

# **VILLAGE OF BEECH BOTTOM**

## **AMENDED ORDINANCE #49**

### **DILAPIDATED AND ABANDONED BUILDING ORDINANCE**

- |                                                                  |                                    |
|------------------------------------------------------------------|------------------------------------|
| 49.1 Purpose                                                     | 49.10 Action Upon Non-Compliance   |
| 49.2 Adoption of State Building Codes                            | 49.11 Assessment, Lien on Property |
| 49.3 Scope                                                       | 49.12 Demolition of Buildings      |
| 49.4 Definitions                                                 | 49.13 Emergency Measures           |
| 49.5 Enforcement Agency                                          | 49.14 Civil Penalty                |
| 49.6 Receipt of Complaints & Subsequent Actions                  | 49.15 Criminal penalty             |
| 49.7 Commencement of Proceedings                                 |                                    |
| 49.8 Standards for Repair, Vacation, or Demolition;<br>Abatement |                                    |
| 49.9 Order                                                       |                                    |

#### **49.1 PURPOSE**

**49.1.1** The Village has determined that an abandoned and/or dilapidated building may present a fire hazard, may provide temporary occupancy by transients (including drug users and traffickers), may detract from private and/or public efforts to rehabilitate or maintain surrounding buildings, and that the health, safety, and welfare of the public is served by the regulation of said buildings.

**49.1.2** Pursuant to West Virginia Code § 8-12-16, the Village has the plenary power and authority to adopt ordinances regulating the repair, alteration or improvement, or the vacating and closing or removal or demolition, or any combination thereof, of any dwellings or other buildings unfit for human habitation due to dilapidation, defects increasing the hazard of fire, accidents or other calamities, lack of ventilation, light or sanitary facilities or any other conditions prevailing in any dwelling or building, whether used for human habitation or not, which would cause such dwellings or other buildings to be unsafe, unsanitary, dangerous or detrimental to the public safety or welfare.

#### **49.2 ADOPTION OF STATE BUILDING CODES**

**49.2.1** The Village hereinafter adopts the State Building Code as set forth in West Virginia Code § 29-3-5b and West Virginia Code of State Regulations § 87-4-1, *et. seq.* in their entirety and hereby incorporates the same as if more fully set forth herein.

#### **49.3 SCOPE**

**49.3.1** The provisions of this article shall apply to all buildings as hereinafter designated which are now in existence or which may hereafter be constructed within the limits of the Village of Beech Bottom.

## 49.4 DEFINITIONS

**49.4.1** Unless otherwise expressly stated, the following terms shall, for the purposes of this code, have the meanings shown in this chapter.

**49.4.2 Interchangeability** Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural, the singular.

**49.4.3 Terms defined in other codes** Where terms are not defined in this code and are defined in the State Building Code as set forth in West Virginia Code of State Regulations § 87-4-1, *et. seq.*, such terms shall have the meanings ascribed to them as in those codes.

**49.4.4 Terms not defined** Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.

**49.4.5 Parts** Whenever the words "dwelling unit," "dwelling," "premises," "building," "rooming house," "rooming unit" "housekeeping unit" or "story" are stated in this code, they shall be construed as though they were followed by the words "or any part thereof."

## 49.5 ENFORCEMENT AGENCY

**49.5.1 Creation and Composition.** There is hereby created a Beech Bottom Building Enforcement Agency which shall consist of the following members:

- a) the Mayor;
- b) a representative of the Village being an Engineer, Certified Licensed Contractor, or a Licensed Property Maintenance Code Official/Housing Inspector (hereinafter "Code Official"),
- c) a member of Council, and
- d) two citizens of the Village all to serve at the will and pleasure of Council and all shall be appointed annually during the first regular meeting of Council each July.
- e) The ranking County Health Officer, or his/her designee, the Chief of Police of the Village, ~~and~~ the Local Fire Chief, and the Village Recorder shall serve as ex-officio members of the Agency without a vote.

**49.5.2 Alternates.** Should Council deem it necessary to select alternates for the appointed citizens, said appointments can be made by majority vote. Alternates may attend all meetings of the Enforcement Agency, but shall only to be eligible to vote if the duly appointed citizens are unable to vote due to absence, conflict of interest, or other such circumstances that may arise where voting shall be impractical or improper.

**49.5.3 Vacancies.** Should vacancies occur among the appointed citizens, alternates (if so named) shall be appointed to fill the unexpired term created by such vacancy. Should there be no alternates to select from, Council shall post the vacancy, accept applications for a period of at least 7 days, and then appoint a citizen of the Village to fill the unexpired term at their next regular meeting.

