

NOTICE OF POSTING OF PROPOSED CHARTER TOWNSHIP OF ALPENA ORDINANCE
(ORDINANCE NO. 138; THE DANGEROUS BUILDINGS ORDINANCE)
AND NOTICE OF CHARTER TOWNSHIP OF ALPENA BOARD MEETING

TAKE NOTICE that on the 14th day of May, 2019, a proposed ordinance (Ordinance No. 138; the Dangerous Buildings Ordinance) was introduced during a regular meeting of the Township Board of the Charter Township of Alpena. The proposed ordinance is designed to promote the public health, safety, and general welfare of persons and property by regulating the maintenance and safety of certain buildings and structures; by defining the classes of buildings and structures affected by the ordinance; by establishing administrative requirements and prescribing procedures for the maintenance or demolition of certain buildings and structures; by establishing remedies, providing for enforcement, and establishing penalties for violation of the ordinance; and by repealing Charter Township of Alpena Ordinance No. 135. The proposed ordinance is presently posted for public viewing at the Charter Township of Alpena offices located at 4385 US-23 North, Alpena, Michigan 49707, and may also be viewed on the Township's website, www.alpenatownship.com. The proposed ordinance will be presented to the Township Board during a regular meeting on the 28th day of May, 2019, at 6:00 p.m., and the Township Board will consider adopting the proposed ordinance at that time. If the ordinance is adopted by the Township Board, the ordinance will take effect upon its publication as required by law. Please call the Township offices at (989) 356-0297 for further information or assistance.

Michele Palevich
Charter Township of Alpena Clerk

**CHARTER TOWNSHIP OF ALPENA
ALPENA COUNTY, MICHIGAN
ORDINANCE NO. 138
DANGEROUS BUILDINGS ORDINANCE**

An ordinance to promote the public health, safety, and general welfare of persons and property in the Charter Township of Alpena, Alpena County, Michigan, by regulating the maintenance and safety of certain buildings and structures; to define the classes of buildings and structures affected by the ordinance; to establish administrative requirements and prescribe procedures for the maintenance or demolition of certain buildings and structures; to establish remedies, provide for enforcement, and establish penalties for violation of this ordinance; and to repeal Charter Township of Alpena Ordinance No. 135.

THE CHARTER TOWNSHIP OF ALPENA, ALPENA COUNTY, MICHIGAN, ORDAINS:

Section 1. Title.

This ordinance shall be known and cited as the Charter Township of Alpena Dangerous Buildings Ordinance.

Section 2. Definition of Terms.

As used in this ordinance, "dangerous building" means any building or structure that 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 or the State;
- (b) Whenever any portion has been damaged by fire, wind, flood, or 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 applicable codes, ordinances, statutes, rules, and regulations for a new building or similar structure, purpose, or location;
- (c) Whenever any portion, member, or appurtenance is likely to fall, become detached or dislodged, or 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 wind than is required in the case of new construction by the applicable codes, ordinances, statutes, rules, and regulations;
- (e) Whenever the building or structure, or any part thereof, because of dilapidation, deterioration, decay, or 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 another 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 the building or structure, or any portion thereof, 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, 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 Township Building Official or Health Department personnel, or is likely to work injury on the health, safety, or general welfare of those living within;
- (i) Whenever any building becomes vacant, dilapidated, and open at doors or windows, leaving the interior of the building exposed to the elements or accessible to entrance by trespassers;
- (j) Whenever any building or structure has light, air, or sanitation facilities which are inadequate to protect the health, morals, safety, or general welfare of persons who may live therein; or
- (k) Whenever any building or structure has improperly distributed loads upon the floors or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purposes for which the building or structure is or is likely to be used, in violation of any applicable building codes, ordinances, statutes, rules, and regulations.

As used in this ordinance, "enforcing agency" means the Charter Township of Alpena, through the Township Building Official and/or such other official(s) or agency as may be designated by the Township Board of Trustees to enforce this ordinance.

Section 3. Prohibition of Dangerous Buildings.

It shall be unlawful for any owner or agent thereof to keep or maintain any building or structure or part thereof which is a dangerous building as defined by this ordinance.

