

**STATE OF MICHIGAN
PENINSULA TOWNSHIP ORDINANCE NO. 2007-31
DANGEROUS BUILDING ORDINANCE**

**AN ORDINANCE TO PROVIDE FOR THE ELIMINATION
OF DANGEROUS BUILDINGS IN THE TOWNSHIP**

**PENINSULA TOWNSHIP, GRAND TRAVERSE COUNTY, MICHIGAN
ORDAINS:**

SECTION I: Title

This ordinance shall be known and cited as the Dangerous Buildings Ordinance

SECTION II: Definition of Terms

As used in this ordinance, including in this section, the following words and terms shall have meanings stated herein:

- A. **Dangerous Building** means any building, structure or mobile home, residential or otherwise, that has one or more of the following defects or is in one or more of the following conditions:
1. A door, aisle, passageway, stairway or other means of exit does not conform to the Fire Code or Applicable Building Code.
 2. A portion of the building, structure or mobile home is damaged by fire, wind, flood, deterioration, neglect, abandonment, vandalism, or other cause so that the structural strength or stability of the building, structure or mobile home is appreciably less than it was before the damage and does not meet the minimum requirements of the Housing Law of the State of Michigan, Act No. 167 of the Public Acts of 1917, as amended, being section 125.401 et. seq. of the Michigan Compiled Laws or the applicable Building Code for a new building, structure, mobile home, purpose or location.
 3. A part of the building, structure or mobile home is likely to fall, become detached or dislodged, or collapse and injure persons or damage property.
 4. A portion of the building, structure or mobile home has settled to such an extent that walls or other structural portions of the building, structure or mobile home have materially less resistance to wind than is required in the case of new construction by the Housing Law of the State of Michigan, Act No. 167 of the Public Acts of 1917, as amended, being Section 125.401 et. seq. of the Michigan Compiled Laws, or the applicable Building Code.
 5. The building, structure or mobile home, or part of the building, structure or

mobile home, because of dilapidation, deterioration, decay, faulty construction, or the removal or movement of some portion of the ground necessary for the support, or for other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building, structure or mobile home is likely to fall or give way.

6. The building, structure or mobile home or a part of the building, structure or mobile home, is manifestly unsafe for the purpose for which it is used.
7. The building, structure or mobile home is damaged by fire, wind or flood, or is dilapidated or deteriorated and becomes an attractive nuisance to children who might play in the building, structure or mobile home to their danger, or becomes a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building, structure or mobile home for committing a nuisance or an unlawful or immoral act.
8. A building, structure or mobile home used or intended to be used for dwelling purposes, including the adjoining grounds, because of dilapidation, decay, damage, faulty construction or arrangement, or for other reason, is unsanitary or unfit for human habitation, is in a condition that the health officer of the township or county determines is likely to cause sickness or disease, or is likely to injure the health, safety or general welfare of people living in the dwelling.
9. A building, structure or mobile home is vacant, dilapidated and open at a door or window, leaving the interior of the building exposed to the elements or accessible to entrance by trespassers.
10. A building or structure remains unoccupied for a period of 180 consecutive days or longer, and is not listed as being available for sale, lease, or rent with a real estate broker licensed under article 25 of the occupational code, 1980 PA 299, MCL 339.2401 to 339.2518. For purposes of this subdivision, "building or structure" includes, but is not limited to, a commercial building or structure. This subdivision does not apply to either of the following:
 - (i) A building or structure if the owner or agent does both of the following:
 - A. Notifies a local law enforcement agency in whose jurisdiction the building or structure is located that the building or structure will remain unoccupied for a period of 180 consecutive days. The notice shall be given to the local law enforcement agency by the owner or agent not more than 30 days after the building or structure becomes unoccupied.
 - B. Maintains the exterior of the building or structure and adjoining grounds in accordance with this act or the applicable building code.
 - (ii) A secondary dwelling of the owner that is regularly unoccupied for a

period of 180 days or longer each year, if the owner notifies a local law enforcement agency in whose jurisdiction the dwelling is located that the dwelling will remain unoccupied for a period of 180 consecutive days or more each year. An owner who has given the notice prescribed by this subparagraph shall notify the law enforcement agency not more than 30 days after the dwelling no longer qualifies for this exception. As used in this subparagraph, "secondary dwelling" means a dwelling, including, but not limited to, a vacation home, hunting cabin, or summer home, that is occupied by the owner or a member of the owner's family during part of a year.