**49.5.4 Purpose.** The purpose of the Enforcement Agency is to serve as a Building Code Appeals Board, thereby giving the property owners the ability to resolve any complaint at the lowest possible level and in accord with the provisions of this ordinance concerning proceedings and hearings contained herein.

**49.5.5 Powers.** The Enforcement Agency shall exercise such powers as may be necessary or convenient to carry out and effectuate the purposes of this ordinance, including the following powers in addition to others herein granted:

- (a) Administer oaths, affirmations, examine witnesses and receive evidence;
- (b) Enter upon premises for the purpose of making inspections as hereinafter provided
- (c) Appoint and fix the duties of such officers, agents, and employees as it deems necessary to carry out the purpose of this article;
- (d) Delegate any of its functions and powers under this article to such officers or agents as it may designate; and
- (e) Adopt such rules, regulations and bylaws for the conduct of its business and affairs.

**49.5.6 Meetings.** The members of the Enforcement Agency should meet one evening each quarter in public session in Council chambers.

**49.5.6.1 Quorum.** Three (3) voting members (including alternates) of the Enforcement Agency in attendance at the quarterly meeting shall constitute a quorum.

**49.5.6.2 Special Meetings.** Should a complaint require a meeting of the Enforcement Agency, a Special Meeting in public session in Council Chambers shall be called by the Mayor or the Chairman of the Enforcement Agency.

**49.5.6.3 Order of Business.** Meetings shall be conducted in accordance with the Robert's Rules of Order.

**49.5.6.4** All hearings before the Enforcement Agency shall be open to the public. The Agency shall keep minutes of its proceedings, keep records of its examinations and other official action, prepare findings and record the vote of each member voting upon each question. All minutes and records shall be filed in the Village's municipal office and shall be a public record.

## **49.6 RECEIPT OF COMPLAINTS & SUBSEQUENT ACTIONS**

### **49.6.1 Written Complaints**

**49.6.1.1** The Enforcement Agency shall only proceed to take action upon receipt of a signed, written complaint and will not accept anonymous, unwritten complaints.

**49.6.1.2** The purpose of the written complaint is to provide the Enforcement Agency with information concerning a property that may not be in compliance with this Ordinance. The written complaint may not be used as the sole basis for a determination that the property is not in compliance and may not be considered as evidence during any hearing.

**49.6.1.3** Written complaints shall be kept confidential to the extent permitted by law.

**49.6.2** The members of the Enforcement Agency may, if a quorum is present, by a majority vote of those present reject the written complaint or accept the written complaint and order the Code Official to conduct an inspection and investigation. If the Chairperson of the Enforcement Agency and/or the Mayor determine that the written complaint is sufficient and extraordinary circumstances exist, he/she has the authority to accept the written complaint and order the Code Official to conduct an inspection and investigation.

**49.6.3** Upon the completion of the inspection by the Code Official, and without further public input, the members of the Enforcement Agency, by a majority vote of those members present in public session may:

- (a) dismiss the citizen's complaint;
- (b) continue the matter over until a later meeting to permit further investigation;
- (c) adopt an agreement to remedy deficiencies and continue the matter over until a later meeting to permit the property owner time to remedy deficiencies in accordance to an agreement between the Enforcement Agency and the property owner;
- (d) order the Water Department to disconnect service to the property at the water main or the property's curb valve after the building has been vacant for more than twelve consecutive months (as indicated by account records kept by the Water Department's billing clerk); and/or
- (e) commence proceedings against the owner as set forth in 49.7

### **49.6.4 Guidelines for Investigations Conducted by Code Officials**

**49.6.4.1** Upon the members of the Enforcement Agency voting to accept the citizen's complaint and conduct an investigation, the Code Official may contact the following public officials and ascertain the following information:

- a) Sheriff's tax office to ascertain the property owner's address, the tax district, tax map and parcel number for the property in question; it's assessed value for both the lands and buildings; acreage or lot size if

- known by the Sheriff's tax office and the status of taxes paid or due and owing on this property; any lien information.
- b) Clerk of the County Commission to ascertain any information about judgment liens, tax liens, mechanics liens or deed of trust liens on the subject property and obtain a copy of the deed, or other document by which the owner obtained title to the property in question.
  - c) Assessor's Office to ascertain lot or parcel size and a copy of the tax map for the property in question.
  - d) County Health Officer to ascertain the type of water and sewer system serving the property in question.
  - e) Beech Bottom Volunteer Fire Department to ascertain the number of fire service or ambulance calls to that property in the last three years.
  - f) Planning Commission staff to ascertain the number of improved lots in that or nearby subdivisions; location of the property in question insofar as flood prone areas, river, streams, ponds, are concerned; the location of nearby schools, hospitals, and residences in the immediate area and in the watershed area.
  - g) United States Department of Agriculture Offices to ascertain the types of farming operations in the area in question and the soil types.
  - h) West Virginia State Police and Brooke County Sheriff's Department to ascertain the nature and number of law enforcement problems originating from the property in question in the last two (2) years.

