

## **Proposed Morgan County Unsafe Structure and Property Enforcement Ordinance Frequently Asked Questions:**

### **1. How is the process initiated to address a potential dilapidated building?**

An inquiry regarding a structure/property in the County can be initiated by anyone. The first step is to complete the Morgan County Unsafe Structure and Property Enforcement Ordinance Form (hereafter Form). Under the Ordinance, the Morgan County Commission (MCC) establishes the Unsafe Structure and Property Enforcement Agency (hereafter USPEA). Completed forms must be submitted to the USPEA, who will investigate and determine whether a complaint will be issued to the MCC. Inquiries to the USPEA that are approved by the majority of the USPEA, with a quorum present, are then classified as a “complaint” and presented to the MCC during a scheduled public meeting; who by majority vote with quorum present, will either decide to a) reject the complaint; b) accept the complaint and pursue the issue with the owner; or c) table the case pending further investigation.

### **2. How do we prevent frivolous complaints?**

There are multiple provisions to deter frivolous complaints. The first is the review conducted by the USPEA, which can refuse to approve the inquiry as a complaint and not forward it to the MCC if its research determines the inquiry lacks merit per the provisions of the Ordinance. The second is the MCC, which can dismiss complaints submitted by the USPEA if they lack merit per the provisions of the Ordinance. The third is the County Circuit Court, which can dismiss complaints it feels lack merit, even though the USPEA and MCC have approved such complaints.

### **3. Rehabilitation or Demolition of buildings can be very expensive, are funds available to help owners comply with Ordinance?**

Yes, many programs exist. A sample of available programs can be found at <http://wvbadbuildings.org/resources/funding-resources/demolition-deconstruction/>. The County will work with cited owner to put them in touch with relevant programs.

### **4. Why doesn't county go to Court about unsafe houses?**

The purpose of the Ordinance is to resolve issues with unsafe buildings/properties in an amicable, collaborative manner. The Ordinance recognizes that issues with unsafe buildings can be complex and subject to differing interpretations. It is a consensus driven process based on community standards for safe buildings. It seeks to engage and work with property owners in a constructive way to resolve the problems. Taking property owners to court is seen as a last resort when all other efforts do not produce the desired results.

### **5. What is the USPEA and who's on it?**

The USPEA of the County Commission is charged under Chapter 7, Article 1, Section 3ff of the Code of WV, with the investigation and enforcement of violations of that statute and this ordinance. Its membership includes: County Engineer (or other technically qualified county employee or consulting engineer), County Health Officer (or his or her designee), an appointed Fire Chief or designee of the Fire and Emergency Association, the County Litter Control Officer if applicable, and two other members at large selected by the County Commission to serve two year terms. The County Sheriff will serve as an ex-officio (non-voting) member of the USPEA charged with enforcing the orders of the MCC under the provisions of the Ordinance.

### **6. How are the two positions from the general public filled?**

Nominations for the 2 positions from the general public will be developed or requested by the MCC. Persons wishing to nominate themselves or another for these positions can fill out the County's form at [http://morgancountywv.gov/Community/Boards/index\\_9\\_752421242.pdf](http://morgancountywv.gov/Community/Boards/index_9_752421242.pdf). Nominations will be presented to the MCC, who can either approve or disapprove nominees. Approval of a nominee requires majority vote of the MCC with quorum present. Terms for the 2 general public positions will run concurrently for two year terms. There will be no term limits for any USPEA board members.

**7. What are the fines for non-compliance?**

Any property owner who shall have been found to have violated provisions of this Ordinance, in accordance with the due process procedures included herein, shall be considered guilty of a misdemeanor and, in addition to the remedies provided for in this Ordinance, shall be fined \$50.00 for each day a violation is found to have occurred and for each day thereafter that said violation is not remediated as provided by this ordinance.

**8. Are farm buildings exempt?**

Yes, if your property is classified in the Assessor's Office as Farmland, buildings on farmland properties are considered exempt per WV Code, and therefore excluded from the Ordinance.

**9. Does the USPEA have a time limit to respond inquiries about possibly unsafe buildings or properties?**

Yes. The Ordinance requires that the USPEA meet every month. Any inquiry received prior to the monthly meeting will receive a communication from the USPEA as to the status of the inquiry prior to the following announced, scheduled public meeting of the USPEA. Decisions on inquiries/complaints can only be made when a quorum of USPEA members are present at the monthly meeting. If no quorum is present, no decisions can be made and all cases will be continued until the next USPEA meeting. Regardless, those initiating inquiries/complaints, as well as property owners who are the subject of the inquiries/ complaints shall be provided with a status update on their case prior to the next USPEA meeting.

**10. Will the USPEA have bylaws and policies and procedures that are more detailed than the Ordinance?**

The Ordinance sets out general guidelines for the conduct of business by the USPEA. WV Code does not provide for the creation of bylaws/procedures beyond the Code itself. The USPEA will develop its own general bylaws and procedures covering operational issues as needed within the limits of the Ordinance following its installment by the MCC. The USPEA will present its draft bylaws and policies and procedures to the MCC. The MCC will review the drafts and, with a quorum present, either approve them *en toto*, approve portions of the drafts, reject them, and/or send them back with suggested revisions. Any subsequent additions or revisions to the approved bylaws, policies/procedures after initial approval by the MCC, must be presented to the MCC for approval before they become effective.

