

**BOROUGH OF WEST NEWTON
WESTMORELAND COUNTY, PENNSYLVANIA**

Ordinance No. 2019-8

**AN ORDINANCE OF THE BOROUGH OF WEST NEWTON,
WESTMORELAND COUNTY, COMMONWEALTH OF
PENNSYLVANIA PROVIDING FOR THE ADOPTION OF THE
PROVISIONS OF THE NEIGHBORHOOD BLIGHT
RECLAMATION AND REVITALIZATION ACT, 53 PA. C. S. A. §
6101 ET SEQ.**

WHEREAS, the Mayor and Council of the Borough of West Newton are desirous of protecting the health and safety of its residents and furthermore desire to confirm to the requirements of the Neighborhood Blight Reclamation and Revitalization Act, act 90, P.L. 875, October 27, 2010, effective April 25, 2011.

NOW THEREFORE, be it ORDAINED and ENACTED by the Council of the Borough of West Newton and it here by ordained and enacted as follows:

Section 1.

Part 3

§ 301. Adoption of Neighborhood Blight Reclamation and Revitalization Act

The Neighborhood Blight Reclamation and Revitalization Act, Subchapter A, §6101-6103; Subchapter B, §6111-6114; Subchapter C, §6131; and Subchapter D, §6141-6145; be and are hereby adopted by the Council of the Borough of West Newton for the purpose of regulating, governing and safeguarding of life and property from deteriorated properties as result of neglect by their owners and, furthermore, regulating deteriorated properties that create public nuisances which have an impact on crime and the quality of life of the residents of the Borough; and each and all of the regulations, provisions, conditions and terms of the Neighborhood Blight Reclamation and Revitalization Act hereby referred to, are adopted and made a part hereof as if fully set forth in this Section.

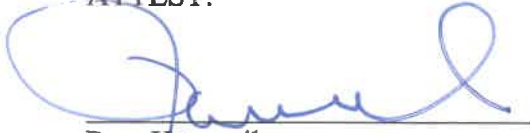
Section 2. Repealer. All ordinances or resolutions or parts of ordinances or resolutions insofar as they are inconsistent herewith are hereby repealed and rescinded.

Section 3. Severability. If any part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such part of the Ordinance shall not affect or impair any of the remaining portions of this Ordinance.

Section 4. Effective Date. This Ordinance shall become effective immediately.

ORDAINED and ENACTED into law this 8 day of October, 2019.

ATTEST:



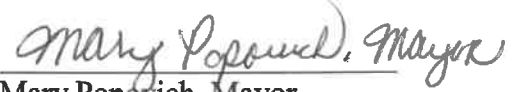
Pam Humenik
Borough Secretary

BOROUGH OF WEST NEWTON

By 

Charles Krasnevich
Council President

EXAMINED AND APPROVED by me this 8th day of October, 2019.


Mary Popovich, Mayor

CHAPTER 61
NEIGHBORHOOD BLIGHT
RECLAMATION AND REVITALIZATION

Subchapter

- A. Preliminary Provisions
- B. Actions Against Owner of Property with Serious Code Violations
- C. Permit Denials by Municipalities
- D. Miscellaneous Provisions

Enactment. Chapter 61 was added October 27, 2010, P.L.875, No.90, effective in 180 days.

Cross References. Chapter 61 is referred to in section 32A04 of Title 8 (Boroughs and Incorporated Towns); section 141A04 of Title 11 (Cities).

SUBCHAPTER A
PRELIMINARY PROVISIONS

Sec.

- 6101. Short title of chapter.
- 6102. Legislative findings and purpose.
- 6103. Definitions.

§ 6101. Short title of chapter.

This chapter shall be known and may be cited as the Neighborhood Blight Reclamation and Revitalization Act.

§ 6102. Legislative findings and purpose.

The General Assembly finds and declares as follows:

(1) There are deteriorated properties located in all municipalities of this Commonwealth as a result of neglect by their owners in violation of applicable State and municipal codes.

(2) These deteriorated properties create public nuisances which have an impact on crime and the quality of life of our residents and require significant expenditures of public funds in order to abate and correct the nuisances.

(3) In order to address these situations, it is appropriate to deny certain governmental permits and approvals in order:

(i) To prohibit property owners from further extending their financial commitments so as to render themselves unable to abate or correct the code, statutory and regulatory violations or tax delinquencies.