**49.6.4.2 Inspections; right of entry** In conducting his or her inspection, the Code Official shall seek to minimize the inconvenience to the owner or persons in possession and shall conduct his/her inspection consistent with the following:

- a) Entry is for the sole purpose of inspection of the structure, dwelling or building for unsafe or unsanitary conditions and not for the purpose of criminal prosecution or gathering evidence for use in any criminal charge or proceeding unrelated to the unsafe or unsanitary condition of the structure, dwelling or building.
- b) Except in exigent circumstances and as permitted by law, the Code Official shall provide reasonable advance notice to the owner and request permission from the owner to enter the property.
- c) If the owner cannot be located after reasonable inquiry, or if the owner refuses entry, the Code Official may obtain an administrative search warrant from either the Municipal Court or the Brooke County Magistrate Court. Before obtaining an administrative search warrant, the code official is required to make a sworn statement and prima facie case showing that the Enforcement Agency was unable to gain access to the structure, dwelling or building after reasonable and good faith efforts, and that there is a legitimate and substantial safety concern involving the structure, dwelling or building that supports the requested entry.
- d) If granted by the court, and if the owner can be located, the Enforcement Agency shall provide the owner a copy of the administrative search warrant five days before entering the property. If applicable, the

Enforcement Agency shall also provide the same notice to any tenant or other person in possession of the structure, dwelling or building.

#### **49.7 COMMENCEMENT OF PROCEEDINGS.**

**49.7.1 Complaint and Notice of Hearing** If the Enforcement Agency shall vote to commence proceedings to cause the repair, rehabilitation, vacation, or demolition of unsafe buildings, then it shall serve upon the owner and parties in interest in any such building:

- a) a complaint – the complaint shall state the date of the last inspection, the name of the Code Official who(m) inspected the property, and a reasonable description of the unsafe, unsanitary, dangerous, or detrimental condition(s); and
- b) a notice of hearing – the notice of hearing will advise the owner that a hearing will be held before the Enforcement Agency at a place therein designated not less than ten days and not more than thirty days after serving the complaint and notice.

**49.7.2 Services of Complaint and Notice of Hearing** The complaint and notice of hearing shall be served upon the owner or interested parties in accordance with Rule 4 of the West Virginia Rules of Civil Procedure. If service of process is effectuated pursuant to certified mail, return receipt requested then all further mailings can be sent to this address by regular U.S. Mail, unless the owner notifies the Enforcement Agency of his or her change of address.

**49.7.3 Posting of Complaint and Notice of Hearing** Unless waived by the owner, the complaint and notice of hearing shall be posted in a conspicuous place on the premises affected by the complaint.

**49.7.4** The owner and parties interested shall have the right to file an answer to the complaint and shall have the right to have legal representation present at all stages of the process.

**49.7.5** The owner can waive the requirements for the commencement of proceedings as set forth in this section and can further agree to an adjudication and the issuance of an order to cause the repair, rehabilitation, vacation, or demolition of unsafe buildings.

#### **49.8 STANDARDS FOR REPAIR, VACATION, OR DEMOLITION; ABATEMENT**

**49.8.1** The following standards shall be followed in substance by the Enforcement Agency in ordering repair, vacation, or demolition:

- a) If the unsafe building can reasonably be repaired so that it will no longer exist in violation of the terms of this ordinance, it shall be ordered repaired.
- b) If the unsafe building is in such condition as to make it imminently dangerous to the public or its occupants, it shall be ordered vacated.
- c) If the unsafe building cannot be reasonably repaired so that it will no longer exist in violation of the terms of this ordinance, it shall be ordered demolished.

**49.8.2** The unsafe condition of buildings as defined in this ordinance shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure provided for in this ordinance.

