

PINCONNING TOWNSHIP ORDINANCE NO. 15-01

Pinconning Township Dangerous Building Ordinance

An Ordinance to promote the health, safety and welfare of the people by regulating dangerous buildings; to establish administrative requirements and to establish remedies and fixed penalties for the violation thereof.

THE BOARD OF TRUSTEES OF THE TOWNSHIP OF PINCONNING,
BAY COUNTY, MICHIGAN, HEREBY ORDAINS:

Section I - Short Title

This Ordinance shall be known and cited as the "Pinconning Township Dangerous Building Ordinance".

Section II - Designation of Administrative Official

The Pinconning Township Building Inspector is hereby designated as the local officer who shall administer the provisions of this Ordinance.

Section III - Dangerous Building, Prohibition

It is unlawful for any owner or agent thereof to keep or maintain any building or part thereof which is a dangerous building as defined in Section IV.

Section IV - Definition of "Dangerous Building"

As used in this Ordinance, "Dangerous Building" means any building or structure which has any of the following defects or is in any of the following conditions:

- (a) Whenever any door, aisle, passageway, stairway, or other means of exit does not conform to the approved Fire Code of the Township of Pinconning, it shall be considered that such building does not meet the requirements of this Ordinance;
- (b) Whenever any portion has been damaged by fire, wind or 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 the Township of Pinconning Building Code 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 persons 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 than is required in the case of new construction by the Township of Pinconning Building Code;
- (e) Whenever the building or structure, or any part, because of dilapidation, deterioration, decay, faulty construction, or because of the removal of movement of some portion of the ground necessary for the purpose of supporting said building or portion thereof, or for other reasons, 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 for which it is used;
- (g) Whenever the building or structure has been so damaged by fire, wind or flood, or has become so dilapidated or deteriorated as to 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 act;
- (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 or disease when so determined by the health officer, or is likely to work 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;
- (j) Whenever a building or structure remains unoccupied for a period of one hundred and eighty (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 one hundred and eighty (180) consecutive days. This notice shall be given to the local law enforcement agency by the owner or agent not more than thirty (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 a Building Code of the Township of Pinconning.
- (ii) A secondary dwelling of the owner that is regularly unoccupied for a period of one hundred and eighty (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 one hundred and eighty (180) consecutive days or more each year. An owner who has given the notice prescribed in the subparagraph shall notify the law enforcement agency not more than thirty (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.

Section V - Notice of Dangerous and Unsafe Condition, Issuance, Recipient, Contents, Filing, Form, Service, Hearing Officer, Appointment

- (a) Notwithstanding any other provision of this Ordinance, when the whole or any part of any building or structure is found to be in a dangerous or unsafe condition, the enforcing officer shall issue a notice of the dangerous and unsafe condition;
- (b) Such notice shall be directed to each owner of or party in interest in the building in whose name the property appears on the last local tax assessment

records;

- (c) The notice shall specify the time and place of a hearing on the condition of the building or structure at which time and place the person to whom the notice is directed shall have the opportunity to show cause why the building or structure should not be ordered to be demolished or otherwise made safe;
- (d) The hearing officer shall be appointed by the Township Supervisor to serve at his/her pleasure. The enforcing officer shall file a copy of the notice of the dangerous and unsafe condition with the hearing officer;
- (e) All notices shall be in writing and shall be served upon the person to whom they are directed personally or, in lieu of personal service may be mailed by certified mail, return receipt requested addressed to such owner or party in interest at the address shown on the tax records, at least ten (10) days before the date of the hearing described in the notice. If any person to whom a notice is directed is not personally served, in addition to mailing the notice, a copy thereof shall be posted upon a conspicuous part of the building or structure.

Section VI - Testimony; Determination to Close Proceedings or Order Building Demolished or Made Safe, Compliance, Hearing, Cost of Compliance as Lien, Collection

- (a) The hearing officer shall take testimony of the enforcing officer, the owner of the property and any interested party. The hearing officer shall render his/her decision either closing the proceedings or ordering the building to be demolished and fill and making safe the resulting excavation, or ordering the building to be otherwise made safe or maintained;
- (b) If it is determined by the hearing officer that the building or structure should be demolished and fill and make safe the resulting excavation, or ordering the building to be otherwise made safe, he/she shall so order, fixing a time in the order for the owner, agent or lessee, to comply therewith;
- (c) If the owner, agent or lessee fails to appear or neglects or refuses to comply with the order, the hearing officer shall file a report of his/her findings and a copy of his/her order with the legislative body of the Township and request that the necessary action be taken to demolish and fill and make safe the resulting excavation or otherwise make safe the building or structure. 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 V;

