

THE BOARD OF GARRETT COUNTY COMMISSIONERS

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Board of Commissioners

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County Administrator

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County Attorney

Gorman E. Getty III

Filed and recorded December 18, 2007.

RESOLUTION NO. 2007 - 16

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF GARRETT COUNTY, MARYLAND, A BODY POLITIC AND CORPORATE AND GOVERNING BODY OF GARRETT COUNTY, MARYLAND ("GARRETT COUNTY"), FOR THE PURPOSE OF ADOPTING AN ORDINANCE TO IDENTIFY AND ADDRESS STRUCTURES DEEMED "UNSAFE" LOCATED WITHIN GARRETT COUNTY IN ORDER TO PROMOTE AND PROTECT THE PUBLIC HEALTH, SAFETY, AND GENERAL WELFARE OF THE COMMUNITY.

Explanation

The Board of County Commissioners of Garrett County is authorized, pursuant to the provisions of Article 25, Section 3, of the Annotated Code of Maryland (the "State Code"), to implement an ordinance establishing measures for identifying and addressing structures deemed "unsafe" located within Garrett County in order to promote and protect the public health, safety, and general welfare of the community. The Board of County Commissioners has found that it is necessary to exercise the authority granted to it under the State Code and has prepared an Unsafe Structures Ordinance, which has been subject to public review and public hearings, in accordance with the provisions of the State Code. The purpose of this Resolution is to adopt, in its entirety, the Unsafe Structures Ordinance, a copy of which is attached hereto and incorporated herein.

NOW, THEREFORE, BE IT RESOLVED, in consideration of the Explanation set forth above, the Board of County Commissioners of Garrett County, Maryland, hereby resolves, as follows:

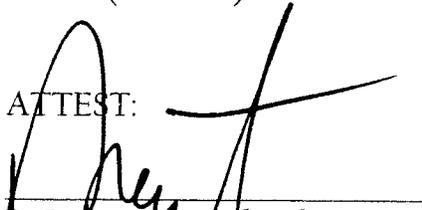
1. The Explanation set forth above is incorporated as a substantive provision of this Resolution.
2. The Unsafe Structures Ordinance, a copy of which is attached hereto and incorporated herein, be and is hereby adopted, as an Ordinance of Garrett County.
3. The Unsafe Structures Ordinance shall be effective January 1, 2008.

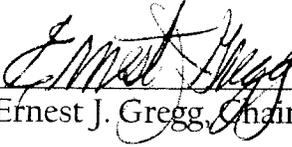
ADOPTED this 11th day of December, 2007, by the Board of County Commissioners of Garrett County, Maryland, by its Chairman, Ernest J. Gregg, and attested by R. Lamont Pagenhardt, County Administrator.

BOARD OF COUNTY COMMISSIONERS
OF GARRETT COUNTY, MARYLAND

(SEAL)

ATTEST:


R. Lamont Pagenhardt,
County Administrator

By  (SEAL)
Ernest J. Gregg, Chairman

Filed and recorded December 18, 2007.

UNSAFE STRUCTURES ORDINANCE 2007 - 17

AN ORDINANCE BY THE BOARD OF COUNTY COMMISSIONERS OF GARRETT COUNTY, MARYLAND (THE "BOARD"), A BODY POLITIC AND CORPORATE AND A POLITICAL SUBDIVISION OF THE STATE OF MARYLAND (THE "COUNTY"), IN ACCORDANCE WITH AND PURSUANT TO THE AUTHORITY GRANTED TO THE BOARD BY THE PROVISIONS OF ARTICLE 25 SUBSECTION 3 OF THE ANNOTATED CODE MARYLAND (THE "STATE CODE"), ESTABLISHING MEASURES FOR IDENTIFYING AND ADDRESSING STRUCTURES DEEMED "UNSAFE" LOCATED WITHIN THE COUNTY IN ORDER TO PROMOTE AND PROTECT THE PUBLIC HEALTH, SAFETY AND GENERAL WELFARE OF THE COMMUNITY.

