

ORDINANCE _____

AN ORDINANCE OF THE TOWN OF HEDGESVILLE, DESIGNATING THE ENFORCEMENT AGENCY AND PROCEDURE FOR ENFORCING THE STATE BUILDING CODE ADOPTED BY ORDINANCE _____ AS THE TOWN OF HEDGESVILLE BUILDING CODE

THE COUNCIL OF THE TOWN OF HEDGESVILLE, WEST VIRGINIA DOES ORDAIN AS FOLLOWS:

There is hereby designated by Council, the enforcement agency for Town of Hedgesville Building Code, enforcing the State Building Code, which consists of the standards and requirements as set out and published by the International Code Council, American National Standards Institute and the National Fire Protection Association.

1. The Enforcement Agency

Section 101.1 Title: The Enforcement Agency for the Building Code of the Town of Hedgesville, Berkeley County, West Virginia shall be titled the Town of Hedgesville Building Code Enforcement Agency and shall consist of the mayor, the municipal engineer or building inspector and one member at large to be selected by and to serve at the will and pleasure of the mayor. The ranking health officer and fire chief shall serve as ex officio members of the enforcement agency.

2. The Appointment and Procedure to Guide the Code Enforcement Officer

- 1) The mayor shall appoint a code enforcement officer to investigate and determine whether real property violates provisions of the applicable building code of the municipality.
- 2) Any entrance upon premises for the purpose of making examinations shall be made in a manner as to cause the least possible inconvenience to the persons in possession.
- 3) After inspecting the property, if the officer determines that the property is uninhabitable or violates the applicable building code, then:
 - a. The officer shall post a written notice on the property which shall include:
 - i. An explanation of the violations;
 - ii. A date the fee will be assessed;
 - iii. An explanation of how to correct the violation;
 - iv. An explanation of the appeal process; and
 - v. A statement that if the fee is not paid, the property is subject to forfeiture; and
 - b. Within five days of the inspection and posting of the property, the enforcement officer shall, by certified mail, send a copy of the notice that was

posted to the owner(s) of the property at the last known address according to the county tax records

- 4) Within forty-five days of receipt of the notification by the owner(s), the property owner may:
 - a. Make and complete the repairs that violate the applicable building code; or
 - b. Provide written information to the enforcement officer showing that the repairs are forthcoming in a reasonable period of time.
- 5) After the repairs are made, the owner may request a reinspection of the property to ensure compliance with the applicable building code. If the enforcement officer finds the violations are fixed, the owner is subject to the registration and no fee will be incurred.
- 6) The enforcement officer may reinspect the property at any time to determine where in the process the repairs fall.
- 7) Within ninety days of receipt of the notification by the owner(s), the property owner has the right to appeal the decision of the enforcement officer to the enforcement agency defined in Section 1 of this Ordinance.
- 8) If an appeal is not filed within 90 days, the fee is assessed to the owner(s) on the date specified in the notice. The notice of the fee shall be recorded in the office of the clerk of the county commission of Berkeley County, West Virginia.
- 9) If the enforcement agency affirms the assessment of the fee, the property owner has the right to appeal the decision of the enforcement agency to the circuit court within thirty days of the decision. If the decision is not appealed in a timely manner to the circuit court, then the fee is assessed on the date specified in the notice. The notice of the fee shall be recorded in the office of the clerk of the county commission of Berkeley County, West Virginia.
- 10) The fee shall be recorded in the same manner as a lien is recorded in the office of the clerk of the county commission of Berkeley County, West Virginia.
- 11) If the fee is paid, the Town shall record a release of the fee in the office of the county commission of Berkeley County, West Virginia.
- 12) If the owner(s) fail to pay the fee, then the enforcement officer shall annually post the written notice on the property and send the written notice to the owner(s) by certified mail.
- 13) If a fee remains delinquent for two years from the date it was placed on record in the clerk of the county commission of Berkeley County, West Virginia, the Town may take action to receive the subject property by means of forfeiture. Should the Town take the steps necessary to receive the subject property, the Town then becomes the owner of record and takes the property subject to all liens and real and personal property taxes.
- 14) The Town may file a lien against the real property for an amount that reflects all costs incurred by the Town for repairing, altering, or improving, or of vacating and closing, removing or demolishing any dwelling or building and
- 15) May institute a civil action in a court of competent jurisdiction against the landowner or other responsible party for all costs incurred by the Town with respect to the

property and for reasonable attorney fees and court costs incurred in the prosecution of the action.

- 16) The notice shall be sent to the most recent address of the landowner of record in the office of the assessor of Berkeley County, West Virginia. If for any reason the certified mail is returned without evidence of proper receipt thereof, then in such event, the governing body shall cause a Class III-0 legal advertisement to be published in a newspaper of general circulation in Berkeley County, West Virginia and post notice on the front door or other conspicuous location on the subject property.
- 17) If the owner(s) desire to contest any demand brought forth pursuant to this section, the owner(s) may seek relief in a court of competent jurisdiction.
- 18) All orders issued by the enforcement agency shall be served in accordance with the law of this State concerning the service of process in civil actions, and, be posted in a conspicuous place on the premises affected by the complaint or order.
- 19) The owner(s) may apply to the circuit court for a temporary injunction restraining the enforcement agency pending final disposition of the cause.
- 20) In the event such an application is made to the circuit court for a temporary injunction, a hearing shall be had within twenty days, or as soon thereafter as possible, and the court shall enter such final order or decree as the law and justice require.

Be it further ordained that if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Town of Hedgesville Council hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that anyone or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

The Town Recorder is hereby Ordered and Directed to Cause this Ordinance to be published and posted.

THIS ORDINANCE SHALL TAKE EFFECT UPON PASSAGE.

Introduced: _____

Attest: _____