#### **49.9 ORDER.**

**49.9.1** Should the Enforcement Agency after notice and hearing, determine that a building is unsafe or not in compliance with this ordinance, it shall make written findings of fact from the testimony offered and shall issue and caused to be served upon the owner and parties in interest an order indicating the required action under section 49.8 to be taken as determined by the Enforcement Agency in accordance with the provisions of this ordinance.

**49.9.2** If the owner agrees to an adjudication as set forth in Section 49.7.3, the Enforcement Agency shall issue an order indicating the required action under section 49.8 to be taken as determined by the Enforcement Agency in accordance with the provisions of this ordinance.

**49.9.3 Time for Compliance** The order issued by the Enforcement Agency shall provide the owner a reasonable amount of time to comply with the order.

**49.9.4 Right to Seek Temporary Injunction** The order issued by the Enforcement Agency shall advise the owner that he or she may, within thirty (30) days of the issuance of the order, apply to the circuit court for a temporary injunction or other similar relief restraining action by the Enforcement Agency.

**49.9.5 Services of Process for Orders; Posting** The order shall be caused to be served upon the owner in accordance with Rule 4 of the West Virginia Rules of Civil Procedure; however, if the owner has been served with a complaint and notice of hearing by certified mail, return receipt requested, then the order may be sent to this same address via regular U.S. mail. Further, unless waived by the owner, any order shall be posted in a conspicuous place on the premises affected by the order.

#### **49.9.6 Inability to Effectuate Services of Process**

**49.9.6.1** If the Enforcement Agency cannot effectuate personal service on the owner, the Code Official shall subscribe a written affidavit, to be maintained for a minimum of two years, that demonstrates the structure, dwelling or building is not in compliance with this ordinance, sets forth the basis in reasonable detail including documentation of same, and memorializes the Code Official's efforts to contact or get permission for entry and corrective action from the owner; and the Enforcement Agency shall publish notice of its intent to enter the property for the purpose of demolition or correction, along with the address of the property, the name of the owner(s) and the date of the proposed action, as a Class II legal advertisement consistent with the requirements of West Virginia Code § 59-3-2, the first of which shall run at least thirty days before the date of the proposed action by the Enforcement Agency, and the last being no later than twenty days before the date of the proposed action by the Enforcement Agency.

**49.9.6.2** If there is no response to the notice by the owner or landowner in the time specified in the notice, then the Enforcement Agency shall have the authority to proceed in correction or demolition of the subject dwelling, building or structure.

**49.10 ACTION UPON NONCOMPLIANCE** If the owner fails to comply with any order issued pursuant to section 49.9, then the Enforcement Agency may appropriately implement the order by:

- a) applying to the County Circuit Court, for an injunction prohibiting the use and occupancy of such building.
- b) cause the repair or restoration to be made.
- c) cause the demolition and removal of such building.
- d) assess a fine as specified in Section 49.14
- e) proceed with criminal prosecution as specified in Section 49.15.

#### **49.11 ASSESSMENT, LIEN ON PROPERTY.**

In the event any expense or cost is incurred pursuant to Section 49.10, then any such expense or cost over and above the proceeds of sale or salvage of all or any part of the building shall be assessed against the real estate. Such assessment shall bear interest at six percent (6%) per annum and shall be immediately due and payable. If such assessment is not paid within thirty days after the same is made, the Village Treasurer may certify the amount of any such assessment with a description of the property chargeable therewith, and the name of the owner thereof, to the Clerk of the County Court to be recorded in the Trust Deed Books of such Clerk's Office; and such assessment shall be and constitute a lien against such property.

#### **49.12 DEMOLITION OF BUILDINGS.**

**49.12.1.** No building in the Village shall be intentionally demolished by or at the instance of its owner (or his/her authorized agent, such authority to be evidenced in writing) shall have first obtained a demolition permit from the Mayor, or his/her designee, upon a form and in the manner prescribed by the Mayor.

**49.12.2** The Mayor or his/her designee shall require the following conditions to be satisfied by the applicant prior to issuance of the permit:

- a) Written notification to all public utilities having service lines or facilities in, over, under, or near the subject property, of the anticipated dates of demolition, and that the utility provider's assistance will be required to secure any affected utility lines or facilities.
- b) Purchase or maintenance of a casualty and liability insurance policy protecting and indemnifying the owner, his contractor or employees, the Village, adjoining property owners, and members of the public from injury, loss of life, or property damage resulting from the anticipated demolition work, and delivery of a certificate of insurance evidencing such coverage.
- c) Any owner wishing to raze or demolish his/her own house or other business or structure may do so upon securing a permit from the Village, and delivering a bond. No permit shall be issued until a bond in the penal sum of ten thousand dollars (\$10,000) has been delivered to the Licensing Officer so as to save the Village against loss as the result of injury to the person or property of a third person. No permit or license shall be issued unless the required documents have been received by the Village which include the following: all signatures for disconnection for service; liability of insurance or bond within the Village of Beech Bottom as additionally insured; letters to adjoining property owners (copies of letters and certified mail receipts to be submitted); and completed demolition permit application.
- d) The applicant may be relieved of the requirements of subsection (b)(2) or (3) in the event of extreme financial hardship and upon approval of the Building Enforcement Agency following a review of the condition of the subject property, the necessity for its prompt demolition, the financial circumstances given in support of the applicant's hardship and the likelihood of injury or damage to the public from the subject demolition.
- e) A permit fee in the amount of five dollars (\$5.00) shall be paid by the applicant.

**49.12.3.** Demolition shall be completed within thirty (30) days from issuance of the permit; provided, for good cause shown, the Mayor may extend the completion period an additional thirty (30) days. No further extension shall be granted, except with the approval of the Building Enforcement Agency.

**49.12.4.** Burying of construction debris which consists of lumber shall not be allowed on the demolition site. A demolition shall be completed when the following conditions are satisfied:

- a) All utility services and lines have been properly secured in a manner acceptable to the utility provider; and
- b) All visible debris and materials shall have been removed from the Village; and
- c) Any remaining cellar, basement, or excavation shall have been filled with fill materials suitable for the intended future purpose of the site.

**49.12.5.** Upon failure of the applicant to faithfully comply with the provisions of the demolition permit, the Mayor may declare a default, providing written notice thereof to the owner at his/her last given address. In the event of such default is not cured within ten (10) days of mailing such notice of default, the Mayor may declare a forfeiture of the surety bond or cash bond and collect the proceeds thereof. Such proceeds shall be applied by the Village toward completion of the demolition or to any costs or fees incurred by collecting such proceeds.

**49.12.6.** The Village may, but shall not be obligated merely by such forfeiture, to enter upon the subject property to complete the demolition, and the owner shall remain liable to the Village for all reasonable costs, fees, and expenses incurred thereby, including and deficiency after application of the forfeited bond proceeds. The Village may record a lien for such deficiency against the subject property in the Office of the County Clerk, and may thereafter foreclose same in the manner provided by law for foreclosure of mechanics liens.

#### **49.13 EMERGENCY MEASURES**

**49.13.1. Imminent Danger.** When, in the opinion of the Code Official, there is imminent danger of failure or collapse of a building or 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 building 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 reading 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.

**49.13.2. 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 request the Mayor call a special meeting of the Enforcement Agency and/or Council to request authorization of and orders for the necessary work to be done, including the boarding up of openings, to render such structure temporarily safe as expeditiously as possible whether or not the legal procedure herein described has been instituted; and shall consider to cause such other action to be taken as the code official deems necessary to meet such emergency.

**49.13.3. Closing Streets.** When necessary for public safety, the Code Official shall temporarily close structures and close, or order the authority having jurisdiction to close, sidewalks, streets, public ways and places adjacent to unsafe structures, and prohibit the same from being utilized.

**49.13.4. Costs of Emergency Repairs.** Costs incurred in the performance of emergency work shall be paid by the jurisdiction. The legal counsel of the jurisdiction shall institute appropriate action against the owner of the premises where the unsafe structure is or was located for the recovery of such costs.

**49.13.5. Hearing.** Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon petition directed to the appeals board, be afforded a hearing as described in this code. In the alternative, the owner may, within thirty (30) days of the issuance of the order, apply to the circuit court for a temporary injunction or other similar relief restraining action by the Enforcement Agency.

#### **49.14 CIVIL PENALTY**

**49.14.1.** Failure of the owner to faithfully comply with the provisions of section 49.12 and all conditions of the demolition permit, as extended or modified, shall be deemed a violation punishable upon conviction in a court of competent jurisdiction by a fine not to exceed five hundred dollars (\$500.00). The penalties contained in this section shall be in addition to any civil remedies otherwise available, including, but not limited to, injunctive relief or bond forfeiture, assessment and collection of a deficiency.

**49.14.2.** The occupant or lessee in possession who fails to comply with an order to vacate shall be fined not exceeding one hundred dollars (\$100.00) for each offense, and may in addition be fined the sum of one hundred dollars (\$100.00) for each and every day such failure to comply continues beyond the date fixed for compliance.

