

CHAPTER 5C.
BUILDINGS DANGEROUS, UNHEALTHY, OR UNFIT FOR
HUMAN HABITATION

For State Law as to authority of City to require repair, closing or demolition of buildings unfit for human habitation, see Code of WV, §8-12-16. As to authority of State fire marshal to order demolition or repair of unsafe buildings, see WV Code, §29-3-4A.

Article 1. Miscellaneous.

Section 5C-1-1. Basis of chapter; chapter is in addition to other powers of Municipality.

This chapter is enacted pursuant to authority contained in the Code of West Virginia, section 8-12-16, and nothing herein contained shall be construed to abrogate or impair the power of any department of the Municipality to enforce any provision of this Code or other Ordinance or regulation, nor to prevent or punish violations; and the powers conferred by this chapter shall be in addition and supplemental to the powers conferred by any other law of the State or Ordinance of the Municipality.

Section 5C-1-2. Building codes adopted.

There is hereby adopted by the Municipal Council, for the purpose of proscribing regulations for building construction and for protection of the public from disaster due to fire, structural collapse and general deterioration, the following State codes, commonly known as the BOCA and the CABO Codes; (Section 13, Article 12, Chapter 8 of the Code of West Virginia, one thousand nine hundred thirty-one; and the State Building Code as provided for in Section 5b, Article 3, Chapter 29 of the Code of West Virginia, one thousand nine hundred thirty-one), copies of which shall remain on file in the office of the Municipal Recorder and shall there be available to the public for inspection and use during all regular business hours; and such codes are hereby incorporated in and made a part of this section as fully as though they were set out herein at length; and from this date the provisions thereof shall be controlling within the limits of the Municipality of Ronceverte.

Section 5C-1-3. Violations and penalties for Building Code.

It shall be unlawful for any person, firm or corporation whether as Owner, lessee, sub-lessee or occupant to erect, construct, enlarge, alter, repair, remove, convert, demolish, equip, use, occupy or maintain any building or residence in violation of the provisions of the Municipal Building Codes.

It is hereby declared that any violation of this code constitutes a public nuisance, and in addition to any other remedies provided by this code for enforcement, the Municipal may bring civil suit to enjoin the violation of any provisions of this code.

Any person, firm or corporation violating any of the provisions of this code, where no other penalty is provided, shall be guilty of a misdemeanor and each such person all be deemed guilty of a separate offense for each and every, day or portion thereof during which any violation of any of the provisions of this code is committed or permitted, and upon conviction of any such violation such person shall be punishable by fine not less than one hundred dollars nor more than five hundred dollars or up to thirty days in jail or both.

Section 5C-1-4. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively described to them by this section:

- Building commission. The term "building commission" shall mean the building commission of the Municipality of Ronceverte, West Virginia.
- Circuit court. The term "Circuit Court" shall mean the circuit court of Greenbrier County, West Virginia.
- Municipality. The term "municipality" shall mean the Municipality of Ronceverte, West Virginia.
- Unsafe building or structure. The term "unsafe building or structure" shall mean any dwelling or other building unfit for human habitation due to dilapidation, defects increasing and the hazard of fire, accidents or other calamities, lack of ventilation, light or sanitary facilities or any other conditions prevailing in any dwelling or building, whether used for human habitation or not, which would cause such building to be unsafe, unsanitary, dangerous or detrimental to the public welfare.

Section 5C-1-5. Inspection of new construction.

After issuing a building permit as provided by the Code, the Zoning Officer shall cause inspections to be conducted from time to time during and upon completion of the work for which a permit has been issued. A record of all such examinations and inspections and of all violations of this Code shall be maintained by the Zoning Officer.

For on-site inspection, from time to time the Building Inspector or the Zoning Officer, upon notification from the permit holder or his agent, shall make or cause to be made any necessary inspections and shall either approve that portion of the construction as completed or shall notify the permit holder or his agent wherein the same fails to comply with this Code:

- (A) Foundation Inspection. Commonly made after poles or piers are set or trenches or basement areas are excavated and forms erected and any required reinforcing steel is in place and prior to the placing of concrete. The foundation inspection shall include excavations for thickened slabs intended for the support of bearing walls, partitions, structural supports, or equipment and special requirements for wood foundations.

