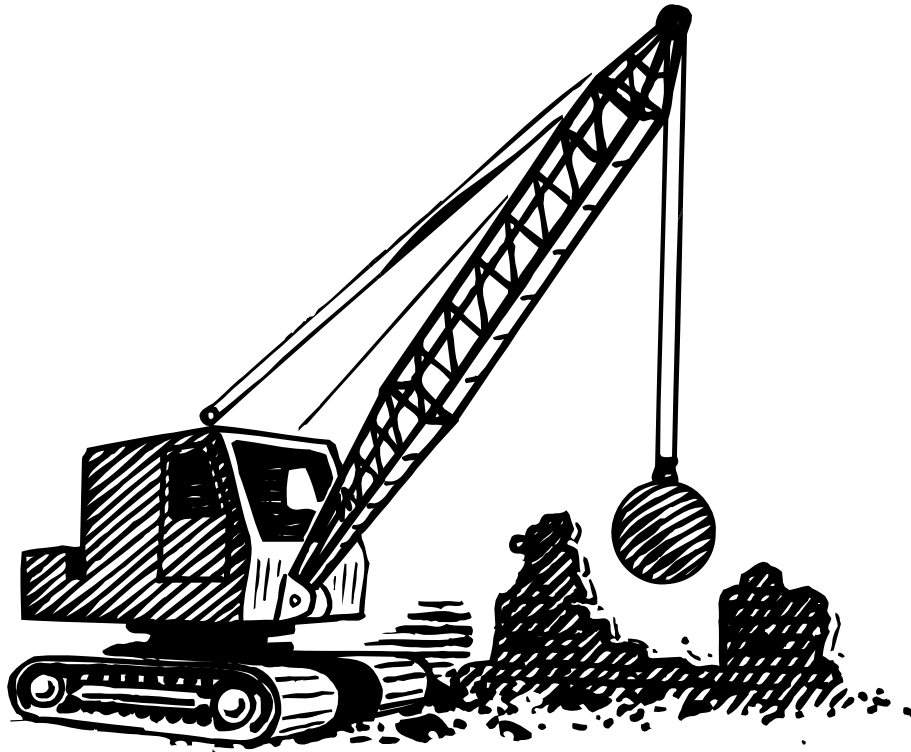


# Kanawha County Commission



**1997 PLAN  
FOR REMOVAL AND  
CLEARANCE  
OF DEBRIS AND REFUSE  
OF ABANDONED DWELLINGS**

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# MEMORANDUM

TO County Commissioners  
David Bostic, Planning Director  
FROM Marc J. Slotnick, Esq.  
SUBJECT W.V. Code 7-1 -3ff Clearance of Debris  
DATE February 5, 1997

West Virginia Code 7-1-3ff expressly authorizes the county commission "to require clearance, of any refuse or debris consisting of remnants or remains of any unused or unoccupied dwelling, cement foundation, piping, basements, intact chimneys, nonfarm building, structure or manmade appurtenance an ail private lands ... by the owners thereof that has accumulated as the result of any natural or manmade fire, force or effect which presents a safety or health hazard including the removal of toxic or pillage and seepage ..."

The procedure for clearance by the county commission is to forward notice to the landowner advising the following:

- (1) Of the commission's... demand to remove all refuse and debris within ninety days of the receipt of notice unless an extension is granted by the county commission ... for good cause shown:
- (2) Of the landowner's right to contest such demand and of the proper procedure to do so;
- (3) That if the landowner fails to both properly contest and comply with the commission's... demand, that removal will be achieved, otherwise and that the reasonable costs incurred thereto will become a civil debt owed by the landowner to the county; and
- (4) That if the county incurs costs of removal and the landowner fails to pay such costs within ninety days of the removal, then the county may file a judgment lien on the subject property, for an amount not to exceed the assessed value of the property as recorded in the office of the county assessor, in the office of the county clerk of the county commission of the county in which the property is located."

Said notice shall be certified mail, return receipt requested and if the certified mail is returned than a Class III-O legal advertisement shall be published and a notice shall be posted on the property.

In summary, the procedure is (1) determine that clearance of the property should be done under the requirements of the statute; (2) Notice to the landowner that he has 90 days to clear the property and his rights; (3) If Notice is returned then publication and posting.

7-1-3ff Clearance of refuse and debris from private lands; demolition of buildings and recovery of costs incurred; notice of demand thereof; procedure to contest demand.

