

MILESBERG BOROUGH
CENTRE COUNTY, PENNSYLVANIA

ORDINANCE NO. 251

AN ORDINANCE OF THE BOROUGH OF MILESBERG CONCERNING THE UNSAFE BUILDINGS AND STRUCTURES WITHIN THE BOROUGH

BE IT ENACTED AND ORDAINED, by the Council of the Borough of Milesburg and it is hereby enacted and ordained by authority of the same:

SECTION ONE. RIGHT OF CONDEMNATION

All buildings or structures that are or hereafter shall become unsafe, unsanitary, or deficient in adequate exit-way facilities, or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or which by reason of illegal or improper use, occupancy or maintenance, shall be deemed unsafe buildings or structures. All unsafe structures shall be taken down and removed or made safe and secure, as the building official may deem necessary and as provided in this section. A vacant building, unguarded or open at door or window, shall be deemed a fire hazard and unsafe within the meaning of the code.

SECTION TWO. EXAMINATION AND RECORD OF DAMAGED STRUCTURE

The building official shall examine every building or structure reported as dangerous, unsafe structurally or constituting a fire hazard; and he shall cause the report to be filed in a docket of unsafe structures and premises, stating the use of the structure, the nature and estimated amount of damages, if any, caused by collapse or failure.

SECTION THREE. NOTICE OF UNSAFE STRUCTURE

If an unsafe condition is found in a building or structure, the building official shall serve on the owner, agent or person in control of the building or structure a written notice describing the building or structure deemed unsafe and specifying the required repairs or improvements to be made to render the building or structure safe and secure, or requiring the unsafe building or structure or portion thereof to be demolished within a stipulated time. Such notice shall require the person thus notified to immediately declare to the building official his

acceptance or rejection of the terms of the order.

SECTION FOUR. RESTORATION OF UNSAFE STRUCTURE

A building or structure condemned by the building official may be restored to safe condition provided change of use or occupancy is not contemplated or compelled by reason of such reconstruction or restoration; except that if the damage or cost of reconstruction or restoration is in excess of fifty (50%) percent of its replacement value, exclusive of foundations, such structure shall be made to comply in all respects with the requirements for materials and methods of construction of structures hereafter erected.

SECTION FIVE. POSTING UNSAFE NOTICE

If the person addressed with an unsafe notice cannot be found within the Borough after diligent search, then such notice shall be sent by registered or certified mail to the last known address of such person; and a copy of the unsafe notice shall be posted in a conspicuous place on the premises; and such procedure shall be deemed the equivalent of personal notice.

SECTION SIX. DISREGARD OF UNSAFE NOTICE

Upon refusal or neglect of the person served with an unsafe notice to comply with the requirements of the order to abate the unsafe condition, the legal counsel of the jurisdiction shall be advised of all the facts and he shall institute the appropriate action to compel compliance.

SECTION SEVEN. APPEAL; DISREGARD OF UNSAFE NOTICE

A person served with a notice or order to remove or to repair an unsafe building or structure or portion thereof shall be allowed thirty (30) days in which to comply with such order. If such person fails to comply with such order within such thirty (30) day period, the Building Official shall advise the Solicitor of all the facts in the case and shall institute an appropriate action in the courts to compel compliance, provided, however, that any person served with such a notice or order may, within ten (10) days after such service, appeal therefrom to Council, and if Council confirms the notice or order, the person on whom it was served shall comply with the terms thereof within thirty (30) days after such action by Council.

SECTION EIGHT. EMERGENCY WORK

In case there shall be, in the opinion of the Building Official, after consultation with and opinion by the Borough Engineer and the Borough Fire Marshal, actual and immediate danger of failure, collapse or fire in, upon, of or to any building or structure, or a portion thereof, so as to endanger the life, limb or property of any of the inhabitants of the Borough, the Building Official shall obtain the necessary funds from the Borough, purchase such material and employ such labor as is necessary and cause the necessary work to be done to render such building or structure, or portion thereof, temporarily safe, whether any procedure prescribed in this section has been instituted or not.