(ii) To reduce the likelihood that other municipalities will have to address the owners' neglect and resulting deteriorated properties.

(iii) To sanction the owners for not adhering to their legal obligations to the Commonwealth and its municipalities, as well as to tenants, adjoining property owners and neighborhoods.

§ 6103. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Agent." Any director, officer, servant, employee or other person authorized to act in behalf of a corporation or association and, in the case of an unincorporated association, a member of such association.

"Building." A residential, commercial or industrial building or structure and the land appurtenant to it.

"Code." (Deleted by amendment).

"Corporation." The term does not include a municipal authority.

"Court." The appropriate court of common pleas.

"Mortgage lender." A business association defined as a "banking institution" or "mortgage lender" under 7 Pa.C.S. Ch. 61 (relating to mortgage loan industry licensing and consumer protection) that is in possession of or holds title to real property pursuant to, in enforcement of or to protect rights arising under a mortgage, mortgage note, deed of trust or other transaction that created a security interest in the real property.

"Municipal code" or "code." A building, housing, property maintenance, fire, health or other public safety ordinance, related to the use or maintenance of real property, enacted by a municipality. The term does not include a subdivision and land development ordinance or a zoning ordinance enacted by a municipality.

"Municipality." A city, borough, incorporated town, township or home rule, optional plan or optional charter municipality or municipal authority in this Commonwealth and any entity formed pursuant to Subchapter A of Chapter 23 (relating to intergovernmental cooperation).

"Municipal permits." Privileges relating to real property granted by a municipality, including, but not limited to, building permits, exceptions to zoning ordinances and occupancy permits. The term includes approvals pursuant to land use ordinances other than decisions on the substantive validity of a zoning ordinance or map or the acceptance of a curative amendment.

"Owner." A holder of the title to residential, commercial or industrial real estate, other than a mortgage lender, who possesses and controls the real estate. The term includes, but is not limited to, heirs, assigns, beneficiaries and lessees, provided this ownership interest is a matter of public record.

"Public nuisance." Property which, because of its physical condition or use, is regarded as a public nuisance at common law or has been declared by the appropriate official a public nuisance in accordance with a municipal code.

"Serious violation." A violation of a State law or a code that poses an imminent threat to the health and safety of a dwelling occupant, occupants in surrounding structures or a passersby.

"State law." A statute of the Commonwealth or a regulation of an agency charged with the administration and enforcement of Commonwealth law.

"Substantial step." An affirmative action as determined by a property code official or officer of the court on the part of a property owner or managing agent to remedy a serious violation of a State law or municipal code, including, but not limited to, physical improvements or repairs to the property, which affirmative action is subject to appeal in accordance with applicable law.

"Tax delinquent property." Tax delinquent real property as defined under:

- (1) the act of July 7, 1947 (P.L.1368, No.542), known as the Real Estate Tax Sale Law;
 - (2) the act of May 16, 1923 (P.L.207, No.153), referred to as the Municipal Claim and Tax Lien Law; or
 - (3) the act of October 11, 1984 (P.L.876, No.171), known as the Second Class City Treasurer's Sale and Collection Act, located in any municipality in this Commonwealth.
- (Oct. 22, 2014, P.L.2637, No.171, eff. 60 days)

SUBCHAPTER B
ACTIONS AGAINST OWNER OF PROPERTY
WITH SERIOUS CODE VIOLATIONS

Sec.

6111. Actions.
 6112. Asset attachment.
 6113. Duty of out-of-State owners of property in this Commonwealth.
 6114. Duty of corporation, association and trust owners.
 6115. Failure to comply with a code requirement.

§ 6111. Actions.

In addition to any other remedy available at law or in equity, a municipality may institute the following actions against the owner of any real property that is in serious violation of a code or for failure to correct a condition which causes the property to be regarded as a public nuisance:

- (1) (i) An in personam action may be initiated for a continuing violation for which the owner takes no substantial step to correct within six months following receipt of an order to correct the violation, unless the order is subject to a pending appeal before the administrative agency or court.
 (ii) Notwithstanding any law limiting the form of action for the recovery of penalties by a municipality for the violation of a code, the municipality may recover, in a single action under this section, an amount equal to any penalties imposed against the owner and any costs of remediation lawfully incurred by or on behalf of the municipality to remedy any code violation.
 (2) A proceeding in equity.

Cross References. Section 6111 is referred to in section 6112 of this title.