- B. **Enforcing Agency** means this township, through the Township Building Official, Zoning Administrator and/or such other official(s) or agency as may be designated by the Township Board to enforce this ordinance.
- C. **Applicable Building Code** means the building code administered and enforced in the township pursuant to Stille-DeRossett-Hale Single State Construction Code Act as amended, being Section 125.1501 et seq. of the Michigan Compiled Laws and/or any code or standards applicable to a mobile home or other pre-manufactured unit or structure.
- D. **Historic Buildings.** This ordinance shall not apply to any building designated as historic by Resolution of Peninsula Township, the State of Michigan, or the government of the United States.

SECTION III: Prohibition of Dangerous Buildings

It shall be unlawful for any owner or agent thereof to keep or maintain any building or part thereof which is a Dangerous Building as defined in this ordinance.

SECTION IV: Notice of Dangerous Building; Hearing

- A. **Notice Requirement:** Notwithstanding any other provision of this ordinance, if a building, structure or mobile home is found to be a dangerous building, the enforcing agency shall issue a notice that the building, structure or mobile home is a dangerous building.
- B. **Parties Entitled to Notice:** The notice shall be served on each owner of or party in interest of the building, structure or mobile home in whose name the property appears on the last local tax assessment records of the township.
- C. **Contents of Notice:** The notice shall specify the time and place of a hearing on whether the building, structure or mobile home is a dangerous building and state that the person to whom the notice is directed shall have the opportunity at the hearing to show cause why the Hearing Officer should not order the building, structure or mobile home to be demolished, otherwise made safe or maintained.

- D. **Service of Notice:** The notice shall be in writing and shall be served upon the person to whom the notice is directed either personally or by certified mail, return receipt requested, addressed to the owner or party in interest at the address shown on the tax records. If a notice is served upon a person by certified mail, a copy of the notice shall also be posted upon a conspicuous part of the building or structure. The notice shall be served upon the owner or party in interest at least 10 days before the date of the hearing included in the notice.

SECTION V: Dangerous Building Hearing Officer Duties, Hearing; Order

- A. **Appointment of Hearing Officer:** The Hearing Officer shall be appointed by the Township Supervisor to serve at his or her pleasure. The Hearing Officer shall be a person who has expertise in housing matters, including, but not limited to, an engineer, architect, building contractor, inspector, or member of a community housing organization. An employee of the enforcing agency shall not be appointed as a Hearing Officer.
- B. **Filing Dangerous Building Notice with Hearing Officer:** The enforcing agency shall file a copy of the notice of the dangerous condition of any building with the Hearing Officer.
- C. **Hearing Testimony and Decision:** At a hearing prescribed by this ordinance, the Hearing Officer shall take testimony of the enforcing agency, the owner of the property, and any interested party. Not more than five days after completion of the hearing, the Hearing Officer shall render a decision either closing the proceedings or ordering the building, structure or mobile home demolished, otherwise made safe, or properly maintained.
- D. **Compliance with Hearing Officer Order:** If the Hearing Officer determines that the building, structure or mobile home should be demolished, otherwise made safe, or properly maintained, the Hearing Officer shall so order, fixing a time in the order for the owner, agent or lessee to comply with the order.
- E. **Noncompliance with Hearing Officer Order/Request to Enforce Order:** If the owner, agent or lessee fails to appear or neglects or refuses to comply with the order issued under Section V, D of this ordinance, the Hearing Officer shall file a report of the findings and a copy of the order with the Township Board not more than five days after noncompliance by the owner and request that necessary action be taken to enforce the order. If the Township Board has established a Dangerous Building Board of Appeals pursuant to Section IX of this ordinance, the Hearing Officer shall file the report of the findings and a copy of the order with the Board of Appeals and request that necessary action be taken to enforce the order. A copy of the findings and order of the Hearing Officer shall be served on the owner, agent or lessee in the manner prescribed in Section IV of this ordinance.

