

ORDINANCE NO. Co 2 2003

AN ORDINANCE OF THE BOROUGH OF DUPONT, LUZERNE COUNTY, PENNSYLVANIA, PROHIBITING DANGEROUS STRUCTURES AND BUILDINGS WHICH ARE PUBLIC NUISANCES, PROPERTY MAINTENANCE AND PRESCRIBING PENALTIES FOR VIOLATION.

The Borough of Dupont hereby ordains:

Section 1. Short Title. This Ordinance shall be known and cited as the "Borough of Dupont Dangerous Structure and Maintenance Ordinance."

Section 2. Preface. Recognizing the need within the Borough of Dupont to establish certain minimum health and safety requirements for those buildings, structures, or properties which are used or associated with human occupancy; this Ordinance hereby established standards which the Borough of Dupont considers to be fair and effective in meeting those minimum requirements.

Section 3. Authority. This Ordinance, and the objectives leading to its enactment, are authorized by the following provisions of the (Municipal Code), to wit: Municipality Planning Code 53 PS 10603(b)

Section 4. Definitions. As used in this Ordinance, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

Building – An independent structure having a roof supported by columns or walls resting on its own foundation and includes 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 (3) 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:

- 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 damage, or deterioration to thirty-three percent (33%) of the supporting member or members, or damage or deterioration to fifty percent (50%) 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 propose used;
- d. 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;
- e. 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 and general welfare of those living therein;
- f. Those which have parts thereof which are so attached that they may fall and injure property or members of the public;
- g. 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;
- h. Those which because of their location are unsanitary, or otherwise dangerous, to the health or safety of the occupants or the public;
- i. Those existing in violation of any provision of the building code, fire prevention code, or other ordinances of the (Municipality).

Dwelling – Any building which is wholly or partly used or intended to be used for living or sleeping by human occupants.

Dwelling Unit – Any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living or sleeping by human occupants.

Extermination – Control and elimination of insects, rodents or other pests by eliminating their harborage places, removing or making inaccessible, materials that may serve as their food, poisoning, spraying, fumigating, trapping, or by any other recognized and legal pest elimination methods.

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

Infestation – Presence, within or around a dwelling, of any insects, rodents or other pests.

Lot – Plot, tracts, premises or parcel of land, with or without improvements thereto.

Owner – Person who, along or jointly or severally with other:

1. Shall have legal title to any building or dwelling unit, with or without accompanying actual possession thereof; or
2. Shall have charge, care or control of any dwelling unit, as owner or agent of the owner, or as executor, executrix, administrator, administratrix, or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this Ordinance and with rules and regulations adopted pursuant thereto, to the same extent as if he were the owner.

Person – Any individuals, firm, corporation, association or partnership, or other legal entity.

Property – A piece, parcel, lot or tract of land.

Rubbish – All putrescible and nonputrescible 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.

Structure – Any thing constructed or erected with a fixed or ascertainable location on the ground or in water, whether or not affixed to the ground or anchored in water, including buildings, walls, fences, platforms, docks, wharves, billboards, signs and walks.

Unoccupied Hazard – Any building, or part thereof, or manmade structure, which remains unoccupied for a period of more than six (6) 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 (6) months.

Yard – Any open space on the same lot with a building and, for the most part unobstructed from the ground up.

Whenever the words “dwelling”, “dwelling unit”, or “premises” are used in this Ordinance, they shall be construed as though they were followed by the words “or any part thereof”.

Section 5. Dangerous Buildings Declared Nuisances. All dangerous buildings within the terms of Section 1 of this Ordinance are hereby declared to be public nuisances and shall be repaired, vacated or demolished as herein provided.

Section 6. Standards for Repair, Vacation or Demolition. The following standards shall be followed in substance by the Enforcement Officer of the Borough of Dupont 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 Ordinance, it shall be ordered to be repaired.
2. If the 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 thirty (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 fifty percent (50%) or more damaged or decayed or deteriorated from its original condition; if a dangerous building cannot be repaired, so that it will not longer exist in violation of the terms of this Ordinance; or if a dangerous building is a fire hazard existing or erected in violation of the terms of this Ordinance or any Ordinance of the Borough of Dupont or statute of the Commonwealth of Pennsylvania, it shall be ordered to be demolished; provided, the cost of repairs to rectify or remove the conditions constituting the nuisance exceed fifty percent (50%) of the market value of the building at the time demolition is proposed.