Section 4. Notice of Dangerous Building; Hearing.

- (a) Notice Requirement. Notwithstanding any other provision of this ordinance, if a building or structure is found to be a dangerous building, the enforcing agency shall issue a written notice that the building or structure is a dangerous building.

- (b) Parties Entitled to Notice. The notice shall be served on each owner or party in interest in the building or structure 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 or structure 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 or structure to be demolished, otherwise made safe, or properly maintained.
- (d) Service of Notice. The notice 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 5. Dangerous Buildings Hearing Officer; Duties; Hearing; Order.

- (a) Appointment of Hearing Officer. The Hearing Officer shall be appointed by the Township Board of Trustees to serve at its pleasure. The Hearing Officer shall be a person who has expertise in housing matters, including, but not limited to, an engineer, architect, building contractor, building inspector, or member of a community housing organization. An employee of the enforcing agency shall not be appointed as a Hearing Officer.
- (b) Filing of Dangerous Building Notice with Hearing Officer. The enforcing agency shall file a copy of the notice of the dangerous condition of any building or structure with the Hearing Officer.
- (c) Hearing Testimony and Decision. At the 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 5 days after completion of the hearing, the Hearing Officer shall render a decision either closing the proceedings or ordering the building or structure demolished, otherwise made safe, or properly maintained.
- (d) Compliance with Hearing Officer Order. If the Hearing Officer determines that the building or structure 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 by the Hearing Officer, the Hearing Officer shall file a report of the findings and a copy of the order with the Township Board of Trustees not more than 5 days after noncompliance by the owner, agent, or lessee 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 4(d) of this ordinance.

Section 6. Enforcement Hearing Before the Township Board.

The Township Board of Trustees shall fix a date not less than 30 days after the hearing prescribed in section 5(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 4(d) 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 cause why the order should not be enforced. The Township Board of Trustees shall either approve, disapprove, or modify the order. If the Township Board or Trustees approves or modifies the order, the Township Board of Trustees 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 the hearing under this section. In the case of an order of demolition, if the Township Board of Trustees determines that the building or structure has been substantially destroyed by fire, wind, flood, or other natural disaster, and that 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 21 days after the date of the hearing under this section.

Section 7. Implementation and Enforcement of Remedies.

- (a) Implementation of Order by Township. In the event of the failure or refusal of the owner or party in interest to comply with the decision of the Township Board of Trustees, the Township Board of Trustees may, in its discretion, contract for the demolition, making safe, or maintaining the exterior of the building or structure or grounds adjoining the building or structure.
- (b) Reimbursement of Costs. The costs of the demolition, of making the building or structure safe, or of maintaining the exterior of the building or structure or grounds adjoining the building or structure, 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 upon the last local tax assessment records.
- (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 or structure or grounds adjoining the building or structure, 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 Township Assessor of the notice of the amount of the costs, 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; Injunctive Relief. In addition to other remedies under this ordinance, the Township may bring an action against the owner of a dangerous building or structure for injunctive relief and for the full cost of the demolition, of making the building or structure 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 pursuant to this subsection. 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. A judgment in an action brought pursuant to this subsection may be enforced against assets of the owner other than the subject building, structure, or property. The Township may also obtain a judgment lien for the amount of the judgment obtained pursuant to this subsection against the owner's interest in all real property located in the state of Michigan that is owned in whole or in part by the owner of the building or structure against which the judgment is obtained.

Section 8. Sanctions for Noncompliance with Order; Municipal Civil Infraction Procedure.

