

PINCONNING TOWNSHIP, ORDINANCE NO. 11- 2

ADOPTED: AUGUST 9, 2011

EFFECTIVE: SEPTEMBER 13, 2011

An ordinance to secure the public peace, health, safety, welfare, and convenience of the Residents and property owners of the Pinconning Township, Pinconning, Michigan, a municipal corporation, by the regulation of uncompleted, abandoned, dilapidated or deteriorated and dangerous buildings injurious to life or health, within said township; to provide penalties for the violation thereof; and to appeal all ordinances and parts of ordinances in conflict therewith.

THE BOARD OF THE PINCONNING TOWNSHIP,

OF PINCONNING, MI. ORDAINS;

1. NAME, This ordinance shall be known and cited as the PINCONNING TOWNSHIP, DANGEROUS AND UNSAFE BUILDING ORDINANCE.
2. REGULATIONS,
 - A. All buildings and parts thereof erected on or before the effected date of this Ordinance shall be completed and fully and permanently enclosed in accordance with the building permit issued to the owner and / or CONTRACTOR, and in accordance with Ordinance No. of the Unified Building Code of the Township, or in the alternative, shall be torn down and removed, and any excavation there under filled in to grade level.
 - B. No building or structure, whether now existing or hereafter erected, shall be left in a dangerous or hazardous condition by virtue of disrepair, depreciation, damage by a fire, collapse, or act of God, or by virtue of any cause, but shall be forthwith repaired or rehabilitated, and the dangerous or hazardous condition removed by the owner or occupant thereof, or in the alternative, torn down and removed, and any excavation

there under filled to grade level.

3. It is unlawful for the owner to permit any building or structure, or part thereof, to be in an unsafe or dangerous condition. For the purposes of this Ordinance "dangerous building" Means any building or structure which has any of the defects, or is in any way of the conditions Here in after described:

- A. Whenever any door, aisle, passageway, stairway, or other means of exit is not sufficient In width or size, or is not so arranged as to provide safe and adequate means of exit in case Of fire or panic, for all persons housed or assembled therein who would be required to, or Might use, such door, aisle, passageway, stairway or other means of exit.
- B. Whenever any portion has been damaged by wind, flood, or by any other cause in such A manner that the structural strength or stability is appreciably less than it was before such Catastrophe, and is less than the minimum requirements of this act for a new building Or similar structure, purpose, or location.
- C. Whenever any portion or member or appurtenance is likely to fall or to become detached Or dislodged, or to collapse, and thereby injure or damage property.
- D. Whenever any portion has settled to such an extent that walls or other structural Portions have materially less resistance to winds that is required new in case of construction.
- E. Whenever the building or structure or any part, because of dilapidation, deterioration, Decay, faulty construction, or because of the removal or movement of some portion Of the ground necessary for the purpose of supporting such building or portion thereof, Or for any reason, is likely to partially or completely collapse,

Or some portion of the foundation or underpinning is likely to fall or give way.

- F. Whenever, for any reason whatsoever, the building or structure or any Portion is manifestly unsafe for the purpose of which it is used.
- G. Whenever the building or structure has been so damaged by fire, wind, or flood, or has become an attractive nuisance to children who might play therein to their danger, or as to afford a harbor for vagrants, criminals, or immoral persons, or as to enable Persons to resort thereto for the purpose of committing a nuisance or unlawful or Immoral acts.
- H. Whenever a building or structure used or intended to be used for dwelling purposes, Because of dilapidation, decay, damage, or faulty construction or arrangement or otherwise, is unsanitary or unfit for human habitation, or is in a condition that is Likely to cause sickness when so determined by the health officer, or is likely to cause Injury to the health, safety, or general welfare of those living within.
- I. Whenever any building becomes vacant, dilapidated, and open at door or window Leaving the interior of the building exposed to the elements or accessible to entrance by trespassers.

DANGEROUS BUILDINGS AS PUBLIC NUISANCES

- 4. All such dangerous buildings are hereby determined to be public nuisances and shall be abated by alteration, repair, rehabilitation, demolition, or removal in accordance with the procedures specified elsewhere in this chapter.

COMMENCEMENT OF PROCEEDINGS

5. The Building Inspector for the Pinconning Township shall examine or cause To be examined every building or structure or portion thereof reported as unsafe or Damaged, and if such is found to be a dangerous building as defined in this Ordinance, He shall commence proceedings to cause the repair or rehabilitation of said building. If the building Inspector determines that it is necessary for removal, demolition or Condemnation of the building, he shall first report in writing to the Pinconning Township Board before proceeding further.