Section 7. 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 Section 1 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 therefore. 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, occupancy, lessee or mortgagee is absent from the Borough of Dupont all notices shall be deemed to be properly served upon the owner, occupant, or other person having an interest in the dangerous building, 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 any other method authorized or required under the laws of the Commonwealth of Pennsylvania.
- 2. Except emergency cases, in all other cases where the owner, occupant, lessee or mortgagee is absent from the Borough of Dupont, 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 building, 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 Ordinance and with the rules and regulations adopted pursuant thereto.
- 3. Appear at all hearings conducted by the Enforcement Officer and testify as to the condition of dangerous building.

Section 8. Buildings and Structures.

- 1. No owner of any building or structure shall fail to take steps and perform such maintenance thereto, as may be required from time to time, to ensure the property is safe, sound, sanitary and secure and does not present a health and/or

safety hazard to surrounding properties and to the general populace.

2. No owner of any unoccupied building or structure shall fail to take such steps as may be required to insure that these are securely closed so as to prohibit and deter entry thereto and to insure that no health and/or safety hazard or threat thereof, is precipitated due to the lack of maintenance or due to neglect.
3. Owners of any and all unoccupied buildings and/or structures which, through neglect, have deteriorated to the point of being classified as unoccupied hazards and therefore constitute a severe health and/or safety hazard, shall, upon direction of the Borough of Dupont, remove, or cause the removal of, the building and/or structure.

Section 9. Yards, Open Lots, Parking Areas. No person shall permit:

1. Fences and/or minor structures to be constructed and maintained so as to present a safety or health hazard to persons and/or property.
2. The development of accumulation of hazards, rodent harborage and/or infestation upon yards, courts, lots.
3. Objectionable materials to accumulate and to be blown about the surrounding neighborhoods.
4. Wells, cesspools, cisterns, sedimentation ponds, stormwater management impoundment ponds and/or ponds of a similar nature to remain open without adequate fencing or barricades to prevent access thereto by the general public.
5. The accumulation of heavy undergrowth and/or vegetation which would impair the health and/or safety of the neighborhood; nor shall they permit any trees, plants or shrubbery, or any portion thereof, to grow on their property and which constitute a safety hazard to pedestrian and/or vehicular traffic.

Section 10. Infestation, Prevention and Correction.

1. Grounds, building and structures shall be maintained free of insect, vermin and rodent harborage and infestation.

2. Adequate sanitary facilities and methods shall be used for the collection, storage, handling and disposal of garbage and refuse.
3. Where there exists rodent and vermin infestation, corrective measures shall be undertaken by the property owner and/or occupant to alleviate the existing problem(s), to include screening, extermination and/or garbage and refuse control. Methods employed for extermination shall conform with generally accepted practices.

Section 11. Miscellaneous Provisions. No person shall permit:

1. Roof, surface and/or sanitary drainage to create a safety and/or health hazard to persons and/or property by reason of inadequate and/or improper construction, or maintenance or manner of discharge.
2. Roof gutters, drains, or any other system designed and constructed to transport stormwater, to be discharged into any sanitary sewage system and/or any part thereof.
3. An refrigerator, freezer and/or other similar storage chest to be discarded, abandoned or stored in any place or location which is accessible to the general public without first completely removing any and all locking devices and/or doors.

Section 12. Responsibilities of Occupants. Any occupant of a premises shall be responsible for compliance with the provisions of this Ordinance with respect to the maintenance of that part of the premises which he occupies and/or controls in a safe, sound and/or sanitary condition pursuant to the terms of the contract/agreement under which he exercises occupancy and/or control thereof.

Section 13. Responsibilities of Owners.

1. Owner of premises shall comply with the provisions of this Ordinance as well as operators and occupants, regardless of any agreements between owners and operators or occupants as to which party shall assume such responsibility.

2. In instances where an occupant is responsible or shares responsibility with an owner, for the existence of one (1) or more violations of this Ordinance, said occupant shall be deemed responsible and treated as if an owner within the true intent and meaning of this Ordinance.

Section 14. Inspection. The Borough of Dupont may or may cause, through an authorized representative of the Borough of Dupont entry onto premises for the purpose of inspection of any and all premises, properties, buildings and/or structures located within the Borough of Dupont for ascertaining the existence of violations. In those matters where the nature of an alleged violation is such that an inspection of the interior of a building or structure is necessitated, prior arrangements must be made with the owner, or his agent, to secure access thereof.

Section 15. Notice to Comply.