**11. What about trailers & mobile homes, are they subject to the ordinance?**

Yes. Definition of an "eligible" structure in the Ordinance states: *Anything constructed, the use of which requires fixed location on the ground, or anything attached to something having such location. A structure does not include fences, individual driveways, or retaining walls. Structures do include prefabricated buildings even if they are not anchored to the ground.*

**12. What should an inquiry/complaint to the enforcement board include?**

No inquiry about a possible unsafe building/property will be considered by the USPEA without the completed Form referenced above. All information requested on the Form must be provided, or it will be returned to the individual for completion. Current photos of the building/property in question, if and as appropriate, are encouraged. If the USPEA or MCC feels it needs additional information from the inquiring party, they shall be so notified.

**13. What kind of protections are there for property owners whose buildings are against whom a complaint has been made?**

The Ordinance, along with the WV Code upon which it is based, include multiple and extensive safeguards for property owners whose buildings/properties might be the object of a complaint under the Ordinance. There are multiple review/approval steps carried out within reasonable timeframes by peers, community leaders, and elected officials that ensure any inquiry will be treated fairly, objectively, and resolved according to community standards. Owners have the ultimate right to appeal any decision of the USPEA and/or MCC to the Circuit Court of Appeals. These guarantees can result in a process that can take considerable time. However, this is a small inconvenience when weighed against the benefit of deterring frivolous/groundless complaints.

**14. Has County Commission considered putting the ordinance out for referendum?**

WV Code specifies what types of Ordinances Counties can put out for referendum. WV Code does not specifically authorize the Morgan County Commission to put this Ordinance out for referendum. Hence, the MCC would not consider putting this Ordinance out for public referendum.

**15. Is having the Fire Departments burn down buildings for training purposes an option?**

No, it is not, per discussions with a number of the Fire Departments in the County.

**16. How will representatives from the Fire Departments be chosen for enforcement board?**

The MCC will consult with the Morgan County Fire and Emergency Association and request that that body put forth an appropriate representative to the USPEA.

**17. Can the Department of Health condemn a building?**

Under WV Code, a County Department of Health is not authorized to condemn a building or property under the terms of this Ordinance, or under any circumstances.

**18. Does adoption of this ordinance mean the county has adopted the WV State Building Code?**

No it does not. WV Code allows Counties to adopt the West Virginia State Building Code (WVSBC), which sets pro-active standards for the construction of new buildings, as well as the maintenance of existing buildings. WV Code's authorization for Counties to adopt ordinances like the Unsafe Structure and Property Enforcement Ordinance is separate and distinct. The two approaches to regulating buildings/properties are different, adhere to different standards, and must follow different rules and regulations.

**19. Will adoption of this ordinance change the county's building permit process or requirements?**

Morgan County's current building permit process will not be impacted if the Ordinance is passed.

**20. Will the county need to add staff to implement and administer this Ordinance?**

While WV Code speaks of Litter Control Officer, its not required, however, the County may have to add additional resources to handle administration burden generated by the Ordinance.

**21. Does ordinance include property in the Town of Bath or Town of Paw Paw?**

No. WV Code excludes municipalities from any Ordinance implemented by WV Counties.

**22. Is it certain that the ordinance will be enacted?**

No. After holding public hearings and reviewing all considerations, the County Commission will have to decide at a public meeting whether it wants to approve the Ordinance or not. For the Ordinance to be enacted, a quorum of the MCC must be present, and a majority of those present must vote in favor.

**23. Can inhabited buildings be subject to the terms of Ordinance?**

Yes, if such a building meets the definition(s) of unsafe, unsanitary, dangerous or detrimental to public safety or welfare as elaborated in the Ordinance. There is no prohibition in the Ordinance against taking action on unsafe, etc., inhabited buildings solely on the basis of occupancy. That said, the initial focus of the Ordinance will be on uninhabited buildings. But it is possible that an inhabited building could be subject to the Ordinance. Occupancy would be one important factor in determining whether the USPEA would take a complaint to the MCC. In an instance where an inhabited building was cited, reasonable effort would be made to avoid displacing occupants. The preferred course of action would be to work with the owner to restore the building to a safe and inhabitable condition.

**24. How many buildings is the county looking to address through the ordinance and is there a priority targeted list?**

There is no targeted list of buildings, no quota for how many buildings to take through the process of the Ordinance. The Ordinance and its implementation are designed to be responsive rather than pro-active. The USPEA and MCC will respond to inquiries as they are received.

**25. Will the county have an official going out and inspecting buildings for potential violation of the Ordinance?**

No. As stated above, the Ordinance is designed to be responsive to inquiries the USPEA and MCC receive. There are no plans to have a County employee or consultant pro-actively inspect buildings/properties looking for violations.

**26. Will the county have to hire structural engineers to enforce the ordinance?**

The MCC will likely have to engage a suitable third party subject matter expert on an as needed basis to weigh in from a professional standpoint on certain cases.

**27. Can an owner tear down a building themselves or does it have to be done by a designated provider or certified professionals?**

Yes. The Ordinance does not provide for a single, required approach to demolition of unsafe structures, when demolition is the appropriate solution. Cited building owners may utilize whatever means they choose to demolish an unsafe structure, subject to requirements for fire hazards, asbestos abatement, toxic materials, and demolition permits, if required.

**28. What if I have suggestions or changes to the draft ordinance?**

Please submit them ASAP to [mccbldgordinance@morgancountywv.gov](mailto:mccbldgordinance@morgancountywv.gov)

**29. How soon will the ordinance go into effect?**

The Ordinance must be approved by the MCC, the USPEA created, along with bylaws and processes before the Ordinance can go into effect. This likely will take several months. The MCC will keep the public apprised of developments via public meetings, the County Web site, and other means.