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- (B) Plumbing, Mechanical, Electrical and Framing. Rough inspection: Commonly made prior to covering or concealment, before fixtures are set.
- (C) Other Inspections. In addition to the called inspections above, the building official may make or require any other inspections to ascertain compliance with this Code and other laws enforced by the building department.
- (D) Final Inspection. Commonly made after the building is completed and ready for occupancy. A Certificate of Occupancy must be obtained after final inspection, and is required before occupancy of the building can be permitted.
- (E) Fee Schedule. The fees for plan examination, building permit and inspections shall be approved by Municipal Council, and the building official is authorized to prescribe a schedule of unit rates for inspection of buildings and structures of all use groups and types of construction, to be approved by Municipal Council.

Section 5C-1-6. Building Maintenance Board.

A building maintenance board for the Municipality of Ronceverte, West Virginia is hereby created. It shall consist of the Mayor, the building inspector, and one member at large. The member at large is to be selected by and to serve at the will and pleasure of the Mayor. The ranking health officer of the Municipality, (and in lieu of such officer, the Chief of Police of the Municipality), and the Fire Chief of the Municipality shall serve as ex-officio members of the board.

The purpose of the Board is to be the enforcement agency as described in State Code Chapter 8, Article 12, Section 16, and to serve as the Code Official's appointed officers to administer the Property Maintenance Code of the Municipality of Ronceverte, West Virginia; as per PM-105.8 of the BOCA National Property Maintenance Code.

For State Law as to composition of municipal building enforcement agencies, see Code of WV, §8-12-16.

Section 5C-1-7. Inspections.

The building commission or its agent or agents shall inspect and examine any dwelling or building within the municipality which, upon complaint of any federal, State or municipal official or employee, or upon complaint of any resident or citizen of the Municipality, is alleged to constitute an unsafe building or structure as herein defined; provided, that any entrance upon premises for the purpose of making such inspection or examination shall be made in such a manner as to cause the least possible inconvenience to the persons in possession.

Section 5C-1-8. Repair, closing, demolition, etc., of unsafe buildings or structures; complaints.

When a building or structure or any portion thereof is, upon inspection by the building commission or its agent or agents, found to be an unsafe building or structure as herein defined,

the building commission shall issue a complaint setting forth therein the condition or conditions prevailing in such building or structure which render it to be an unsafe building or structure as hereby defined and directing the repair, alteration, improvement or the vacating and closing or removal or demolition, or any combination thereof, of such building or structure, as the case may require, within a reasonable time to be set by the building commission. Such complaint shall further set a time and place for hearing at which time all interested parties may appear and be heard.

Section 5C-1-9. Hearings.

If the directions of the building commission as set forth in the complaint are not carried out within the time specified therein, the building commission shall conduct a hearing at the time and place set forth in the complaint at which hearing all interested parties may appear, present evidence and be heard with respect to such complaint.

Section 5C-1-10. Enforcement orders: recourse of Municipality when orders not complied with: lien on property effected.

If, after hearing the evidence presented at the hearing, the building commission determines that the building or structure in question is an unsafe building or structure as herein defined, the building commission shall order that it be repaired, altered, improved, vacated, closed, removed, or demolished, or any combination thereof, as the case may require, within a time to be set by the commission and, if the owner or occupant of such building or structure does not comply with such order within the time specified, the municipality shall carry out the order and direction of the commission and shall assess all costs of such repairs, alterations, improvements or such vacating and closing or removal or demolition or any combination thereof to the owner of such building or structure, and such costs, after the sale of any and all salvaged material is credited to the account, shall be a lien against the real property upon which costs were incurred.

For State Law basis of the lien created by this section, see WV Code, §8-12-16.

Section 5C-1-11. Service of complaints and orders.

All complaints or orders issued by the building commission shall be served in accordance with the law of the State of West Virginia concerning the service of process in civil actions, and shall, in addition thereto, be posted in a conspicuous place on the premises affected by the complaint or order.

For State Law basis of this section, see WV Code, §8-12-16.

Section 5C-1-12. Injunctive relief available to building owners and occupants and to Municipality.

Any owner or occupant of any building or structure affected by any complaint or order of the building commission, and the Municipality of Ronceverte, shall have the right to apply to the circuit court for a temporary injunction restraining the building commission pending final disposition of the cause, as provided in section 8-12-16 of the Code of West Virginia.

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Editor's Note -- The provisions of this section are required by WV Code, §8-12-16, which goes on to provide that: "In the event such application is made, a hearing thereon 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 may require. Costs shall be imposed in such manner as in the discretion of the court shall seem neat and proper."