**49.14.3.** Whoever removes any notice or order of the Enforcement Agency posted as required under any provision of this ordinance shall be fined not exceeding one hundred dollars (\$100.00).

**49.14.4.** Whoever obstructs, impedes, or interferes with the Enforcement Agency, or any representative or officer thereof, or with any person who owns or holds any estate or interest in such building, or with any person to whom such building has been lawfully sold, pursuant to the provisions of this ordinance, shall be fined not exceeding one hundred dollars (\$100.00) for each offense.

**49.14.5.** The owner who fails to comply with an order from the Enforcement Agency to repair or demolish the structure by the date set forth in the order shall be fined not exceeding one hundred dollars (\$100.00) per day for each day beyond the expected date of compliance that the property fails to meet the requirements of the given order.

#### **49.15 CRIMINAL PENALTY**

**49.15.1.** Any violation of this ordinance may be prosecuted by the municipality consistent with state and local laws.

**49.15.2.** Unless otherwise authorized by state law, prosecution of a violation shall be initiated by a complaint presented to and sworn or affirmed before a Municipal Judge. Unless otherwise provided by statute, the presentation and oath or affirmation shall be made by an Enforcement Agency official or municipal attorney showing reason to have reliable information and belief. If from the facts stated in the complaint the Municipal Judge finds probable cause, the complaint becomes the charging instrument initiating a criminal proceeding. A complaint lawfully authorized by this section along with a summons setting forth the date, time and place of appearance before a Municipal Judge shall be served in accordance with the law of the State of West Virginia concerning the service of process in civil actions, except that personal service of a summons and complaint may be made by a code enforcement agency official. If service is made by certified mail under Rule 4(d)(1)(D) of the West Virginia Rules of Civil Procedure and delivery of the summons and complaint is refused, the Enforcement Agency official, promptly upon the receipt of the notice of the refusal, shall mail to the person or entity being noticed, by first class mail, postage prepaid, a copy of the summons and complaint. If the first class mailing is not returned as undeliverable by the U. S. Postal Service, service of the summons and complaint is presumed to have been effectuated. Upon service of the summons and complaint consistent with this subsection, the violation may be prosecuted consistent with state and local law.

**49.15.1.** A person convicted of failing to faithfully comply with the provisions of section 49.12 and all conditions of the demolition permit, as extended or modified, shall be fined not more than five hundred dollars (\$500.00) nor less than one hundred dollars (\$100.00).

**49.15.2.** The occupant or lessee who is convicted of failing to comply with an order to vacate shall be fined not exceeding three hundred dollars (\$300.00) for each offense, and may in addition be fined the sum of one hundred dollars (\$100.00) for each and every day such failure to comply continues beyond the date fixed for compliance up to an amount of one thousand dollars (\$1,000.00).

**49.15.3.** Whoever is convicted of removing any notice or order of the Enforcement Agency posted as required under any provision of this ordinance shall be fined not exceeding two hundred dollars (\$200.00).

**49.15.4.** Whoever is convicted of obstructing, impeding, or interfering with the Enforcement Agency, or any representative or officer thereof, or with any person who owns or holds any estate or interest in such building, or with any person to whom such building has been lawfully sold, pursuant to the provisions of this ordinance, shall be fined not exceeding two hundred dollars (\$200.00) for each offense.

**49.15.5.** An owner who is convicted of failing to comply with an order from the Enforcement Agency to repair or demolish the structure by the date set forth in the order shall be fined not exceeding one hundred dollars (\$100.00) per day for each day beyond the expected date of compliance that the property fails to meet the requirements of the given order, not to exceed ten thousand dollars (\$10,000.00).

**49.15.6.** Any person who has been lawfully served as set forth section 49.15.2. and fails to appear for trial, shall be fined not exceeding five hundred dollars (\$500.00) for the failure to appear.

**49.15.7.** With the exception of 49.15.6, a person convicted of violating any provision herein is guilty of a misdemeanor.

**49.15.8.** The penalties contained in this section shall be in addition to any civil remedies otherwise available, including, but not limited to, injunctive relief or bond forfeiture, assessment and collection of a deficiency.

1<sup>st</sup> Reading December 05, 2017

2<sup>nd</sup> Reading December 19, 2017

3<sup>rd</sup> Reading waived

Mayor

A handwritten signature in cursive script, appearing to read "Becky Miller", written over a horizontal line.

Recorder

A handwritten signature in cursive script, appearing to read "Joyce Painter", written over a horizontal line.