EXPLANATION

The Board, as governing body of the County, has found that unsafe structures present a threat to the health, safety, and general welfare of the County. In order to identify and address such structures that may exist within the County, the Board believes that it is necessary to provide, by ordinance, a process to identify, address and abate those circumstances, in respect to structures that present a threat to the health, safety, and general welfare of the community.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF GARRETT COUNTY, MARYLAND, as follows:

- A. **EXPLANATION.** The explanation set forth above is incorporated as a substantive provision of this Ordinance.
- B. **DEFINITIONS.** As used in this Ordinance, the following terms shall be defined as follows:
- (1) **"ENCLOSED STRUCTURE"** shall mean an existing building with a continuous envelope defining interior space, excepting only openings designed for doors or windows, which are intended to secure said interior space for residential or commercial use;
 - (2) **"GARRETT COUNTY"** shall mean a political subdivision of the State of Maryland, which is constituted as Garrett County, except those portions of the County that comprise municipalities organized and existing in accordance with Maryland law;
 - (3) **"RESPONSIBLE PARTY"** shall mean an occupant, landowner, tenant or any other person lawfully in possession of any real property upon which is located an Unsafe Structure or any person, firm, corporation or other entity who is the current or most recent owner of any real property containing an Unsafe Structure;
 - (4) **"STRUCTURE"** shall include residential and commercial buildings, public utilities structures and other freestanding man-made structures anchored to or sitting upon the earth; and
 - (5) **"UNSAFE STRUCTURE"** – shall mean one that is found to be dangerous to the life, health, property,

or safety of the public or occupants of the Structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such Structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe, or of such faulty construction or unstable foundation that partial or complete collapse is possible. A vacant structure that is not secured against entry may, at the discretion of the County, be deemed unsafe.

C. VIOLATIONS. It shall be a violation of this Ordinance for any person to:

- (1) Own, maintain, or possess an Unsafe Structure.
- (2) Failure to abate an Unsafe Structure upon receipt of a thirty (30) day administrative notice as provided herein; or
- (3) Inhabit, or permit inhabitation of, an Unsafe Structure in Garrett County.

D. ADMINISTRATIVE PROCESS.

- (1) IDENTIFICATION. An alleged violation, as reported to or witnessed by the County, will be investigated by the Office of Licensing and Enforcement to determine compliance with this Ordinance.
- (2) INSPECTION. Where probable cause exists to believe a violation of this Ordinance exists, the County may:
 - (i) Obtain an Administrative Search Warrant to enter the premises to determine whether the building is structurally unsound; or
 - (ii) Obtain permission from the responsible party or who exercises control over the property.
- (3) NOTICE.
 - (i) If the County determines that a Structure is an Unsafe Structure, as defined by this Ordinance, the Office of Licensing and Enforcement is authorized to issue an order to the Responsible Party to take those steps necessary to make the Structure safe. If the extent of repair, alterations, or additions cannot be made to the Structure to render it safe, the Office of Licensing and Enforcement may, in its discretion, and based upon an inspection by the Office of Permits and Inspections and/or the State Fire Marshall's Office of the County, direct that the Unsafe Structure be razed and/or removed.
 - (ii) The Office of Licensing and Enforcement shall serve on the Responsible Party a written notice that describes the conditions of the Structure that are deemed to be unsafe, specifies the required repairs or improvements required to abate the unsafe condition, or directs that the Unsafe Structure be razed within a stated period of time. Such notice shall require the Responsible Party to declare immediately to the County acceptance or rejection of the terms of the order.

(iii) An order or notice shall be deemed properly served if a copy thereof is:

- (a) Delivered personally to the Responsible Party;
- (b) Sent Certified Mail addressed to the last known address; or
- (c) If notice is returned showing the mail was not delivered, a copy of the order shall be posted in a conspicuous place or about the Unsafe Structure affected by such order.

(4) ESTABLISHMENT OF BOARD OF APPEALS. To provide for the competent interpretation and the full and equitable achievement of the purposes of this Ordinance, a Board of Appeals shall be established.

(i) MEMBERSHIP. The Board shall consist of 5 members. The terms of office of the members shall be staggered and will serve for a period of 3 years. Members shall be appointed by the County Commissioners, and shall be removable for cause upon written charges and after public hearing. The County Commissioners shall designate one or more alternate member or members for the Board. In the event of absence or voluntary disqualification of any appointed member, the Chairperson of the Board of Appeals shall designate one of the alternate members to act during that meeting in place of said appointed member.

(ii) PROCEDURES, MEETINGS, RECORDS AND DECISIONS.

- (a) The Board shall elect a chairperson from its membership, shall appoint a secretary and shall prescribe rules for the conduct of its affairs in accordance with the provisions of this Ordinance.
- (b) Meetings of the Board shall be held at the call of the chairperson and at such other times as the Board may determine. Such chairperson or acting chairperson may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. Three members present shall constitute a quorum.
- (c) The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the Board and shall be a public record. All actions or decisions of the Board shall be taken by resolution in which 3 members, present during the proceedings, must concur. Each resolution shall contain a statement of the grounds and any findings forming the basis of such action or decision.
- (d) The Board shall notify the County Commissioners, and the Licensing and Enforcement Manager of all decisions and resolutions.