Section 5C-1-13. Violations.

It shall be unlawful for any owner, occupant, lessee or other person in interest of such dwelling, building or structure as determined by the building commission to be dangerous, unhealthy or unfit for human habitation to fail to comply with any order to repair, vacate or demolish and remove same, or any other order of the building commission from which no appeal or other remedy has been invoked. The imposition of one penalty for any violation shall not excuse subsequent violations or deny subsequent impositions, fines or imprisonment or both for continuing violations; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time, and when not otherwise specified, each ten days that prohibited conditions continue, shall constitute a separate offense.

It shall be unlawful for any person to remove any notice or order of the building commission posted as required under any of the provisions of the chapter.

Section 5C-1-14. Adoption of Property Maintenance Code.

That a certain document, three (3) copies of which are on file in the office of the Recorder of the Municipality of Ronceverte, West Virginia, being marked and designated as "The BOCA National Property Maintenance Code, Fifth Edition, 1996" as published by the Building Officials and Code Administrators International, Inc., be and is hereby adopted as the Property Maintenance Code of the Municipality of Ronceverte, in the State of West Virginia; for the control of the buildings and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions, and terms of said BOCA National Property Maintenance Code are hereby referred to, adopted, and made a part hereof, as if fully set out in this Ordinance, with the additions, insertions, deletions, and changes, if any, prescribed in Section 5C-1-16 of this Ordinance.

Section 5C-1-15. Inconsistent Ordinances repealed.

That all other Ordinance or parts of Ordinances in conflict herewith are hereby repealed.

Section 5C-1-16. Additions, insertions, and changes.

That the BOCA National Property Maintenance Code is amended and revised in the following respects:

- Section PM-101.1 (page 1, second line). Insert: Municipality of Ronceverte
- Section PM-106.2 (page 2, third line). Insert: \$10 & \$300
- Section PM-106.2 (page 2, fourth line). Insert: No
- Section PM-304.15 (page 11, first and second lines). Insert: April 1st and November 1st

- Section PM 602.2.1 (page 17, fifth line). Insert: September 1st and May 31st
- Section PM 602.3 (page 17, third line). Insert: September 15th and May 15th

Section 5C-1-17. Saving clause.

That nothing in this Ordinance or in the Property Maintenance Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or Ordinance hereby repealed as cited in Section 5C-1-15 of this Ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Ordinance.

Section 5C-1-18. Air-Tight Containers.

No person shall abandon, discard, or knowingly permit to remain on premises under his control, in a place accessible to children, any refrigerator, or other air-tight or semi-air-tight container which has a capacity of one and one-half cubic feet or more and an opening of fifty square inches or more and which device capable of securing such door or lid, without rendering such equipment harmless to human life by removing such hinges, latches or other hardware which may cause a person to be confined therein. This section shall not apply to an icebox, refrigerator or other air-tight or semi-air-tight container located in that part of a building occupied by a dealer, warehouseman or repairman.

Section 5C-1-19. Health and Sanitation.

- (a) Offensive Odors.
 - (1) It shall be unlawful for any person to erect, use, maintain or occupy any dwelling, building structure or place which, because of said place's noxious, noisome, or offensive smell, becomes injurious to the health, comfort or property of individuals or the public.
 - (2) No person shall cause or allow to exist on his premises any offensive odors or substances.
- (b) Improper Drainage
It shall be unlawful at any time for the owner, occupant or person in charge of any lot or parcel of ground to cause or permit water to accumulate thereon or in the abutting gutter and sidewalk area and become stagnant, to permit culverts, drains or natural watercourses thereon to become obstructed, or to cause or permit any putrid or unsanitary substance to accumulate thereon.
- (c) Deposit of offensive garbage or refuse matter
No person shall deposit or permit to be deposited any garbage, refuse matter, offal, or animal carcass which may become offensive, noxious, or dangerous to the public health, on his own premises, or any premises under his control, or deposit such garbage or refuse matter in any back lot, public ground, vacant lot,

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park, alley street or areaway, or in any other place within the Municipality except as is otherwise provided by law.