Notice of such emergency work shall be served upon the owner or occupant of the building. In cases where such building is unoccupied, such notice shall be posted upon the building itself. The notice shall advise that emergency work will be performed within forty-eight (48) hours after determination by the Building Official that imminent danger exists to the life, limb or property of any Borough inhabitant because of an unsafe condition existing upon, in or from such building or structure.

An appeal from such notice of emergency work to be performed must be taken to Council within twenty-four (24) hours by the owner, his agent or the occupant of the building in question. The appeal must be in writing, addressed to Council and served, by certified or registered mail, upon the Borough Secretary, or personally upon such Secretary by a constable or sheriff or by other means lawful in the Commonwealth for the service of process. In the event of an appeal to Council, that body shall, at its next regular meeting, or at a special meeting called for the purpose, consider the merits of such appeal and make a final determination as to the order issued by the Building Official. Any party aggravated by such decision may, within five (5) days of such decision by Council, appeal the same to the proper court of the County for determination in accordance with law.

SECTION NINE. PENALTIES. NONCOMPLIANCE

Any person who violates any provision of this Code, or fails to comply therewith, or with any of the requirements thereof, or erects, constructs, alters or repairs a building or structure, or

portion thereof, in violation of this Code or not in conformity with any detailed statement or plan required hereunder, or with any permit or certificate issued hereunder, shall be punished as provided in Section 5.26 of the Codified Ordinances of Milesburg.

The owner of any building or structure, or portion thereof, or of the premises, where any violation of this Code occurs or is allowed to exist and/or any architect, engineer, builder, contractor, agent, person or corporation employed in connection therewith and who may have assisted in the commission of any such violation or has allowed any violation to exist, shall be guilty of a separate offense and shall be punished as provided in Section 5.26 of the Codified Ordinances of Milesburg. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues beyond any time limit specified in this Code.

SECTION TEN. DEFINITIONS

Alley means any public way primarily intended to provide vehicular access to the rear of lots fronting upon public streets or avenues.

Building line means a line, established by ordinance or designated upon any officially accepted lot plan, beyond which a building shall not extend.

SECTION ELEVEN. EXCAVATION AFTER DEMOLITION OR REMOVAL OF BUILDING OR STRUCTURE

After the demolition or removal of any building or structure from any lot within the Borough, the remaining excavation shall be filled in by the owner or occupant of such lot, to the existing grade level, within thirty (30) days of its creation, unless a special exception is received from council, in writing, authorizing the continuance of such excavation beyond such period. Applications to the Borough shall be made in writing to the Borough Secretary and shall be acted upon by Council at any regular or special meeting called for such purpose. The decision of Council upon such application shall be final and binding upon the owner or occupant of such lot. All excavations existing within the Borough shall be fenced in or made otherwise inaccessible to the public, by the owner or occupant of the lot

in question, within twenty-four (24) hours after their creation. Failure to fence in or otherwise make such excavation inaccessible to the public shall constitute a violation of this section and it shall be no defense that the responsibility for such fencing or the enclosure of such excavation is the responsibility of any third party.

All excavations existing within the Borough shall be brought into conformity with the provisions of this section within thirty (30) days of the passage of this section unless a special exception is received from Council, in writing, authorizing the continuance of such excavation beyond such period.