(a) County commissions, as set forth in article, county health officers, as set forth in section two [§ 16-2-2], article two, chapter sixteen of this code, and state fire marshals as set forth in section twelve [§ 29-Y-12], article three chapter twenty-nine of this code, are hereby authorized to require clearance of refuse or debris consisting of remnants or remains of any unused or unoccupied dwelling, cement foundation, piping, basements, intact chimneys, nonfarm building, structure or manmade appurtenance on all private lands within their respective scopes of authority by the owners thereof that has accumulated as the result of any natural or manmade fire, force or effect which presents a safety or health hazard including the removal of toxic or contaminant spillage and seepage: Provided, That upon request from a landowner and a written determination and approval from the state fire marshal, where appropriate, a landowner may fill the remains of a basement to ground level with inert fill material in lieu of complete removal of such cement foundation, piping and basement.

(b) Upon determination by the state fire marshal that substantial accumulations of refuse, debris or destroyed structures or appurtenances, as described above, exist on the property as a result of a natural or manmade fire, notice be-given by the fire marshal and forwarded to the owner immediately informing the landowner of the requirements of this article to effect repair, removal, closure demolition of the fire damaged property within ninety days of the receipt of such notice.

(c) Upon a determination by a county commission or county health officer that substantial accumulations of refuse or the presence of debris, as described above exist on any such private lands, notice shall be forwarded to the landowner advising him or her:

(1) Of the commission's or health officers demand to remove all refuse and debris within ninety days of the receipt of notice unless an extension be granted by the county commission or health officer for good cause shown;

(2) Of the Landowner's right to contest such demand and the proper procedure in which to do so;

(3) That if landowner fails to both properly contest and comply with the commission's or health officer's demand, that removal will achieved otherwise and that the reasonable costs Incurred thereto will become a civil debt owed by the landowner to the county; and

(4) That if the county incurs costs of removal and the landowner fails to pay such costs within ninety days of he removal, then the county may file a judgment lien on the subject property, for an amount not to exceed the assessed value of the property as recorded in the office of the County assessor, in the office of the clerk of the county commission of the county in which the property is located.

(d) The commission or health officer shall send notice as described in subsection (c) of this section by certified mail, return receipt requested, to the most recent address of the landowner on file in the office of the county assessor of the county in which the subject property is located. If, for any reason, the certified mail is returned without evidence of proper receipt thereof, then in such event, a Class III-0 legal advertisement shall be published in a newspaper of general circulation in the county wherein the subject land is situated in order to render proper notice in accordance with this section. In addition, commission or health officer shall post the notice on the front door or other conspicuous location on the subject property: Provided, That if the commission or health officer determines, after notice and inquiry as provided herein, that the refuse or debris was created by someone other than the present landowner, without the Landowner's expressed or implied permission, the commission or health officer shall remove any such refuse or debris and shall apply to and be eligible to receive from the solid waste reclamation and environmental response fund created under section eleven [§ 22-15-11], article fifteen, chapter twenty-two of this code for reimbursement for all reasonable costs incurred for removal.

(e) The county commission of every county shall have plenary power and authority to adopt an ordinance requiring the owner or owners of any nonfarm dwelling or building, under order of the county commission or county health officer or determination by the state fire marshal as provided for in subsection (a) of this section, to pay for the costs of clearing any refuse or debris or of repairing vacating, closing, removing demolishing or otherwise altering any dwelling or nonfarm building. The county commission shall also have the power and authority to seek reimbursement for such costs by filing a lien against the real property in question for an amount not to exceed the assessed value of the property as recorded in the office of the county assessor, or to institute a civil action in a court of competent jurisdiction against the landowner or other responsible party for all costs incurred by the county with respect to the property and for reasonable attorney fees and court costs in the prosecution of the action.

(f) Not less than ten days prior to instituting a civil action as provided for in this section, the county commission shall send notice to the landowner by certified mail, return receipt requested, advising the landowner of the county commission's intention to institute such action. The notice shall be sent to the most recent address of the landowner on record in the office of the assessor of the county where the subject property is located. If, for any reason, such certified is returned without evidence of proper receipt thereof, then in such event, the county commission shall cause a Class III-0 legal advertisement to be published in a newspaper of general circulation in the county wherein the subject property is located and post notice on the front door or other conspicuous location on the subject property.