- (d) **Spitting**
No person shall expectorate or spit in or upon any sidewalks or in or upon any taxicab or other public vehicle carrying passengers for hire or in or upon any part of any public building.
- (e) **Junk Yards**
It shall be unlawful for any person operating or doing business within the corporate limits to keep, maintain, show, store or have a junk yard consisting of junk, paper, wrecked cars, metals, ore, boxes, debris, etc. within five hundred feet of any street or highway within the corporate limits, and every day that such junk yard described aforesaid shall be so kept or maintained shall constitute a distinct offense.
- (f) **Penalties.**
 - (1) Whoever violates this article where another penalty is not provided shall be deemed guilty of a misdemeanor and shall be fined not more than two hundred fifty dollars. Each day's violation shall constitute a separate offense.
 - (2) Whoever violates section (d) of this article shall be deemed guilty of a nuisance and fined not less than five dollars nor more than twenty dollars.

Section 5C-1-20. Streets and Sidewalks.

- (a) **Definitions: Property Owner Responsibility for Sidewalk Maintenance.**

In this section:

- (1) "Owner" means:
 - (A) In the case of land, any person who is recorded on the tax records as the owner of the land, or
 - (B) In the case of property other than land, any person who is in lawful possession thereof
- (2) "Occupant" means:
 - (A) A person who is in physical possession of a property, or
 - (B) A person who has the responsibility for, and control over, the condition of a property, the activities conducted on that property, and the persons allowed to enter that property.

- (3) “Person” includes any individual, corporation, society, association, partnership or firm, and the successor of the heir, executor, administrators, or other legal representatives of a person
- (4) “Sidewalk” means that part of a highway especially adapted to the use of or ordinarily used by pedestrians and includes that part of the highway between the curb line (or the edge of the roadway where there is no curb line) and the adjacent property line, whether or not paved or improved.

It is the duty of all property owners and agents to repair any sidewalks abutting upon the property owned by him or her, or in his or her charge, or relay the same whenever it becomes in bad repair, or whenever the same for any reason is not properly maintained. In any event he or she shall repair or relay the sidewalk within thirty days.

- (b) **Property Owner Liable to Municipality for Repairs; Tort Liability.**
Every occupant, owner or person of every house, shop building, lot, parcel of land, or other property that adjoins or is abutting to or on a sidewalk in the Town of Ronceverte shall keep sidewalks in a good state of repair and free from defects or debris. Failure to maintain sidewalks will result in the Town of Ronceverte undertaking the repair or remedy and charging the cost of the repair or maintenance to the property owner. On any claim presented for bodily injury or property damage on the sidewalk, the adjoining or abutting property owner is liable for injuries or damages to another person as a result of the owners’ failure to properly maintain the sidewalk. If, the Town of Ronceverte is required to pay a claim for injury or damages to a third party, the Town may obtain from the responsible adjoining or abutting landowner contribution and indemnity.
- (c) **Repair or Relaying of Sidewalks by Council.**
The Council may proceed to repair or relay any sidewalks, or to construct any sidewalks upon any street where the curb has been set, after first giving the property owner or his or her duly authorized agent, thirty days notice of its intention. The Council may levy and collect the expenses of the work to the extent thereof, with one percent per month interest added after a demand of thirty days has been made for the payment. Costs and interest shall be collected in the same manner and shall become a lien on the abutting property the same as taxes.
- (d) **Sidewalks to be cleaned of ice and snow.**
It is the duty of the owner of each and every parcel of real estate in the Municipality abutting upon any sidewalk to keep the sidewalk abutting his or her premises free and clear of snow and ice, and to remove all snow and ice accumulated thereon within a reasonable time, not to exceed twelve hours after the abatement of any storm during which snow, ice and other weather related debris may have accumulated.

- (e) Dropping or Tracking substance.
No vehicle or conveyance may be driven or moved on any street in a manner that sand, dirt, rubbish or any offensive substance is dropped, sifted or tracked upon any street or sidewalk except that water or any other substance may be sprinkled on a roadway in cleaning or maintaining the roadway.
- The owner or operator of any vehicle or conveyance shall remove any sand, dirt, rubbish or any offensive substance dropped, sifted or tracked on any street or sidewalk.
- (f) Materials on street or sidewalk.
It is unlawful for any person to encumber any street or sidewalk or, being the owner, occupant or person having care of any building or lot of land bordering on any street or sidewalk, to permit the same to be encumbered so as to interfere with the free and unobstructed use thereof without a permit to do so issued by the city manager.
- (g) Merchandise displays.
No person may use any street or sidewalk area, including the lateral strip area between the street and sidewalk, for the display of merchandise, storage of items, or for any advertising display.
- (h) Removal of Warning Lights and Warning Barricades.
The unauthorized removal of warning lights, barricades or other warning devices placed on the streets and on construction projects, public or private, in the Municipality as a warning or protection for the public by persons or the willful careless or negligent destruction of them by any person is hereby prohibited.
- (i) Penalty.
Any person who violates any of the provisions of this article is guilty of a misdemeanor and upon conviction thereof, shall, in addition to the payment to the Municipality for repair, removal of debris, removal of obstructions and illegal displays, be fined not less than \$20.00 (twenty dollars) nor more than \$200.00 (two hundred dollars). Each day's continued violation constitutes a separate offense.