1. If noncompliance with the provisions of this Ordinance constitutes a nuisance, or if any condition, structure, or improvement poses a threat to the health, safety or welfare of the public, the Enforcement Officer shall issue a written notice to be served by registered or certified mail upon the owner of said premises, or, if the owner's whereabouts or identity be unknown, by posting the notice conspicuously upon the offending premises.
2. Said notice shall specify the condition or structure or improvement complained of, and shall require the owner of commence to remove or otherwise rectify the condition or structure of improvement as set forth therein within ten (10) days of mailing or posting of said notice, and thereafter, to fully comply with the requirements of the notice within a reasonable time.

Section 16. Authority to Remedy Noncompliance. If the owner does not comply with the notice to abate the conditions, within the time limit prescribed, the Borough of Dupont shall have the authority to take measures to correct the conditions and collect the cost of such corrections plus ten percent (10%) of all costs. The Borough of Dupont in such event and pursuant to its statutory or otherwise authorized police powers, shall have the right and power to enter upon the offending premises to accomplish the foregoing.

Section 17. Application. The provisions of this Ordinance shall supplement local laws, ordinances or regulations existing in the Borough of Dupont, County of Luzerne or those of the Commonwealth of Pennsylvania. Where a provision of this Ordinance is found to be in conflict with any provision of a local law, ordinance, code or regulations or those of the Commonwealth of Pennsylvania, the provisions which is more restrictive or which establishes the higher standard shall prevail.

Section 18. Hearings.

1. Any person affected by any notice which has been issued in connection with the enforcement of any provision of this Ordinance, may request and shall be granted a hearing on the matter before the Enforcement Officer; provided, that such person shall file with the Enforcement Officer a written petition requesting such hearing and setting forth a brief statement of the grounds therefore within ten (10) days after the day the notice was served. Upon receipt of such petition, the Enforcement Officer shall set a time and place for such hearing and shall give the petitioner written notice thereof. At such hearing 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 twenty (20) days after the day on which the petition was filed.
2. After such hearing the Enforcement Officer shall sustain, modify or withdraw the notice. If the Enforcement Officer sustains or modified such notice, it shall be deemed to be an order. Any notice served pursuant to this Ordinance shall automatically become an order if a written petition for a hearing is not filed with the Enforcement Officer within ten (10) days after such notice is served.
3. Any aggrieved party may appeal the final order to the Borough of Dupont in accordance with the provisions of the Local Agency Law.

Section 19. Removal of Notice Prohibited. No person shall remove or deface the notice of dangerous building, except as provided in Section 6(3).

Section 20. Emergency Cases. Whenever the Enforcement Officer finds that an emergency exists which requires immediate action to protect the public health, he 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 Ordinance, such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately, but upon petition to the Enforcement Officer shall be afforded a hearing as soon as possible. After such hearing, depending upon the findings as to whether the provisions of this Ordinance have been complied with, the Enforcement Officer shall continue such order in effect, or modify, or revoke it. The costs of such emergency repair, vacation or demolition of such dangerous building shall be collected in the same manner as provided herein for other cases.

Section 21. Abatement by the Borough of Dupont. 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 to be repaired, vacated, or demolished as the facts may warrant, under the standards hereinbefore provided. The Borough of Dupont may collect the cost of such repair, vacation or demolition together with a penalty of ten percent (10%) of such cost, in the manner provided by law.

Section 22. Penalties. Any person who shall violate any provision of this Ordinance shall, upon conviction thereof, be sentenced to pay a fine not exceeding **Three Hundred (\$300.00) Dollars**, and/or to undergo imprisonment for a term not to exceed **ninety (90) days**. Each day that a violation continues beyond the date fixed for compliance shall constitute a separate offense.

Section 23. Repealer. All Ordinances or parts of Ordinances which are inconsistent herewith are hereby repealed.

Section 24. Severability. In any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as to the intent of the Borough of Dupont that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

Section 25. Owners Severally Responsible. If the premises are owned by more than one (1) owner, each owner shall severally be subject to prosecution for the violation of this Ordinance.

Section 26. Remedies not Mutually Exclusive. The remedies provided herein for the enforcement of this Ordinance, or any remedy provided by law, shall not be deemed mutually exclusive; rather they may be employed simultaneously or consecutively, at the option of the Borough of Dupont.

Section 27. Severability. In any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of the Borough of Dupont that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not be included herein.

Section 28. Effective Date. This Ordinance shall be come effective as outlined in the Third Class

RESOLVED AND ENACTED 10th day of June, 2003.

DUPONT BOROUGH COUNCIL
LUZERNE COUNTY, PENNSYLVANIA

President: Stanley A. ...

Attest: Patricia ...
(Seal)

Borough Manager: Edward ...

Examined and adopted this 21 day of June, 2003

George Legezdh
George Legezdh
Mayor