

TOWNSHIP OF ALPENA
COUNTY OF ALPENA

NOTICE OF ADOPTION OF ORDINANCE NO. # 75

TAKE NOTICE that on the 5th day of June, 2000, the Township Board of the Township of Alpena adopted Ordinance No. # 75, as follows:

AN ORDINANCE TO PROMOTE THE HEALTH, SAFETY, AND WELFARE OF THE PEOPLE OF ALPENA TOWNSHIP, 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 FIX PENALTIES FOR THE VIOLATION OF THIS ORDINANCE; AND TO REPEAL ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH.

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

Section I: Title

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

Section II: Definition of Terms

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

A. "Dangerous building" means any building or structure, 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 administered and enforced in Alpena Township or to the Alpena Township building code.

2. A portion of the building or structure is

damaged by fire, wind, flood, or other cause so that the structural strength or stability of the building or structure is appreciably less than it was before the catastrophe 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 of the Alpena Township building code for a new building or structure, purpose, or location.

3. A part of the building or structure is likely to fall, become detached or dislodged, or collapse and injure persons or damage property.

4. A portion of the building or structure has settled to such an extent that walls or other structural portions of the building or structure 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 by the Alpena Township building code.

5. The building or structure, or a part of the building or structure, 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 or structure is likely to fall or give way.

6. The building or structure, or a part of the building or structure, is manifestly unsafe for the purpose for which it is used.

7. The building or structure 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 or structure to their danger, or becomes a harbor for vagrants, criminals, or immoral persons, or enables persons to resort

to the building or structure for committing a nuisance or an unlawful or immoral act.

8. A building or structure used or intended to be used for dwelling purposes, including the adjoining grounds, because of dilapidation, decay, damage, faulty construction or arrangement, or otherwise, is unsanitary or unfit for human habitation, is in a condition that the health officer of Alpena Township or Alpena 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 or structure is vacant, dilapidated, and open at 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, Act No. 299 of the Public Acts of 1980, being section 339.2501 et seq. of the Michigan Compiled Laws, or is not publicly offered for sale by the owner. This subdivision does not apply to either of the following:

a. A building or structure as to which the owner or agent does both of the following:

(1) Notifies the Alpena County Sheriff's Department that the building or structure will remain unoccupied for a period of 180 consecutive days. The notice shall be given by the owner or agent not more than 30 days after the building or structure becomes unoccupied.

(2) Maintains the exterior of the building or structure and adjoining grounds in accordance with this

ordinance and 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 Alpena Township building code.

b. A secondary dwelling of the owner that is regularly unoccupied for a period of 180 days or longer each year, if the owner notifies the Alpena County Sheriff's Department 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 Alpena County Sheriff's Department not more than 30 days after the dwelling no longer qualifies for this exception. As used in this subparagraph, "secondary dwelling" means a dwelling such as 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 Alpena Township building inspector, zoning administrator, and/or supervisor.
- C. "Township building code" means the building code administered and enforced in Alpena Township pursuant to the State Construction Code Act of 1972, Act No. 230 of the Public Acts of 1972, as amended, being section 125.1501 et seq. of the Michigan Compiled Laws.

Section III: 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 in this ordinance.

Section IV: 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 notice that the building or structure is a dangerous building.

B. Parties Entitled to Notice: The notice shall be served on each owner of or party in interest in the building or structure in whose name the property appears on the last local tax assessment records of Alpena 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 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 Alpena 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, 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 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 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. If the building is a dangerous building under section II.A.10 of this ordinance, the order may require the owner or agent to maintain the exterior of the building and adjoining grounds owned by the owner of the building including, but not limited to, the maintenance of lawns, trees, and shrubs.

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 Alpena Township Board of Trustees not more than five days after noncompliance by the owner 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.D. of this ordinance.

Section VI: Enforcement Hearing Before the Township Board

The Alpena Township Board of Trustees 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.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 shall either approve, disapprove, or modify the order. If the Township Board 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 the hearing under this section. In the case of an order of demolition, if the Township Board 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 VII: 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 Alpena Township Board of Trustees, the Township Board 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 Alpena 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 Alpena 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 assessor of the notice of the amount of the costs, in the case of a single family dwelling or a two family dwelling, Alpena 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, Alpena 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. In the case of a single family dwelling or a two family dwelling, 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 or structure.

G. Lien for Judgment Amount: In the case of a single family dwelling or a two family dwelling, Alpena 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 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. A lien provided for in this subsection does not have priority over prior filed or recorded liens or encumbrances.

Section VIII: Sanctions for Noncompliance with Order; Municipal Civil Infraction Procedure

A. Available Sanctions: Any person or other entity who fails or refuses to comply with an order approved or modified by the Alpena Township Board of Trustees under section VI of this ordinance within the time prescribed by that section is responsible for a municipal civil infraction as defined in section VIII.B. of this ordinance, and is subject to the penalties set forth in sections VIII.J. and VIII.K. 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 Act No. 236 of the Public Acts 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, corporation, or association 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 by an authorized local official of a citation 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 Citation: A citation shall contain the information required under section 8709 of the Act.

I. Cause for Issuance of Citation: An authorized local official may issue a citation to a defendant if the official witnesses a defendant commit a violation of this ordinance; or if, based upon investigation, the official has reasonable cause to believe that the defendant is responsible for a violation of this ordinance; or if, based upon investigation of a complaint by someone who allegedly witnessed the defendant commit a violation of this ordinance, the official has reasonable cause to believe that the defendant is responsible for a violation of this ordinance, and if the Township attorney approves in writing the issuance of the citation.

J. 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 of not less than \$9.00 nor more than \$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 necessary to enforce this ordinance, in accordance with section 8302 of the Act.

K. 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.

L. Authorized Local Official: The Alpena Township building inspector, zoning administrator, and supervisor are hereby designated as authorized local officials who shall administer and

enforce this ordinance and who are authorized to issue municipal civil infraction citations.

Section IX: Appeal of Township Board Decision

An owner aggrieved by any final decision or order of the Alpena Township Board of Trustees made 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 or order.

Section X: Severability Clause

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

Section XI: Effective Date, Publication, and Adoption

This ordinance shall become effective 30 days after its publication as required by law. This ordinance shall be published once, in full, in a newspaper of general circulation within the boundaries of Alpena Township, and qualified under state law to publish legal notices, within 15 days after its adoption, and the same shall be recorded in the Ordinance Book of the Township, and such recording authenticated by the signature of the Township Clerk.

This ordinance can be inspected, or a copy can be purchased at, the Alpena Township Clerk's office, Alpena Township Civic Building, 4385 US-23 North, Alpena, Michigan 49707.

DATED:

Christine M. Dubey
Alpena Township Clerk