NOTICE AND ORDER

6. The building inspector shall issue a Notice Of Order directed to the owner of record of the building or structure stating the defects thereof. This notice may require the owner of the building or premises, within 48 hours, to commence either the required alterations, repairs, or improvements, or the demolition and removal of the building and structure or portions thereof, and all such work shall be completed within such period of time as the building inspector shall determine to be reasonable to accomplish the work, which said period shall be stated in the notice. If necessary, such notice shall also require the building, structure, or portion thereof, to be vacated, to be vacated forthwith and not to be re-occupied until the required repairs and improvements are completed, inspected and approved by the building inspector.

Service of the Notice and Order shall be made upon the owner either personally or by: (1) Mailing a copy of such Notice and Order by certified mail, postage prepaid, return receipt requested, to the owner as indicated by the records of the Township Assessor: or (2) if no address so appears or is known to the building inspector, a copy

of the Notice and Order shall be mailed to the owner at the address of the building or structure; a copy of the notice also to be posted in a conspicuous place on the building or structure. The failure of any such person to receive such notice shall not affect the validity of any proceedings taken under this section. Service by certified mail in the manner herein provided shall be effective on the date of mailing. Proof of the service of the Notice and Order shall be by affidavit sworn to by the person affecting service; declaring time, date, and the manner in which the service was made. The affidavit together with any receipt card returned in acknowledgment of receipt by certified mail shall be affixed to the copy of the Notice and Order retained by building inspector.

POSTING OF SIGNS

7. The building inspector shall cause to be posted at each entrance of such a dangerous building a notice to read: "Do not enter, unsafe to occupy". Such notice shall remain posted until the required repairs, demolition, or removal is completed. Such notice shall not be removed without written permission of the building official and no person shall enter this building except for the purpose of making the repairs required or demolishing the building.

CONDEMNATION PROCEDURE

8. If at the expiration of any time limit in the notice provided for in paragraph 6 hereof, the owner has not complied with the requirements thereof, the building Inspector may recommend abatement in accordance with the following provisions:
 - A. The building inspector, having ascertained that ANY time limit provided in the notice has expired and that the REQUIREMENTS OF THE NOTICE TO HAVE BEEN COMPLETED BY THAT TIME HAVE NOT BEEN COMPLETED, shall issue a notice

to the owner of record to appear at a hearing before a hearings officer and show cause why the building or structure should not be demolished or otherwise made safe. Notice shall be given to the owner in the same manner as provided in Paragraph 6 hereof, to appear at the hearing on the date specified in the notice which shall not be less than ten days after the mailing of the notice.

B. The Supervisor of the Township, with the approval of the Township Board, Shall appoint a hearings officer in each individual pending matter to conduct a public hearing in order for the owner to show cause why the building inspector as set forth in the Notice and Order should not be complied with or the building or structure in question should not be demolished. The hearing officer may be the Supervisor, or Township Clerk of the Pinconning Township.

C. The following procedures shall govern the conduct of the public hearing by the hearing officer.

1. RECORD. A record of the entire proceedings shall be made by tape Recording or by means or permanent recording determined appropriated by the examiner. A transcript of the proceedings shall be made available to all parties upon request and upon payment of a fee prescribed therefor. The fee may be established by the hearings officer but shall not be greater than the cost involved.

2. CERTIFICATION. In any proceedings under this section, a hearings officer has the power to administer oaths and affirmations, and to certify official acts.

3. REASONABLE DISPATCH. A hearings officer shall proceed with reasonable dispatch to conclude any matter before him. Due regard shall be shown for the convenience and necessity of any party and their representatives.

4. RULES. Hearings need not be conducted according to the technical rules relation to evidence.

5. ORAL EVIDENCE. Oral evidence shall be taken only on oath or affirmation.

6. HERESAY EVIDENCE. Heresay evidence may be used for the purpose of

Supplementing or explaining any direct evidence, but shall not be sufficient In itself to support a finding unless it would be a admissible over objection in civil action in courts of competent jurisdiction in the State.

7. ADMISSIBILITY OF EVIDENCE. Any relevant evidence shall be admitted if it is the type of evidence upon which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over the objection in civil actions in courts of competent jurisdiction of this state.

8. EXCLUSION OF EVIDENCE. Irrelevant and unduly repetitious evidence Shall be excluded.

9. RIGHTS OF THE PARTIES. Each party shall have these rights, among others:

(1) To call and examine witnesses on any matter relevant to the issues of the

Hearing; (2) to introduce documentary and physical; (3) to cross-examine

Opposing witnesses on any matter relevant to the issues of the hearing;

(4) to impeach any witness regardless of which party first called him to

Testify; (5) to refute the evidence against him; and (6) to represent himself

or to be represented by any one of his choice who is lawfully to do so.

