

Chapter 11

Housing

Part 1 Fitness For Habitation

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Part 1**Fitness For Habitation****§11-101. Title.**

This Part shall be known as the “Fitness for Habitation Ordinance.”
(*Ord. 125A, 8/19/2014, §1*)

§11-102. Definitions.

Dwelling structure—any structure, and the lot on which it is located, that is employed as a dwelling or residence for any period of time, including, but not limited to, houses, town houses, apartments, mobile homes, rooming houses, and bed and breakfast establishments, but excluding tents, campers and recreational vehicles located in commercially operated campgrounds on a temporary basis.

Protected persons—persons occupying or using a dwelling structure who are: under the age of 18 years of age; persons who, as a result of emotional difficulties, mental deficiencies, or substance abuse, are impaired to such an extent as to be significantly limited in making reasonable decisions concerning their own health or safety, or the health and safety of children residing with them; first responders, including, but not limited to, police, firefighters, fire police, health care workers, emergency medical technicians, mental health workers; adjacent neighbors; and Township or County employees or agents such as building and zoning inspectors.

Unfit—any dwelling structure that, as a result of structural damage, deterioration, improper construction or maintenance, deficient sanitation, or the lack of necessary utilities such as electricity, heat, potable water or adequate sewage disposal facilities, creates a reasonable risk that protected persons in residence for any period of time are, or will be, exposed to the risk of death, serious injury, or serious illness.
(*Ord. 125A, 8/19/2014, §2*)

§11-103. Prohibited Dwelling Structures.

No person or other entity shall own, maintain, rent, possess, share, or occupy a dwelling structure that has been determined by Township to be unfit as defined above.
(*Ord. 125A, 8/19/2014, §3*)

§11-104. Initiation of Procedures.

In the event that any Township, County or State official, agent or employee, including, but not limited to, police, Township inspector, or health worker, firefighter, or E.M.T. who shall reasonably come to believe that any dwelling structure is unfit, either through personal knowledge, reasonable suspicion, or from a complaint from an identifying person, shall prepare a report as soon as reasonably possible containing an explanation of the problem(s) creating the unfitness and the protected persons who may be at risk. Such report shall be submitted to the Township Manager for determination as to whether it warrants submission to the Board of Supervisors. The Township Manager shall simultaneously mail a copy of the report to the owner(s) and/or

occupant(s) of the dwelling structure.

(*Ord. 125A, 8/19/2014, §4*)

§11-105. Criminal Activity.

If either the reporter or the Township Manager believes that the report discloses or creates a reasonable suspicion of criminal activity, a copy thereof shall also be immediately delivered to the police department having legal jurisdiction.

(*Ord. 125A, 8/19/2014, §5*)

§11-106. Search Warrants.

To the extent otherwise permitted by law, the police department providing police services to the Township is authorized to secure a search warrant(s) in order to facilitate the inspection of any dwelling where probable cause exists to believe such dwelling is “unfit” if the owner or occupant thereof has first refused to permit an inspection by a legally constituted governmental official.

(*Ord. 125A, 8/19/2014, §6*)

§11-107. Determination Hearing.

If the Township Manager shall determine that a report reasonably warrants submission to the Board of Supervisors, a hearing shall be held before the Board’s next regularly scheduled meeting that occurs at least 7 business days after mailing of the aforesaid report and notice to the owner(s) or occupier(s). The Board shall hold a public hearing to determine whether the report warrants a finding of a violation of this Part, and, if so, the appropriate remedy. Notice of the date and time of the hearing shall be mailed to the owner(s) and occupant(s) of the dwelling structure in question by regular and certified mail, and shall also be posted on a conspicuous place on the property no later than 4 days prior to the hearing. At such hearing, the Board shall consider the following factors in making its decision on whether a violation of this Part exists in or on the dwelling structure in question and the appropriate remedy to ameliorate same:

A. The type, nature and extent of the circumstances or conditions of, or on, the dwelling structure that allegedly renders it unfit and/or unsafe.

B. Whether any occupants are children and the ages and number of such children occupying same.

C. The likelihood that first responders will be required to enter on, or into, the dwelling structure in question.

D. The type and extent of impairment in decision-making abilities suffered by any protected persons residing on or occupying the dwelling structure in question.

E. The likelihood that any protected person will suffer death, serious injury, or serious illness as a result of the conditions allegedly rendering the dwelling structure unfit and/or unsafe.