SECTION VI: Enforcement Hearing Before the Township Board or Dangerous Buildings Board of Appeals

The Township Board, or Dangerous Buildings Board of Appeals, as applicable, shall fix a date not less than 30 days after the hearing prescribed in Section V, C of this ordinance for a hearing on the findings and order of the Hearing Officer and shall give notice to the owner, agent or lessee in the manner prescribed in Section IV of this ordinance of the time and place of the hearing. At the hearing, the owner, agent or lessee shall be given the opportunity to show why the order should not be enforced. The Township Board or the Board of Appeals shall either approve, disapprove or modify the order. If the Township Board or the Board of Appeals approves or modifies the order, the Township Board shall take all necessary action to enforce the order. If the order is approved or modified, the owner, agent or lessee shall comply with the order within 60 days after the date of hearing under this section. In the case of an order of demolition, if the Township Board or the Board of Appeals determines that the building, structure or mobile home has been substantially destroyed by fire, wind, flood, deterioration, neglect, deterioration, neglect, abandonment, vandalism, or other cause and the cost of repair of the building, structure or mobile home will be greater than the state equalized value of the building, structure or mobile home, the owner, agent or lessee shall comply with the order of demolition within 21 days after the date of the hearing under this section. If the estimated cost of repair exceeds the State Equalized Value of the building or structure to be repaired, a refutable presumption that the building or structure requires immediate demolition exists.

SECTION VII: Implementation and Enforcement of Remedies

- A. **Implementation of Order by Township:** In the event of failure or refusal of the owner or party in interest to comply with the decision of the Township Board, or the Board of Appeals, as applicable, the Township Board may, in its discretion, contract for the demolition, making safe or maintaining the exterior of the building, structure or mobile home, or grounds adjoining the building, structure or mobile home to promote safety.
- B. **Reimbursement of Costs:** The cost of demolition includes, but is not limited to, fees paid to hearing officers, costs of title searches or commitments used to determine the parties in interest, recording fees for notices and liens filed with the county register of deeds, demolition and dumping charges, court reporter attendance fees, and costs of the collection of the charges authorized under this act. The costs of the demolition, of making the building safe, or of maintaining the exterior of the building, structure or mobile home or grounds adjoining the building, structure or mobile home, incurred by the Township to bring the property into conformance with this ordinance shall be reimbursed to the Township by the owner or party in interest in whose name the property appears.
- C. **Notice of Costs:** The owner or party in interest in whose name the property appears upon the last local tax assessment records shall be notified by the township assessor of the amount of the costs of the demolition, of making the building safe, or of maintaining the exterior of the building, structure or mobile , or grounds adjoining the building, structure or mobile home to promote safety, by first class mail at the address shown on the Township records.

- D. **Lien for Unpaid Costs:** If the owner or party in interest fails to pay the costs within 30 days after mailing by the assessor of the notice of the amount of the cost, the township shall have a lien for the costs incurred by the township to bring the property into conformance with this ordinance. The lien shall not take effect until notice of the lien has been filed or recorded as provided by law. A lien provided for in this subsection does not have priority over previously filed or recorded liens and encumbrances. The lien for the costs shall be collected and treated in the same manner as provided for property tax liens under the General Property Tax Act, Act No. 206 of the Public Acts of 1893, as amended, being Section 211.1 et. seq. of the Michigan Compiled Laws.
- E. **Court Judgment for Unpaid Costs:** In addition to other remedies under this ordinance, the Township may bring an action against the owner of the building, structure or mobile home for the full cost of demolition, of making the building safe, or of maintaining the exterior of the building, structure or mobile home or grounds adjoining the building, structure or mobile home to promote safety. The township shall have a lien on the property for the amount of a judgment obtained pursuant to this subsection. The lien provided for in this subsection shall not take effect until notice of the lien is filed and recorded as provided for by law. The lien does not have priority over prior filed or recorded liens and encumbrances.
- F. **Enforcement of Judgment:** A judgment in an action brought pursuant to Section VII, E, of this ordinance may be enforced against assets of the owner other than the building, structure or mobile home.
- G. **Lien for Judgment Amount:** The Township shall have a lien for the amount of a judgment obtained pursuant to Section VII, E, of this ordinance against the owner's interest in all real property located in this state that is owned in whole or in part by the owner of the building, structure or mobile home against which the judgment is obtained. A lien provided for in this subsection does not take effect until notice of the lien is filed or recorded as provided by law, and the lien does not have priority over prior filed or recorded liens and encumbrances.

