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Putnam County Clerk
Brian Wood County Clerk
BK 112 PG 956-961

BEFORE THE COUNTY COMMISSION OF PUTNAM COUNTY, WEST VIRGINIA

RE: PUTNAM COUNTY DILAPIDATED AND ABANDONED ORDINANCE

WHEREAS, Section 11, Article IX of the Constitution of West Virginia and West Virginia Code §7-1-3 provide that county commissions have the superintendence and administration of the internal police and fiscal affairs of their counties;

WHEREAS, West Virginia Code §7-1-3ff authorizes a county commission to enact ordinances regulating the repair, alteration, improvement, vacating, closing, removal or demolition of unsafe or unsanitary structures and clearance and removal of refuse and debris on private land;

WHEREAS, West Virginia Code §7-1-3kk authorizes the county commission to provide for the elimination of hazards to public health and safety;

WHEREAS, the County Commission of Putnam County, West Virginia, previously enacted an ordinance creating the Putnam County Dilapidated and Abandoned Enforcement Agency;

Now, THEREFORE, the County Commission of Putnam County, West Virginia sitting in regular session the 9th day of March, 2021 hereby approves and adopts the following "Putnam County Dilapidated and Abandoned Ordinance" to provide for the continuation of the Putnam County Dilapidated and Abandoned Enforcement Agency and to amend the previous version which was amended on May 23, 2006;

The adoption having been moved by Commissioner Skidmore, and duly seconded by Commissioner Ellis, the vote on passage of the motion was as follows:

Ronald R. Foster	Aye
R. Andrew Skidmore	Aye
C. Brian Ellis	Aye

President Foster declared the Ordinance approved and passed.


WHEREFORE, it is therefore ADJUDGED and ORDERED that the attached Putnam County Dilapidated and Abandoned Ordinance be adopted to provide for the continuation of the Putnam County Dilapidated and Abandoned Enforcement Agency and to amend the previous version which was amended on May 23, 2006.

Entered this 9th day of March, 2021.

THE PUTNAM COUNTY COMMISSION



Ronald R. Foster, President



R. Andrew Skidmore, Commissioner



C. Brian Ellis, Commissioner

PUTNAM COUNTY DILAPIDATED AND ABANDONED ORDINANCE

WHEREAS, the Putnam County Commission has determined that there are severely dilapidated and abandoned structures located throughout the county which present a safety or health hazard; and,

WHEREAS, the Putnam County commission has been authorized by Section 3ff, Article 1, Chapter 7 of the West Virginia Code, to enact ordinances regulating the repair, alteration, improvement, vacating, closing, removal or demolition of unsafe or unsanitary structures and the clearance and removal of refuse and debris (including junk or abandoned vehicles) on private land; and

WHEREAS, the Putnam County Commission seeks to protect the public from hazards created by unsafe or unsanitary structures, refuse and debris.

NOW THEREFORE, the Putnam County Commission hereby ORDERS:

1. The continuation of the PUTNAM COUNTY DILAPIDATED AND ABANDONED ENFORCEMENT AGENCY (the "Enforcement Agency") which shall consist of the following individuals: the county engineer (or other technically qualified county employee or consulting engineer); county health officer or designee; a fire chief from a county fire company; two members at large selected by the County Commission to serve two-year terms; and the Sheriff who shall serve in his or her official capacity and be the county officer charged with enforcing the orders of the County Commission under this Ordinance.
2. The Enforcement Agency shall be charged with the responsibility of requiring the clearance of any unused or unoccupied dwelling, non-farm building, structure or manmade appurtenance, or any remnants thereof, or any refuse or debris (including junk or abandoned vehicles) on all private lands, with the exception of any buildings utilized for active farm purposes on land currently being used primarily for farming, that has accumulated as a result of any natural or manmade force or effect which presents a safety or health hazard.
3. The procedure to be implemented by the Enforcement Agency, on behalf of the County Commission, shall include the following:
 - a. The Enforcement Agency shall accept and review written complaints from the general public and other county agencies and shall identify dilapidated and vacant structures as well as refuse, debris, toxic spills or seepage on private land in Putnam County that pose a hazard to the community. The written complaints may be anonymous.
 - b. If the Enforcement Agency determines that a complaint alleges any toxic spills or seepage conditions, then the Enforcement Agency shall, within thirty (30) days of

receiving the written complaint, refer the matter onto the appropriate governmental agency for action.