(g) In the event any landowner desires to contest any demand brought forth pursuant to this section, the landowner shall do so in accordance with article three [§ 58-3-1 et sq.], chapter fifty-eight of the of this code.

[1989, c. 41; 1994, c. 61; 1996, c. 95.]

Effect of Amendment of 1994 the amendment rewrote the first paragraph; added the second Paragraph; and substituted "section eleven, article fifteen, chapter twenty-two" for "section five-a, article five-f, chapter twenty" near the end of the second to last paragraph.

KANAWHA COUNTY COMMISSION  
PLANNING & COMMUNITY DEVELOPMENT PLAN FOR THE REMOVAL  
AND CLEARANCE OF DEBRIS AND REFUSE OF ABANDONED DWELLINGS

I. TASK FORCE IDENTITY OF PROBLEMS.

1. Removal of abandoned buildings.
2. Clean up of unattended properties.
3. Reseeding and/or replanting of, disturbances.

II. ESTABLISH FILE TO INCLUDE THE FOLLOWING.

Owner(s) name \_\_\_\_\_

Address \_\_\_\_\_

Deed Book \_\_\_\_\_ Page No. \_\_\_\_\_, Tax Map \_\_\_\_\_, Parcel \_\_\_\_\_

List deficiencies.

Establish initial "worst cases".

III. FIRST NOTICE BY CERTIFIED MAIL -'30 DAY RESPONSE.

- (a) Arrange meeting with the staff.
- (b) Itemize work to be done.
- (c) Agree on reasonable schedule and completion date.
- (d) Take photographs of completed improvements.
- (e) Receive recognition certificate.

IV. SECOND NOTICE, CERTIFIED MAIL AFTER FAILURE OF LANDOWNER TO RESPOND OR TAKE ACTION.

- (a) Schedule meeting on 2nd Wednesday of each month with the Kanawha County Planning commission.
- (b) Kanawha County Planning Commission reviews progress and/or makes recommendations to the Kanawha County Commission to start 90 day legal action.

V. KANAWHA COUNTY COMMISSION COURT ORDER - 90 DAYS.

- (a) Issue certified notice pursuant to West Virginia Code 7-1-3 ff, to property owner(s) of the Kanawha County Commission's demand to remove all refuse and debris within 90 days of receipt of notice, per county Attorney's attached memorandum.

VI. AUTHORIZE COUNTY ATTORNEY AND PLANNING COMMISSION STAFF TO TAKE THE FOLLOWING ACTIONS.

1. Authorize staff to proceed.
2. Locate historical clearance.
3. Order title search.
4. Order bids.
5. Check for asbestos.
6. Asbestos abated.
7. Notice to contractor to start demolition.
8. Lot clearance and inspection with photograph.
9. File liens with Clerk of the County Commission of Kanawha County, West Virginia.
10. Send invoices to property owner for payment.

APPROXIMATE TIME PERIOD FROM IDENTIFYING PROPERTIES TO CLEARANCE IS APPROXIMATELY 6 MONTHS TO INSURE PROPER NOTIFICATION TO LANDOWNER(S).



## PROPERTY COMPLAINT FORM

NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

\_\_\_\_\_

HOW REPORTED

\_\_\_\_\_ IN PERSON

\_\_\_\_\_ TELEPHONE

\_\_\_\_\_ BY LETTER

\_\_\_\_\_ OTHER

DATE REPORTED \_\_\_\_\_

DESCRIPTION OF COMPLAINT \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

PROPERTY LOCATION \_\_\_\_\_

ADDRESS \_\_\_\_\_

DISTRICT \_\_\_\_\_ PARCEL NUMBER \_\_\_\_\_ MAP NUMBER \_\_\_\_\_

DEED BOOK NUMBER \_\_\_\_\_ PAGE NUMBER \_\_\_\_\_

DEFICIENCIES FOUND: \_\_\_\_\_

INSPECTOR'S SIGNATURE: \_\_\_\_\_

ACTION TAKEN: \_\_\_\_\_

**First Notice Mailed**

Date: \_\_\_\_\_

**Response**

Yes \_\_\_\_\_ Date \_\_\_\_\_

No \_\_\_\_\_

**Second Notice Mailed**

Date: \_\_\_\_\_

**Response**

Yes \_\_\_\_\_ Date \_\_\_\_\_

No \_\_\_\_\_

Action Taken: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