- (a) Available Sanctions. Any person who fails or refuses to comply with an order approved or modified by the Township Board of Trustees under section 6 of this ordinance within the time prescribed by that section is responsible for a municipal civil infraction as defined in section 8(b) of this ordinance and is subject to the penalties set forth in section 8 of this ordinance. A violator of this ordinance shall also be subject to such additional sanctions, remedies, and judicial orders as are authorized under this ordinance and Michigan law. Each day a violation of this ordinance continues constitutes a separate violation.
- (b) Municipal Civil Infraction. "Municipal Civil Infraction" means a civil infraction as defined by Section 113 of the Revised Judicature Act of 1961, being Michigan Public Act 236 of 1961, as amended ("the Act"), involving a violation of this ordinance.
- (c) Municipal Civil Infraction Citation. "Citation" means a written complaint or notice to appear in court upon which an authorized local official records the occurrence or existence of one or more municipal civil infractions by the person or entity cited ("the defendant").
- (d) Municipal Civil Infraction Action. "Municipal Civil Infraction Action" means a civil action in which the defendant is alleged to be responsible for a municipal civil infraction.
- (e) Commencement of Municipal Civil Infraction Action. A municipal civil infraction action may be commenced upon the issuance of a citation by an authorized local official directing the defendant to appear in court.

- (f) Issuance and Service of Citation. A citation shall be issued and served by an authorized local official in accordance with the provisions of sections 8707 and 8709 of the Act.
- (g) Contents of the Citation. A citation shall contain the information required under section 8709 of the Act.
- (h) Fine, Costs, Judgments, Writs, and Orders. A defendant found responsible by the judge or magistrate for a violation of this ordinance shall pay a fine not to exceed \$500.00, plus costs not to exceed \$500.00, which are not limited to the costs taxable in ordinary civil actions and may include all expenses, direct and indirect, to which the Township has been put in connection with the municipal civil infraction, up to the entry of judgment. Except as otherwise provided by law, costs shall be payable to the general fund of the Township. In addition to ordering a defendant to pay a civil fine and costs, the court may issue and enforce any judgment, writ, or order (including but not limited to injunctive relief) necessary to enforce this ordinance, in accordance with Section 8302 of the Act.
- (i) Failure to Comply with Court's Order or Judgment. If a defendant fails to comply with an order or judgment issued pursuant to Section 8727 of the Act within the time prescribed by the court, the court may proceed under Sections 8302, 8729, and 8731 of the Act, as applicable.
- (j) Authorized Local Official. The Charter Township of Alpena Building Official and/or such other official(s) as may be designated by the Township Board of Trustees are hereby designated as authorized local officials who are authorized to issue municipal civil infraction citations.

Section 9. Appeal of Township Board of Trustees Decision.

An owner aggrieved by any final decision or order of the Township Board of Trustees made under section 6 of this ordinance may appeal the decision or order to the Alpena County Circuit Court by filing a petition for an order of superintending control within 20 days from the date of the decision or order.

Section 10. 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 this ordinance, which shall continue in full force and effect.

Section 11. Repeal of Charter Township of Alpena Ordinance No. 135.

Charter Township of Alpena Ordinance No. 135, which was adopted by the Township Board of Trustees on December 17, 2018, is hereby repealed.

Section 12. Effective Date.

This ordinance shall become effective immediately upon its publication as required by law.

Section 13. Publication; Recordation; Authentication.

This ordinance shall be published once, in full, in a newspaper of general circulation within the boundaries of the Township, and qualified under state law to publish legal notices, within 30 days after its adoption; this ordinance shall be recorded in the record of ordinances book of the Township; and the Township Supervisor and the Township Clerk shall authenticate this ordinance by placing his or her official signature upon this ordinance.

CERTIFICATION

I hereby certify that the foregoing constitutes a true and complete copy of an ordinance duly adopted by the Charter Township of Alpena Board of Trustees at a regular meeting held on _____.

I further certify that the following Board members were present at the meeting: Supervisor Skibbe, Clerk Palevich, Treasurer Ellery-Somers, Trustee Poli, Trustee Dunckel, Trustee Kroll, and Trustee Lappan, and that the following Board members were absent: None.

I further certify that the Board member _____ moved for adoption of the ordinance, and the motion was supported by the Board member _____.

I further certify that the following Board members voted upon roll call vote for the adoption of the ordinance: _____, and the following Board members voted against the adoption of the ordinance: _____.

Adopted and approved this ____ day of _____, _____, by the Charter Township of Alpena Board of Trustees.

Nathan Skibbe
Charter Township of Alpena Supervisor

Michele Palevich
Charter Township of Alpena Clerk