- c. If the complaint alleges any of the above-listed conditions other than toxic spills or seepage, then the Enforcement Agency, or representative of the Enforcement Agency, shall conduct an on-site inspection of the identified dilapidated and vacant property as well as refuse, structure or manmade appurtenance, and debris (including junk or abandoned vehicles), on private land within thirty (30) days either before or after receiving a written complaint. Any investigation by the Enforcement Agency, or representative of the Enforcement Agency, that requires entrance upon premises shall be made in such a manner as to cause the least possible inconvenience to the persons in possession, but in every instance the Enforcement Agency, or representative of the Enforcement Agency, shall have the power to enter said property in accordance with this Ordinance.
- d. If the Enforcement Agency needs additional information or there are insufficient findings based upon the investigation of the complaint to make a decision, the Enforcement Agency shall notify the County Commission of the steps the Enforcement Agency is taking to obtain the information needed to refer the matter to the County Commission. After each special or regular meeting of the Enforcement Agency, all complaints received and investigated by the Enforcement Agency shall be referred to the County Commission at the next scheduled meeting of the County Commission, with recommendations on how to proceed in the matter. Said recommendations may include, but not be limited to: (1) a recommendation for the Putnam County Commission to allow the landowner additional time in which to correct the nuisance and possible health hazard based on the landowner's efforts to correct the identified problem(s); (2) a recommendation that the Putnam County Commission dismiss the case because the nuisance and possible health hazard has been corrected by the landowner(s); and/or (3) a recommendation that the Putnam County Commission refer the matter back to the DAEA Board for further action. The recommendations of the DAEA Board are not binding upon the Putnam County Commission, and the Putnam County Commission may accept, reject, or modify the recommendations as they deem appropriate.
- e. The Putnam County Planning Office will develop procedures to notify and work with the property owner(s) to correct or address any conditions that exist that need to be corrected as a result of the investigation of the written complaint.
- f. If the Enforcement Agency has investigated, or based on information provided by a representative of the Enforcement Agency that has investigated the complaint, has determined that any dwelling, building, structure or manmade appurtenance, accumulation of refuse or debris, and/or overgrown vegetation on private property exists and that the conditions are unsafe, unsanitary, dangerous, or detrimental to the public safety or welfare and should be repaired, altered, improved, vacated, removed, closed, cleaned or demolished, the Enforcement Agency shall direct the

county engineer, consulting engineer or other technically qualified county employee to prepare a Complaint listing the specific findings of the investigation and make recommendations for clean-up.

- g. At the direction of the Enforcement Agency, the county engineer, consulting engineer or other technical qualified county employee shall then petition the County Commission to accept and file the Complaint on behalf of the Enforcement Agency.
- h. The County Commission shall cause a copy of the Complaint to be served on the landowner or landowners of the private property in accordance with Rule 4 of the West Virginia Rules of Civil Procedure.
- i. If the Putnam County Clerk receives a written notice of the landowner's request for a hearing within ten (10) days of the landowner's receipt of the complaint, then the County Commission shall issue an order setting a hearing on the Complaint within twenty (20) days. If the landowner fails to properly file a written request for hearing within ten (10) days of receipt of the complaint, then the County Commission may order the landowner to comply with the recommendations in the Complaint.
- j. At the hearing, both sides shall be allowed to put on evidence and call and cross-examine witnesses. The West Virginia Rules of Evidence are not applicable to the proceedings. Furthermore, the hearing shall be conducted on the record by either a court reporter or a recording of the audio portion of the proceedings. 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. At the conclusion of the hearing the County Commission shall make findings of fact, determinations and conclusions of law as to whether the dwelling, structure, manmade appurtenance, or building: (1) Is unfit for human habitation due to dilapidation; has defects that increase the hazard of fire, accident, or other calamities; lacks ventilation, light, or sanitary facilities; or any other conditions prevailing in the dwelling, structure, manmade appurtenance, 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 structure, manmade appurtenance or building to be unsafe, unsanitary, dangerous, or detrimental to the public safety or welfare; or whether there is an accumulation of refuse or debris, or overgrown vegetation 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.
- k. If the County Commission finds by a preponderance of the evidence that any of the conditions exist as set forth in the preceding paragraph, the Commission may order the landowner to repair, alter, improve, vacate, remove, close, clean up or demolish the dwelling structure, manmade appurtenance or building in question or to be removed or clean up any accumulation of refuse or debris, or overgrown vegetation within a reasonable time and may impose daily civil monetary penalties on the landowner who fails to comply with the order.

- l. The landowner must comply with any orders under this Ordinance within sixty (60) days, unless granted an extension for good cause by the County Commission.
- m. If the landowner fails to comply within sixty (60) days or within the additional time allotted by the County Commission, the landowner shall be subject to a fine in the amount of up to one hundred dollars (\$100.00) per day for each day of sixty (60) days or the additional allotted time that the landowner is not in compliance with the order.
- n. If the landowner fails to comply with the order, then the County Commission may advertise for and seek contractors to make the ordered repairs, alterations, or improvements or the ordered demolition, removal or cleanup. The County Commission may authorize the selected contractor to enter the land at any and all times necessary to bring the land into compliance with the Ordinance and 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.
- o. The County Commission may seek reimbursement from the landowner through civil litigation for all monies expended, including but not limited to contractor's fees, attorney's fees, court costs and civil penalties. Further, the County Commission may cause liens for said amounts to attach to the land and force the sale of the land to satisfy the debt.
- p. The County Commission may receive and accept grants, subsidies, donations and services in kind consistent with the objectives of this Ordinance.

EFFECTIVE this 9th day of March, 2021.

Adopted March 1, 2000, effective 30 days from passage; Amended June 28, 2000, effective from passage; Amended May 23, 2006; Amended March 9, 2021, effective from date of passage.

STATE OF WEST VIRGINIA, Putnam
County Commission Clerk's Office
03/10/2021 The foregoing Court Order
together with the certificate of its
acknowledgment, was this day presented
in said office and admitted to record

Teste:  Clerk