F. The numbers and proximity of any neighbors and the risk to same of death, serious injury or serious illness.

G. Whether such potential for harm creates a risk of death, or if not, the extent and type of serious injury or serious illness that could be caused by the

conditions allegedly rendering the dwelling structure unfit and/or unsafe.

At the hearing, the Township, the owner(s), and/or the occupant(s) of the dwelling structure in question shall have the right to be represented by legal counsel, to present witnesses on their behalf, and to cross-examine other witnesses. A stenographic record of the hearing shall be kept.

(Ord. 125A, 8/19/2014, §7)

§11-108. Determination.

At the conclusion of the aforesaid hearing, the Supervisors shall first determine if the dwelling structure is unfit and/or unsafe. In the event that a majority of a quorum of the Board shall so determine, the Board shall then determine the appropriate remedy from those set forth below, or such other remedies as may be reasonable and lawful. Notice of the determination of the Board shall be announced in public at the hearing or, if deemed necessary for purposes of obtaining legal advice, or for the Board to individually reflect and deliberate, at the next occurring regularly scheduled Board meeting or sooner special meeting called for the purpose of rendering a decision. As soon as possible after announcement of the determination, a copy of same shall be mailed by regular and certified mail to the owner(s) and occupant(s) of the dwelling structure in question, along with any additional information required by the remedies hereinafter provided.

(Ord. 125A, 8/19/2014, §8)

§11-109. Remedies.

Upon a determination by the Board of Supervisors that the property is unfit and/or unsafe, it shall determine which, or what combination, of the remedies set forth below, or other appropriate remedies is/are sufficient to eliminate the unfitness and/or safety hazard(s) of the dwelling structure in question. Any remedy(ies) chosen shall be jointly and severally binding upon the owner(s) and occupants(s) of same. The Board or its designated agent or employee shall thereafter:

A. Send a written notice of the requirements determined to be necessary to correct or remove the condition(s) that cause(d) the dwelling structure to be unfit and/or unsafe. Such notice shall include an adequate description of the conditions making the dwelling structure unfit and/or unsafe and a summary of the repairs necessary to correct those conditions. The repairs shall be completed (or the dwelling structure vacated) within a time established by the Board but in no event less than 14 days after receipt of written notice. This provision shall not act as a waiver or suspension of any other applicable Township ordinance.

B. Issue a cease and desist notice ordering immediate evacuation of the dwelling structure in question and prohibiting any further occupation until the corrections or repairs specified in paragraph .A above have been completed and approved after inspection.

C. Issue a cease and desist notice ordering immediate evacuation, prohibiting resumption of occupancy, and requiring demolition within a time specified by the Board of Supervisors.

D. Regardless of the status of remedies ordered pursuant to this Part, where the dwelling structure creates an imminent risk of death, serious bodily injury, or

serious illness, or if the owner(s) and/or occupant(s) fail to comply with a cease and desist notice within the time allowed and where appeal rights have been exhausted or lapsed, the Board of Supervisors may instruct the Township Solicitor to seek an emergency temporary injunction and permanent injunction to prohibit further occupancy until either the required repairs have been made or until the subject dwelling structure has been demolished and removed, as appropriate.

E. In the event the required repairs, evacuation and/or demolition have not been completed within the time permitted, provided appeal rights have been exhausted, the Board of Supervisors by a separate vote may authorize either the repair or demolition and removal of the offending dwelling structure by either Township employees or private contractors engaged for such purposes. Any costs incurred by the Township shall be reimbursed by the owner(s) within 30 days of mailing of an invoice. Failing same, the Township shall have the right to initiate assumpsit litigation in an appropriate court to obtain reimbursement (including legal and engineering fees), and/or to place a lien in the amount necessary for full reimbursement (including legal and engineering fees) against the dwelling structure in question.

(Ord. 125A, 8/19/2014, §9)

§11-110. Alternate Remedy.

In addition, or in the alternative, the Board may seek, in a court of competent jurisdiction, against any person, firm or corporation violating this Part, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, to be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

(Ord. 125A, 8/19/2014, §10; as amended by Ord. 125B, 9/16/2014)

§11-111. Appeal.

Any person(s) upon whom a foregoing remedy has been imposed by the Board of Supervisors shall have 30 days to appeal, or such longer time if provided by law.

(Ord. 125A, 8/19/2014, §11)