SECTION TWELVE. RECOVERY OF COSTS FOR EMERGENCY WORK

The Borough Solicitor is hereby authorized to recover against the owner of property upon which emergency work is performed by the Borough, its agents, servants, contractors or employees, or against the owner of property who has disregarded an unsafe notice for the repair or demolition of property subject to such unsafe notice or the filling of any excavation which constitutes a danger to the citizens and residents of the Borough. The Borough Solicitor is authorized to charge the full cost of the work so performed in accordance with the Borough Building Code, together with all costs of collection, including attorney fees, in the amount of ten (10%) percent and interest upon the sum due the Borough of six (6%) percent per annum, commencing from the time of the final completion of the work performed by the Borough. Such amounts may be collected by a civil action brought in the Court of Common Pleas of Centre County, Magistrate's Court, or by Municipal claim. No such suit or claim shall be filed until written notice in accordance with law is provided the property owner.

SECTION THIRTEEN. RECOVERY OF COSTS FOR REMOVING, REPAIRING OR SECURING PROPERTIES DAMAGED BY FIRE

(A) When a loss agreed to between a named insured and an insurance company, association or exchange equals or exceeds sixty (60%) percent of the aggregate limits of liability on all fire policies covering the damaged building or other structure, the insurance company, association or exchange shall transfer

from the insurance proceeds to the Mayor the aggregate sum of one thousand (\$1,000.00) dollars for each twenty thousand (\$20,000.00) dollars and each fraction of that amount of a claim. Alternatively, if, at the time a proof of loss agreed to between the named insured and the insurance company, association or exchange has been submitted, the named insured has also submitted a contractor's signed estimate of the costs of removing, repairing or securing the building or other structure, the insurance company, association or exchange shall transfer from the insurance proceeds the amount specified in the estimate. The transfer of proceeds shall be on a pro rata basis by all companies, associations or exchanges insuring the damaged building or other structure. Policy proceeds remaining after the transfer to the Borough shall be on a pro rata basis by all companies, associations or exchanges insuring the damaged building or other structure. Policy proceeds remaining after the transfer to the Borough shall be disbursed in accordance with the policy terms. The named insured may submit a contractor's signed estimate of the costs of removing, repairing or securing the damaged building or structure after the transfer, and the Mayor shall return the amount of the fund in excess of the estimate to the named insured if the Borough has not commenced to remove, repair or secure the damaged building or other structure.

(B) Upon receipt of the proceeds by the Borough as authorized by this section, the Mayor shall place the proceeds in a separate fund to be used solely as security against the total cost of removing, repairing or securing incurred by the Borough. When transferring funds as required in Subsection (A) hereof, an insurance company, association or exchange shall provide the Borough with the name and address of the named insured, whereupon the Borough shall contact the named insured, certify that the proceeds have been received by the Borough and notify the named insured that the procedures under this subsection shall be followed. The fund shall be returned to the named insured when repair, removal or securing of the damaged building or other structure has been completed and the required proof received by the Mayor if the Borough has not incurred any costs for repair, removal or securing. If the Borough has incurred costs for

repair, removal or securing of the damaged building or other structure, the costs shall be paid from the fund, and, if excess funds remain, the Borough shall transfer the remaining funds to the named insured.

(C) Nothing in this section shall be construed to limit the ability of the Borough to recover any deficiency. Further, nothing in this section shall be construed to prohibit the Borough and the named insured from entering into an agreement that permits the transfer of funds to the named insured if some other reasonable disposition of the damaged property has been negotiated.

(D) Proof of payment by the insurance company, association or exchange of proceeds under a policy in accordance with this section is conclusive evidence of the discharge of its obligation to the insured under the policy to the extent of the payment and of compliance by the company, association or exchange with this section.

(E) Nothing in this section shall be construed to make the Borough or any Borough official an insured under a policy of insurance or to create an obligation to pay delinquent property taxes or unpaid removal liens or expenses other than as provided for by law.

DULY ENACTED AND ORDAINED this 22nd day of July, 1996 by the Council of the Borough of Milesburg in lawful session assembled.

ATTEST:

BOROUGH OF MILESBURG:

Paul J. Hall
SECRETARY

By:

James S. Leigh

AND NOW, to wit this 22nd day of July, 1996, the within and above Ordinance is approved.

Phyllis Jodon
Mayor