- (d) The legislative body of the Township shall fix a date for hearing, reviewing the findings and order of the hearing officer and shall give notice to the owner, agent or lessee in the manner prescribed in Section V of the time and place of the hearing. At a hearing, the owner, agent or lessee shall be given the opportunity to show cause why the building should not be demolished and the resulting excavation filled and made safe, or the building otherwise made safe and the legislative body of the Township shall either approve, disapprove or modify the order for the demolition and filling and making safe the resulting excavation, or making safe of the building or structure. If the legislative body approves or modifies the order, the legislative body shall take all necessary action to enforce the order. The legislative body is the Board for the Township of Pinconning. If the order is approved or modified, the owner, agent, or lessee shall comply with the order within sixty (60) days after the date of the hearing under this subsection. For an order of demolition, if the Township Board, determines that the building or structure has been substantially destroyed by fire, wind, flood, deterioration, neglect, abandonment, vandalism or other cause, and the cost of repair of the building or structure will be greater than the state equalized value of the building or structure, the owner, agent, or lessee shall comply with the order of demolition within twenty-one (21) days after the date of hearing under this subsection. If the estimated cost of repair exceeds the state equalized value of the building or structure to be repaired, a rebuttable presumption that the building or structure requires immediate demolition exists;
- (e) The cost of the 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 cost of the demolition and filling and making safe the resulting excavation, or making the building safe shall be a lien against the real property and shall be reported to the assessing officer of the Township who shall assess the cost against the property on which the building or structure is located;
- (f) The owner or party in interest in whose name the property appears upon the last local tax assessment records shall be notified of the amount of such cost by first class mail at the address shown on the records. If he/she fails to pay the same within thirty (30) days after mailing by the assessor of the notice of the amount thereof, the assessor shall add the tax to the next tax roll of such Township, and the same shall be collected in the same manner in all respects as provided by law for the collection of taxes by such Township;

- (g) In addition to other remedies under this Ordinance, the Township may bring an action against the owner of the building or structure for the full cost of the demolition, of making the building safe, or of maintaining the exterior of the building or structure or grounds adjoining the building or structure. The Township shall have a lien on the property for the amount of a judgment obtained under this subsection. The lien shall not take effect until notice of the lien is filed or recorded as provided by law. The lien does not have priority over prior filed or recorded liens and encumbrances.

Section VII - Review

An owner aggrieved by any final decision or order of the legislative body under Section VI, may appeal the decision or order to the Circuit Court by filing a Petition for an Order of Superintending Control within twenty (20) days from the date of the decision.

Section VIII - Severability

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not effect the validity of the remaining portions hereof.

Section IX - Penalty

Any person who shall violate any of the provisions of this Ordinance shall be subject to a fine of not more than Five Hundred Dollars (\$500.00) or imprisonment in the County Jail not to exceed ninety (90) days, or both, such fine and imprisonment in the discretion of the Court.

Section X - Ordinances Repealed

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

Section XI - Publication

A true copy of this Ordinance shall be published in a newspaper circulated within the Township of Pinconning, Bay County, Michigan, within ten (10) days following the adoption thereof.

Section XII - Effective Date

This Ordinance shall take effective immediately upon publication thereof.

Authentication of Record


We, SHARON STALSBERG, Supervisor, and BEVERLENE HRIBEK, Clerk, for the Township of Pinconning, Bay County, Michigan, hereby authenticate the following relative to the foregoing Ordinance:


1. That the same was adopted by the Pinconning Township Board on the 19th day of October, 2015.

2. That the following members of the Township Board voted "yes" in favor of said Ordinance: Switek, LaFramboise, Stalsberg
+ Hribek

3. That the following members of the Township Board voted "no" against said Ordinance: Ø

4. That the following members of the Township Board were absent: Halbrook


SHARON STALSBERG
Pinconning Township Supervisor
Dated: 10-19-2015


BEVERLENE HRIBEK
Pinconning Township Clerk
Dated: 10-19-2015

Certification

I, BEVERLENE HRIBEK, as Clerk of the Township of Pinconning, Bay County, Michigan, hereby certify the following relative to the foregoing Ordinance:

1. That the same was introduced by the Pinconning Township Board on the 23rd day of September, 2015.
2. That the same was published in the Pinconning Journal on the 28th day of October, 2015.
3. That the same was adopted by the Pinconning Township Board on the 19th day of October, 2015.
4. That the same was published in the Pinconning Journal on the 28th day of October, 2015.

Dated: October 19, 2015


BEVERLENE HRIBEK, Clerk