§ 6112. Asset attachment.

(a) **General rule.**--A lien may be placed against the assets of an owner of real property that is in serious violation of a code or is regarded as a public nuisance after a judgment, decree or order is entered by a court of competent jurisdiction against the owner of the property for an adjudication under section 6111 (relating to actions).

(b) **Construction.**--Nothing in this section shall be construed to authorize, in the case of an owner that is a corporation, association or trust, a lien on the individual assets of the general partner, agent or trustee, except as otherwise allowed by law, limited partner, shareholder, member or beneficiary of the association or trust.

(Oct. 22, 2014, P.L.2637, No.171, eff. 60 days)

2014 Amendment. Act 171 amended subsec. (b).

§ 6113. Duty of out-of-State owners of property in this Commonwealth.

A person or other responsible party who lives or has a principal place of residence outside this Commonwealth, who owns or is responsible for property in this Commonwealth against which code violations have been cited and the person is charged under 18 Pa.C.S. (relating to crimes and offenses), and who has been properly notified of the violations may be extradited to this Commonwealth to face criminal prosecution to the full extent allowed and in the manner authorized by 42 Pa.C.S. Ch. 91 (relating to detainers and extradition).

(Oct. 22, 2014, P.L.2637, No.171, eff. 60 days)

§ 6114. Duty of corporation, association and trust owners.

Where, after reasonable efforts, service of process for a notice or citation for any code violation for any real property owned by a corporation, association or trust cannot be accomplished by handing a copy of the notice or citation to an agent, executive officer, partner or trustee of the corporation, association or trust or to the manager, trustee or clerk in charge of the property, the delivery of the notice or citation may occur by registered, certified or United States Express mail, accompanied by a delivery confirmation:

(1) To the registered office of the corporation, association or trust.

(2) Where the corporation, association or trust does not have a registered office, to the mailing address used for real estate tax collection purposes, if accompanied by the posting of a conspicuous notice to the property and by handing a copy of the notice or citation to the person in charge of the property at that time.

(3) In the case of a corporation, notice shall be sent to the registered office on file with the Department of State.

(Oct. 22, 2014, P.L.2637, No.171, eff. 60 days)

§ 6115. Failure to comply with a code requirement.

(a) **Offense defined.**--The owner of real property commits the offense of failure to comply with a code requirement if all of the following apply:

(1) The owner of real property has been convicted of a second or subsequent serious violation of the same provision of a municipal code for the same property.

(2) The violation poses a threat to the public's health, safety or property and the owner has not taken a substantial step to correct the violation.

(3) The violation is considered a public nuisance and the owner has not made a reasonable attempt to correct the violation.

(b) **Grading.**--Failure to comply with a code requirement shall constitute a:

(1) Misdemeanor of the second degree if the offense is a second conviction of a serious violation of the same provision of a municipal code relating to the same property.

(2) Misdemeanor of the first degree if the offense is based on three or more convictions of serious violations of the same provision of a municipal code relating to the same property.

(c) **Definition.**--As used in this section, "code requirement" shall mean a building, housing or property maintenance code or ordinance of a municipality.

(July 10, 2015, P.L.162, No.34, eff. 60 days)

2015 Amendment. Act 34 added section 6115.

SUBCHAPTER C
PERMIT DENIALS BY MUNICIPALITIES

Sec.

6131. Municipal permit denial.

§ 6131. Municipal permit denial.

(a) **Denial.**--

(1) A municipality or a board under subsection (c) may deny issuing to an applicant a municipal permit if the applicant owns real property in any municipality for which there exists on the real property:

(i) a final and unappealable tax, water, sewer or refuse collection delinquency on account of the actions of

the owner; or

(ii) a serious violation of State law or a code and the owner has taken no substantial steps to correct the violation within six months following notification of the violation and for which fines or other penalties or a judgment to abate or correct were imposed by a magisterial district judge or municipal court, or a judgment at law or in equity was imposed by a court of common pleas. However, no denial shall be permitted on the basis of a property for which the judgment, order or decree is subject to a stay or supersedeas by an order of a court of competent jurisdiction or automatically allowed by statute or rule of court until the stay or supersedeas is lifted by the court or a higher court or the stay or supersedeas expires as otherwise provided by law. Where a stay or supersedeas is in effect, the property owner shall so advise the municipality seeking to deny a municipal permit.