Section 5C-1-21. Electrically charged fence.

No person shall construct, erect, maintain, or use any fence charged with electrical current, within the corporate limits, except to confine large domestic animals such as cattle, horses, sheep, and swine; or to repel deer from garden areas. Electric fences when used must pulsate and be of low enough power so that they will not cause injury if touched by people. Electric fences used to repel deer require a building permit, which can be denied or withdrawn if a problem is respectively perceived or occurs. Electric fences used to repel deer may only be charged from one hour before dusk to one hour after dawn.

Section 5C-1-22. Dangerous Abandoned Excavations or Buildings.

It shall be unlawful for any property owner, tenant, or person having control or property within the Municipality directly or indirectly or create or allow dangerous conditions to exist on his premises.

“Dangerous conditions” as used in this section, are defined as any open, unguarded or unprotected excavation, swimming pool or building which when abandoned or left open or otherwise unprotected will likely prove dangerous to life or limb, or an abandoned, open, uncovered or otherwise unprotected well, cesspool, cistern, catch bain, or ditch.

Section 5C-1-23. Weeds.

- (a) Definition: the word “weeds” as used in this section, shall be constructed to include all rank vegetable growth which exhales unpleasant and noxious odors, high and rank vegetable growth that may conceal filthy deposits, and also serve as a breeding ground for reptiles and rodents.
- (b) Growth on sidewalk or lot: no owner, occupant or person in charge of any premises, or his or her agent or employee, shall suffer or permit thereon any growth of weeds to the height of more than twelve inches, nor shall any such person suffer or permit the growth of any weeds or grass on any part of any sidewalk abutting upon such premises.
- (c) Growth of weeds over eight inches: all premises shall be maintained by the owners, occupants and persons in charge thereof free of vegetation which affords a breeding place for insects, reptiles or rodents, and upon all premises not devoted to agricultural uses the grass thereon shall be kept trimmed to a height of not more than eight inches.
- (d) Disposal: weeds, grass, and vegetation, when cut down, shall be removed from the premises and disposed of in such manner as not to create a nuisance.
- (e) Exemptions: tracts of four acres or larger are exempt from the provisions of this section.
- (f) Violations:
 - (1) In each case of violation of this section, the municipal police department after giving not less than five days notice to the owner, occupant, or person in charge of the premises involved may make a request to the Mayor or City Administrator to have the grass, weeds or foreign growth cut and removed by either the Municipal Street Department or a subcontractor of like services, in the discretion of the Mayor or City Administrator. All expenses incurred by the Municipality to cut and

remove the grass, weeds, or foreign growth shall be chargeable to and paid by the owner of such property.

- (2) The payment of the amount so chargeable to such owner shall not relieve him or her of any fine imposed for his or her violation or constitutes a defense against any violation of the provisions of this article.
- (g) Penalty: any person who violates this article, for first offense, shall be fined not less than fifteen dollars nor more than fifty dollars, for a second offense, within one year of first conviction, shall be fined not less than twenty-five dollars nor more than seventy-five dollars, any third or subsequent offense, within one year of second conviction, shall be fined not less than fifty dollars nor more than one hundred fifty dollars.

Article 99. General Penalty.

Section 5-99-1. General Penalty.

Any person violating any of the provisions of this chapter where not specific penalty is provided is guilty of a misdemeanor and, upon conviction thereof, shall: for first offense, be fined not more than one hundred dollars or confined in the regional jail for not more than ten days or both fined and confined, second offense shall be fined not more than two hundred dollars or confined in the regional jail for not more than twenty days or both fined and confined; any third or subsequent offense shall be fined not more than five hundred dollars or confined in the regional jail for not more than thirty days or both fined and confined.

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