SECTION VIII: Sanction for Nonconformance with Order

Any person or other entity who fails or refuses to comply with an order approved or modified by the Township Board or the Board of Appeals, as applicable, under Section VI of the ordinance within the time prescribed by that Section is responsible for a municipal civil infraction as defined by Michigan law and subject to a civil fine of not more than \$500.00, plus costs, which may include all direct or indirect expenses to which the Township has been put in connection with the violation. A violator of this ordinance shall also be subject to such additional sanctions, remedies, and judicial orders as are authorized under Michigan law. Each day a violation of this ordinance continues to exist constitutes a separate violation.

SECTION IX: Dangerous Building Board of Appeals

- A. **Establishment and Duties:** The Township Board may establish a Dangerous Building Board of Appeals to hear all of the cases and carry out all of the duties of the Township Board described in Section VI of this ordinance. If the Township Board establishes a

Board of Appeals, the establishment and operation of the Board of Appeals shall be controlled by the following provisions of this section.

- B. **Membership:** The Board of Appeals shall be appointed by the Township Board and shall consist of the following members:
1. A building contractor
 2. A registered architect or engineer
 3. Two members of the general public
 4. An individual registered as a building official, plan reviewer or inspector under the Building Officials and Inspectors Registration Act, Public Act 54 of 1986, MCL 338.2301 - 338-2313 of the Michigan Compiled Laws. The individual may be an employee of the enforcing agency.
- C. **Terms:** Board of Appeals members shall be appointed for three years, except that of the members first appointed, two members shall serve for one year, two members shall serve for two years, and one member shall serve for three years. A vacancy created other than by expiration of a term shall be filled for the balance of the unexpired term in the same manner as the original appointment. A member may be reappointed for additional terms.
- D. **Officers:** The Board of Appeals annually shall select a chairperson, vice chairperson and other officers that the Board of Appeals considers necessary.
- E. **Quorum and Final Action Votes:** A majority of the Board of Appeals members appointed and serving constitutes a quorum. Final action of the Board of Appeals shall be only by affirmative vote of a majority of the board members appointed and serving.
- F. **Compensation and Expenses:** The Township Board shall fix the amount of any per diem compensation provided to the members of the Board of Appeals. Expenses of the Board of Appeals incurred in the performance of official duties may be reimbursed as provided by law for employees of the Township Board.
- G. **Open Meetings Act Applicable:** A meeting of the Board of Appeals shall be held pursuant to the Open Meetings Act No. 267 of the Public Acts of 1976, as amended, being Section 15.261 et seq. of the Michigan Compiled Laws. Public notice of the time, date and place of the meeting shall be given in the manner required by the Open Meetings Act.
- H. **Freedom of Information Act Applicable:** A writing prepared, owned, used, in the possession of, or retained by the Board of Appeals in the performance of an official function shall be made available to the public pursuant to the Freedom of Information Act, Act No. 442 of the Public Acts of 1976, as amended, being Section 15.231 et seq. if the Michigan Compiled Laws.

SECTION X: Appeal of Township Board/Board of Appeals Decision

An owner aggrieved by any final decision or order of the Township Board, or the Board of Appeals, as applicable, under Section VI of this ordinance may appeal the decision or order to the circuit court by filing a petition for an order of superintending control within 20 days from the date of the decision.

SECTION XI: Severability

The provisions of this ordinance are hereby declared to be severable and if any clause, sentence, word, section or provision is hereafter declared void or unenforceable for any reason by any court of competent jurisdiction, it shall not affect the remainder of such ordinance which shall continue in full force and effect.

SECTION XII: Repeal

All ordinances or parts of ordinances in conflict herewith are hereby repealed, provided that this ordinance shall not be construed to repeal expressly or by implication any provision of an Applicable Building Code.

SECTION XIII: Effective Date

This ordinance shall take effect 30 days after publication as required by law.

A copy of this Ordinance may be purchased or inspected at 13235 Center Road, Traverse City, Michigan, 49686, between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday.

ROBERT K. MANIGOLD, Supervisor
MONICA A. HOFFMAN, Clerk
Peninsula Township Board
Passed by the Township Board on
February 13, 2007
Prepared in the offices of:
Running, Wise & Ford, PLC
By: Richard W. Ford (P13569)
326 E. State Street, P.O. Box 686
Traverse City, MI 49685-0686

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TO THE RECORD EAGLE:

Please publish on: March 13, 2007

Please send affidavit to: Peninsula Township

Please send bill to: Peninsula Township

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RECEIVED BY THE RECORD EAGLE VIA TELEFAX ON: MARCH 7, 2007