(2) A municipality or board shall not deny a municipal permit to an applicant if the municipal permit is necessary to correct a violation of State law or a code.

(3) The municipal permit denial shall not apply to an applicant's delinquency on taxes, water, sewer or refuse collection charges that are under appeal or otherwise contested through a court or administrative process.

(4) In issuing a denial of a permit based on an applicant's delinquency in real property taxes or municipal charges or for failure to abate a serious violation of State law or a code on real property that the applicant owns in this Commonwealth, the municipality or board shall indicate the street address, municipal corporation and county in which the property is located and the court and docket number for each parcel cited as a basis for the denial. The denial shall also state that the applicant may request a letter of compliance from the appropriate State agency, municipality or school district, in a form specified by such entity as provided in this section.

(b) Proof of compliance.--

(1) All municipal permits denied in accordance with this subsection may be withheld until an applicant obtains a letter from the appropriate State agency, municipality or school district indicating the following:

(i) the property in question has no final and unappealable tax, water, sewer or refuse delinquencies;

(ii) the property in question is now in State law and code compliance; or

(iii) the owner of the property has presented and the appropriate State agency or municipality has accepted a plan to begin remediation of a serious violation of State law or a code. Acceptance of the plan may be contingent on:

(A) Beginning the remediation plan within no fewer than 30 days following acceptance of the plan or sooner, if mutually agreeable to both the property owner and the municipality.

(B) Completing the remediation plan within no fewer than 90 days following commencement of the plan or sooner, if mutually agreeable to both the property owner and the municipality.

(2) In the event that the appropriate State agency, municipality or school district fails to issue a letter indicating tax, water, sewer, refuse, State law or code compliance or noncompliance, as the case may be, within 45 days of the request, the property in question shall be deemed to be in compliance for the purpose of this section. The appropriate State agency, municipality or school district shall specify the

form in which the request for a compliance letter shall be made.

(3) Letters required under this section shall be verified by the appropriate municipal officials before issuing to the applicant a municipal permit.

(4) (i) Municipal permits may be denied by a board in accordance with the requirements of this section to the extent that approval of the municipal permit is within the jurisdiction of the board. For purposes of this section, "board" shall mean a zoning hearing board or other body granted jurisdiction to render decisions in accordance with the act of July 31, 1968 (P.L.805, No.247), known as the Pennsylvania Municipalities Planning Code, or a similar board in municipalities not subject to that act.

(ii) In any proceeding before a board other than the governing body of the municipality, the municipality may appear to present evidence that the applicant is subject to a denial by the board in accordance with this section.

(iii) For purposes of this subsection, a municipal permit may only be denied to an applicant other than an owner if:

(A) the applicant is acting under the direction or with the permission of an owner; and

(B) the owner owns real property satisfying the conditions of subsection (a).

(c) Applicability of other law.--A denial of a permit shall be subject to the provisions of 2 Pa.C.S. Chs. 5 Subch. B (relating to practice and procedure of local agencies) and 7 Subch. B (relating to judicial review of local agency action) or the Pennsylvania Municipalities Planning Code, for denials subject to the act.

Cross References. Section 6131 is referred to in section 6144 of this title.

SUBCHAPTER D MISCELLANEOUS PROVISIONS

Sec.

6141. (Reserved).

6142. (Reserved).

6143. Conflict with other law.

6144. Relief for inherited property.

6145. Construction.

§ 6141. (Reserved).

§ 6142. (Reserved).

§ 6143. Conflict with other law.

In the event of a conflict between the requirements of this chapter and Federal requirements applicable to demolition, disposition or redevelopment of buildings, structures or land owned by or held in trust for the Government of the United States and regulated pursuant to the United States Housing Act of 1937 (50 Stat. 888, 42 U.S.C. § 1437 et seq.) and the regulations promulgated thereunder, the Federal requirements shall prevail.

§ 6144. Relief for inherited property.

Where property is inherited by will or intestacy, the devisee or heir shall be given the opportunity to make payments on reasonable terms to correct code violations or to enter into a remediation agreement under section 6131(b)(1)(iii) (relating to municipal permit denial) with a municipality to avoid subjecting the devisee's or heir's other properties to asset attachment or denial of permits and approvals on other properties owned by the devisee or heir.

§ 6145. Construction.

Nothing in this chapter shall be construed to abridge or alter the remedies now existing at common law or by statute, but the provisions of this chapter are in addition to such remedies.