

**CITIZENS' GUIDE TO THE ENFORCEMENT OF AN ORDINANCE
ENACTED BY THE RALEIGH COUNTY COMMISSION
REGULATING ABANDONED AND DILAPIDATED PROPERTIES**

A bill was passed during the past session of the West Virginia Legislature granting County Commissions the authority to enact an ordinance regulating abandoned and dilapidated property in their jurisdiction that is determined to be a threat to the public health, safety and welfare. The Raleigh County Commission enacted such an ordinance on May 18, 1999. It subsequently appointed a five (5) member Enforcement Agency to investigate citizens' complaints of potentially hazardous conditions and to report the findings of such an investigation to the County Commission for their consideration and potential action. This **Citizens' Guide** was developed to familiarize the citizens of Raleigh County with this new ordinance and to explain the procedures and remedies that will be followed in the enforcement of the new ordinance.

What is the purpose of this new ordinance?

The purpose of this new ordinance is to protect the citizens of Raleigh County from unsafe or unsanitary conditions existing on abandoned and/or dilapidated property that represent a risk to the public health, safety or welfare. Included are any dwelling, building, accumulation of refuse or debris, overgrown vegetation or toxic spillage or toxic seepage that can be demonstrated to be unsafe, unsanitary, dangerous or detrimental to the public health, safety or welfare. The only exception are buildings utilized for farming purposes on land actually being used for farming. If it is determined that any unsafe or unsanitary conditions do exist, the County Commission is authorized to order the repair, alteration, cleanup or removal of the building or property in question at the property owner's expense or to impose other remedies if the property owner fails to make the necessary improvements.

What area is covered by this ordinance?

This ordinance applies to all private property in Raleigh County located in unincorporated areas. This ordinance does not apply to property located in incorporated towns and cities nor to any property owned by the federal, state or local government. Municipal governments in West Virginia currently have the authority to enact an ordinance regulating abandoned and dilapidated property in their jurisdiction.

How will this new ordinance be enforced?

Since the County lacks the capacity to inspect all properties within the County for possible violations, a potentially harmful situation needs to be brought to the attentions of the Enforcement Agency via the complaint of a citizen who is adversely impacted by the condition in question. Attached to this guide is a

Complaint Form which should be filled out and forwarded to the County Commission. Following the receipt of a complaint, an Enforcement Agency representative will conduct a visual inspection of the property in question and photos will be taken. The merits of every complaint will then be considered by the Enforcement Agency at its next scheduled meeting. The person filling out the complaint may attend the meeting and address the Enforcement Agency, yet this is not required. Depending upon the circumstances, the Enforcement Agency may initiate an immediate investigation, table the complaint for later consideration or reject the complaint for lack of merit. If an investigation is authorized, the following steps will be taken:

1. The Sheriff's tax office will be asked to ascertain the property owner's name and address; tax map and parcel number for the property in question; its assessed value for both the lands and buildings; acreage or lot size if available; and the status of taxes paid or due on this property.
2. The Clerk of the County Commission will be asked to ascertain any information about any liens on the subject property and to provide the Enforcement Agency with a copy of the deed.
3. A certified letter will be mailed to the property owner informing him/her of the general nature of the complaint and plans of the Enforcement Agency to visit the property at a particular time to investigate the allegations set forth in the complaint. To the fullest extent possible, the scheduling of this site inspection will be at the convenience of the property owner.
4. Representatives of a fire department, the County Health Department and Enforcement Agency will be asked to participate in the site inspection to determine the scope and nature of any health and safety problems. The findings of their investigation will be forwarded to the Enforcement Agency to become a part of the investigative report.
5. Written statements and other evidence from the property owner, the complaining party, neighbors and other interested persons will become a part of the investigative report. Additionally, these persons will be given the opportunity to address the Enforcement Agency when the investigative report is being considered.
6. A designated Enforcement Agency representative may negotiate an agreement between the property owner and the Enforcement Agency to remedy all deficiencies to the satisfaction of the Enforcement Agency within a designated period of time.
7. Upon its completion, the investigative report will be considered by the Enforcement Agency at its next monthly meeting. Based on the findings of this investigation as well as on any public input at the meeting, the Enforcement Agency, by a majority vote of the members present, will decide

to either (1) dismiss the citizen's complaint, (2) continue the matter over to a later meeting to permit further investigation, (3) adopt an agreement with the property owner to remedy deficiencies within an agreed upon time frame, or (4) determine that the property in question is a threat to the public health, safety and welfare and should be repaired, altered, improved, vacated, closed, cleaned up or demolished as the case may be. If the latter determination is made, the Enforcement Agency should incorporate its findings and recommendations into a report to be forwarded to the County Commission for their consideration and action.

8. If indicated, the Enforcement Agency representative shall file in the Office of the Clerk of the County Commission a petition/complaint on behalf of the Enforcement Agency seeking an order of the County Commission requiring the property owner to remedy the identified deficiencies within a reasonable time or to face certain sanctions. A copy of the complaint shall be forwarded to the property owner via a certified letter with notification that the property owner has ten (10) days to request a hearing before the County Commission.
9. If requested, the County Commission will hold a public hearing to consider the Enforcement Agency's petition/complaint within twenty (20) days. The Enforcement Agency has the burden of proving its allegations by a preponderance of the evidence. The West Virginia rules of evidence do not apply, but each party has the right to present evidence and examine and cross examine all witnesses. At the conclusion of the hearing, the County Commission shall make findings of facts, determinations and conclusions of law as to the most appropriate course of action.
10. The County Commission has the authority to order the property owner 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 property owner who fails to obey such an order. The property owner has the right to appeal to the Circuit Court any order of the County Commission.
11. If the property owner fails to perform the ordered duties and obligations prescribed by the County Commission, the Commission may advertise for and secure the services of a contractor to make the ordered repairs, alterations or improvements or the ordered demolition, removal or clean up.
12. A civil proceeding may then be brought in the Circuit Court by the Commission against the property owner to secure a lien against the property in question for the amount of the contractor's costs, legal expenses and the monetary penalty imposed. Additionally, the Commission will seek permission for the contractor to enter the property in question at any time to make the necessary improvements and for the Commission to sell the property to satisfy the lien. Finally, the Commission has the legal authority to

institute a civil action against the property owner for all costs incurred by the Commission.

Will this new ordinance correct all of the problems in Raleigh County associated with abandoned and dilapidated housing?

Unfortunately, the answer to this question is no. The work of the Enforcement Agency will by necessity have to be self- supporting since no funding has been budgeted to support this Agency. Accordingly, the Enforcement Agency is dependent on voluntary compliance by property owners and/or the capacity of the prescribed sanctions to generate enough resources from the momentary penalties, liens and/or the sale of the property in question to cover the costs associated with fixing up, cleaning up or demolishing abandoned or dilapidated housing. In some situations, repetition costs will exceed the capacity of sanctions to generate the necessary resources, making these projects financially unfeasible. Despite this limitation, the Enforcement Agency is committed to correcting problems associated with abandoned and dilapidated housing to the fullest extent possible and will explore all avenues of opportunity to fulfill this objective.