, or the affixing of any prefabricated

structure or mobile home to its permanent site. Permanent construction does not include land preparation, land clearing, grading, filling; excavation for basement footings, piers or foundations; erection of temporary forms; the installation of piling under proposed subsurface footings; or the installation of sewer, gas and water pipes or electric or other service lines from the street.

(Ord. 320, 2/3/1975, §7; as amended by Ord. 9-2000, 9/5/2000)

§208. INSPECTION AND REVOCATION.

During the construction period, the Building Permit Officer or other authorized official may inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable municipal laws and ordinances. In the event the Building Permit Officer discovers that the work does not comply with the permit application or any applicable laws and ordinances, or that there has been a false statement or misrepresentation by any applicant, the Building Permit Officer shall revoke the building permit and report such fact to the borough Council for whatever action is considered necessary.

(Ord. 320, 2/3/1975, §8)

§209. FEES.

Applications for a building permit shall be accompanied by a fee, payable to the Borough, based upon the estimated cost of the proposed construction as determined by the Building Permit Officer, in an amount as established from time to time by resolution of Borough Council.

(Ord. 320, 2/3/1975, §9; as amended by Ord. 3-1999, 4/5/1999)

§210. APPEALS.

Any person aggrieved by the Building Permit Officer's estimate of the cost of the proposed construction may appeal to the Borough Council. Such appeal must be filed, in writing, within 30 days after the determination by the Building Permit Officer. Upon receipt of such appeal, the Borough Council shall set a time and place not less than 10 nor more than 30 days for the purpose of hearing the appeal. Notice of the time and place of the hearing of the appeal shall be given to all parties at which time they may appear to be heard. The determination of the estimated cost by the Borough Council shall be final in all cases.

(Ord. 320, 2/3/1975, §10)

BUILDINGS

§211. PENALTIES.

Any person who fails to comply with any or all of the requirements or provisions of this Part, or who fails or refuses to comply with any notice, order or direction of the Building Permit Officer or any other authorized employee of the Borough shall, upon conviction thereof, be sentenced to pay a fine of not more than \$1,000 plus costs. Each day that a violation of this Part continues shall constitute a separate offense. In addition to the above penalties, all other actions are hereby reserved including an action in equity for the proper enforcement of this Part. The imposition of a fine or penalty for violation or noncompliance with this Part shall not excuse the violation or noncompliance or permit it to continue; and, all such persons shall be required to correct or remedy such violations and noncompliances within a reasonable time. Any structure or building constructed, reconstructed, enlarged, altered or relocated in noncompliance with this Part may be declared by the Borough Council to be a public nuisance and abatable as such.

(Ord. 320, 2/3/1975, §11; as amended by Ord. 3-1999, 4/5/1999; and by Ord. 1-2000, 2/7/2000)