10. INSPECTION OF PREMISES. The hearings officer may inspect any building

or structure or premises involved in the hearings proceedings.

11. OFFICIAL NOTICE. In reaching a decision, official notice may be taken,

Either before or after submission of the case for decision, of any fact of which

Judicial notice may be taken by the courts of this State or of official records

of the Board or departments and Ordinances of the Township or rules and

regulations of the Board. Parties present at the hearing shall be informed

of the matters to be so noticed, and these matters shall be noted in the records.

D. The Hearings Officer shall make a decision with written findings of fact based

Upon competent evidence and testimony determining whether or not the building

In question is a dangerous building within the terms of the Ordinance hereof. If

The hearings Officer finds the building to be a dangerous building, he shall order

The owner to repair or demolish the building, and based on competent

Evidence and testimony, shall establish a reasonable time by which the requirements of the order shall commence and shall be completed. The notice of the findings and order shall be served in the manner provided in Paragraph 6 hereof.

E. The following standards shall be followed by the hearings officer in ordering the repair or demolition of any unsafe building: The building so damaged must be to such an extent that the cost of repair and rehabilitation to place it in a safe, sound, and sanitary condition exceed 75% of the assessed valuation of the building, at the time the repairs or rehabilitation are to be made, shall not be repaired or rehabilitated unless it is made to comply in all respects with the provisions of the Pinconning Township Ordinances governing such building. Any building so damaged or destroyed to such an extent that the cost of repair and rehabilitation to place in a safe, sound, and sanitary condition exceed 100% of the assessed valuation at the time when the repairs or rehabilitation are to be made, shall be deemed unfit for human habitation and shall immediately vacated, and unless made to comply with all the provisions of the Pinconning Township Ordinances and Uniform Building Code for the Pinconning Township, shall be demolished and removed.

F. An order to demolish shall not indicate an alternative to repair; however, an order to repair may be satisfied by demolition.

G. If the owner fails to comply with the decision and order provided for in Paragraph D hereof, the hearings officer shall cause such building to be demolished and shall cause the cost of the demolition to be charged against the premises in accordance with the provisions of this Ordinance and Ordinance No. 6, being the Uniform Building Code for the Pinconning Township.

H. The decision of the hearings officer shall become final upon the service of the decision on the owner in the manner as provided in Paragraphs C and D hereof. Any

owner aggrieved by the decision or order of the hearings Officer may, within twenty days from the date thereof, seek a review thereof by the circuit court under it's power of Superintending Control.

PENALTIES FOR VIOLATIONS

9. Any person, firm or corporation who violates any of the provisions of this Ordinance Shall be deemed guilty of a misdemeanor and shall be punished by a fine of not more than \$100.00, or by imprisonment in the county jail, not to exceed ninety (90) days, or both such fine and imprisonment. Each day that a violation continues to exist shall constitute a separate offense. In addition to the imposition of such fines and penalties, any building which continues to violate the provisions of this Ordinance after the owner or occupant has been ordered by the building inspector or health officer of the township to make the same comply or to remove or to demolish or remove such building, may, in the discretion of the Township board or it's agents, and the costs thereof collected from the owner or occupant of said premises. If the owner or occupant refuses to pay such costs, the same may be assessed against the property of the owner or occupant and collected in the same matter as are taxes assessed under the general laws of the State of Michigan. The owner or occupant who pays such costs may collect from the person or other entity who caused such violation to exist, for such sum so expended, in an appropriate action at law.

The foregoing remedies shall be in addition to the rights of the township to proceed at Law or equity with other appropriate and proper remedies.

INTRODUCTION OF ORDINANCE-ADOPTION-EFFECTIVE DATE

10. This ordinance has been introduced on August 9, 2011, at a regular meeting of the Pinconning Township Board.

MOTION MADE TO ADOPT THE BUILDING ORDINANCE;

Holbrook/Laframboise

Long(Yes), Holbrook (Yes), Stalsberg(Yes), Labramboise(Yes), Hribek(Yes)

I the undersigned, duly qualified and acting Township Clerk, Pinconning Township, Bay County, Michigan, do hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the Township Board at the regular scheduled meeting of the Township Board held on the 9th day of August.

 

Beverlene Hribek, Pinconning Township Clerk Sharon Stalsberg, Pinconning Township

Supervisor

This Ordinance shall become effective thirty (30) days after legal publications with the provisions of the Act governing same. Published on August 9th, 2011 in the Pinconning Journal.