(5) APPEAL OF ORDER.

- (i) A Responsible Party who desires to contest the order may request a hearing before the Board. The hearing request must be submitted in writing to the Office of Licensing and Enforcement within fifteen (15) days of service of the order. If an appeal is not filed within fifteen (15) days of service of the order, the order shall be deemed a final order. Upon receipt of the request, the Office of Licensing and Enforcement shall set the matter for a hearing and shall notify the Responsible Party of the date, place and time of the hearing. The order shall be stayed pending the hearing. Any order issued by the Board shall be complied with within fifteen (15) days of the date of the order unless another date is established by the Board.
- (ii) Any Responsible Party aggrieved by the decision of the Board may appeal said decision to the Circuit Court of Garrett County provided the said appeal is filed no later than thirty (30) days from the date of the Board's decision. The decision of the Circuit Court of Garrett County shall constitute a final order on any decision appealed to it.
- (6) RECORD. In the event the Office of Licensing and Enforcement determines that a Structure is an Unsafe Structure under this Ordinance, that Office shall cause a report to be filed and maintained on that Structure. The report shall be public information and shall state and identify the occupancy of the Structure, if any, at the time of inspection and issuance of the order and describe, in detail, the nature of the unsafe condition upon which the issuance of the order was based.
- (7) A BATEMENT. In the event the County determines that a Structure is an Unsafe Structure under the Ordinance, the Responsible Party shall have the right and obligation to make such repairs, alterations or additions as may be necessary to bring the Structure into safe condition, in compliance with the Code of Ordinances of Garrett County, Maryland, Title XV, Chapter 150, Building Regulations.

E. ENFORCEMENT; VIOLATIONS AND PENALTIES.

- (1) Upon the issuance of a final order and upon written notification by the Office of Licensing and Enforcement, the responsible party shall have a thirty (30) day period to abate the violation(s).
- (2) All violations of this Ordinance, or any rule or regulation adopted pursuant thereto, shall constitute a misdemeanor and shall be punished by imprisonment for not more than thirty (30) days or by a fine of not less than Fifty Dollars (\$50) but not more than One Thousand Dollars (\$1000), or both, and court costs, at the discretion of the court as provided herein. If any violation be continued, each day's violation shall be deemed a separate offense.
- (3) If the Responsible Party fails to comply with the order issued by the Office of Licensing and Enforcement, to either make the Unsafe Structure safe or to raze and remove the Structure, and, after the notice provided to the Responsible Party under this Ordinance, the County may, in its discretion, cause the Structure to be made safe or raze and remove either through an available

agency or by contact with third parties, and the cost of such work, raze or removal shall be deemed to be a charge against the real property and shall constitute a lien upon that real property until paid.

- (4) The County or any other entity, person, firm or corporation, may institute such legal action, including injunction, mandamus, or other appropriate proceedings, seeking the enforcement of violations of this Ordinance.

F. EXEMPTION.

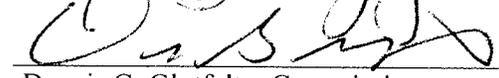
- (1) Any county, municipal, state or federally owned or sponsored site, building, or facilities are exempt from the provisions of this Ordinance.
- (2) Agricultural structures located on agriculturally assessed land.

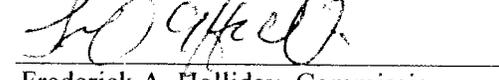
BE IT FURTHER ENACTED BY THE BOARD OF COUNTY COMMISSIONERS OF GARRETT COUNTY, MARYLAND, that this Ordinance shall take effect the 1st day of January, 2008.

PASSED this 11th day of December, 2007.

BOARD OF COUNTY COMMISSIONERS
OF GARRETT COUNTY, MARYLAND

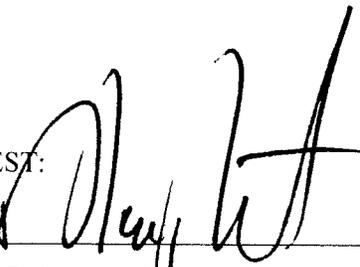

Ernest J. Gregg, Chairman


Dennis G. Glotfelty, Commissioner


Frederick A. Holliday, Commissioner

ATTEST:

By



R. Lamont Pagenhardt,
County Administrator